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VOLUME 2 OF 2

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM FLORENCE COUNTY

D. Craig Brown, Circuit Court Judge

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SC Court of Appeals

THE STATE,

RESPONDENT,

V:

WILLIAM JAMELL THOMAS, JR.,

APPELLANT

RECORD ON APPEAL

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INDEX

INDEX.....	i
MARCH 22, 2013, PRE-TRIAL HEARING TRANSCRIPT.....	1
TRIAL TRANSCRIPT.	37
VOIR DIRE.....	48
MOTION FOR JURY STRIKE.....	69
MOTION FOR CONTINUANCE.....	72
MOTION FOR COMPETENCY EVALUATION.....	88
MOTION FOR DISCLOSURE.....	89
BRITTANY SINGLETARY (PROFFER)	
Direct Examination by Solicitor.	93
Cross Examination by Defense.	101
ADAM MOORE (PROFFER)	
Direct Examination by Solicitor.	112
Cross Examination by Defense.	115
JURY SWORN.	126
OPENING STATEMENTS BY SOLICITOR.....	134
OPENING STATEMENTS BY DEFENSE.	137
BRITTANY SINGLETARY	
Direct Examination by Solicitor.	144
Cross Examination by Defense.	176
INVESTIGATOR MIKE JACK	
Direct Examination by Solicitor.	229

Cross Examination by Defense.	248
Redirect Examination by Solicitor.....	263
KEVIN HOLBROOK	
Direct Examination by Solicitor.	267
Cross Examination by Defense.	278
ADAM MOORE	
Direct Examination by Solicitor.	287
Proffered Direct by Solicitor.	300
Proffered Cross Examination.....	301
Continued Proffered Direct by Solicitor.	303
Continued Direct Examination by Solicitor.....	306
Cross Examination by Defense.	309
SPECIAL AGENT JOHN ROBERTS	
Direct Examination by Solicitor.	320
Cross Examination by Defense.	329
PAUL BIRD	
Direct Examination by Solicitor.	331
INVESTIGATOR HELEN CAIN (PROFFER)	
Direct Examination by Solicitor.	336
Cross Examination by Defense.	343
PAUL BIRD	
Continued Direct Examination by Solicitor.....	352
Cross Examination by Defense.	362
Redirect Examination by Solicitor.....	373
DEPUTY LARRY QUICK	
Direct Examination by Solicitor.	377
Cross Examination by Defense.	381
SPECIAL AGENT KENNETH BOGAN	
Direct Examination Solicitor.....	387
Cross Examination by Defense.	393
Redirect Examination.....	397

INVESTIGATOR HELEN CAIN	
Direct Examination by Solicitor.	400
Cross Examination by Defense.	413
Redirect Examination... ..	425
INVESTIGATOR TREY SINGLETARY	
Direct Examination by Solicitor.	426
Cross Examination by Defense.	432
INVESTIGATOR KATHLEEN STREETT	
Direct Examination by Solicitor.	433
Cross Examination by Defense.	437
ATTEMPTED PLEA... ..	469
DORIS POULIS O'HARA	
Direct Examination by Solicitor.	503
STATE RESTS.	504
MOTION FOR DIRECTED VERDICT.	505
MOTION FOR MISTRIAL... ..	506
LINDA MACK	
Direct Examination by Defense... ..	508
Cross Examination by Solicitor... ..	525
Redirect Examination by Defense... ..	534
RENEA COCHRAN	
Direct Examination by Defense... ..	535
Cross Examination by Solicitor... ..	549
ZOLANDRIA BROWN	
Direct Examination by Defense... ..	553
Cross Examination by Solicitor... ..	559
COTY HENEGHAN (PROFFER)	
Direct Examination by Defense... ..	564

DEFENSE RESTS.....	581
INVESTIGATOR MIKE JACK	
Direct Examination by Solicitor.	583
Cross Examination by Defense.	584
INVESTIGATOR HELEN CAIN	
Direct Examination by Solicitor.	585
Cross Examination by Defense.	586
DEFENSE'S CLOSING ARGUMENTS.	601
STATE'S CLOSING ARGUMENTS.....	614
CHARGE TO THE JURY.....	626
JURY NOTE.	648
VERDICT.	655
MOTION FOR DIRECTED VERDICT.....	659
MOTION FOR MISTRIAL.....	659
MOTION FOR ACQUITTAL/NEW TRIAL.	660
SENTENCE.....	663
EXHIBITS (Court's Exhibits 2-3 and State's Exhibits 3-8 and 9A-9R are being Transported to the Court of Appeals)	
Court's Exhibit 8.	666
Court's Exhibit 9.	667

1 that or to put up that evidence unless you'll stipulate --
2 well, I'm not going to let you -- I'll let the State prove it
3 however they want to prove it. All right? If they want to
4 agree to a stipulation, so be it, but I think it comes in
5 under that Simmons case.

6 I don't think you can by stipulation limit what the State
7 says, albeit the State certainly cannot get into any facts --
8 any facts whatsoever surrounding that conviction or whether by
9 plea or otherwise. The State can't get into the facts and I
10 will certainly instruct this jury that they are -- cannot in
11 any way, shape or form consider evidence of that conviction as
12 evidence of guilt in this particular case.

13 MR. WILSON: Yes, sir.

14 THE COURT: That it is simply an element of the crime.
15 Yes, sir, Mr. Etheridge?

16 MR. ETHERIDGE: May it please the Court, Your Honor. I
17 hesitate to do this, but as an officer of the court, I feel
18 like I need to. When we came back over here, he told me that
19 he was confused, that he thought that last week there was some
20 talk about an ABHAN. He tells me he's guilty of the charge of
21 attempted murder. Now, Your Honor, I know you've bent over
22 backwards and I -- I ---

23 THE COURT: (To law clerk) Give me the offense. Give me
24 the statute on attempted murder.

25 MR. ETHERIDGE: And, Your Honor, I hesitate to do that,

1 but I feel ---

2 THE COURT: Well, you're obligated to as his lawyer.

3 MR. ETHERIDGE: Yes, sir. Yes, sir.

4 THE COURT: There is no question about that, Mr.

5 Etheridge. No question about that.

6 MR. JEPERTINGER: I did not tear it up.

7 THE COURT: 16-3-29.

8 MR. ETHERIDGE: Can he look at it?

9 MR. JEPERTINGER: Absolutely.

10 THE COURT: Sir?

11 MR. ETHERIDGE: I was going to let him look at it. I
12 don't want to go through this again. I'm going to make sure
13 he knows what ---

14 MR. JEPERTINGER: The sentencing sheet.

15 THE COURT: He is viewing the sentence sheet again.

16 (Whereupon, there is a pause in the proceedings.)

17 MR. JEPERTINGER: Before I hand this up, are we good to
18 go?

19 (Whereupon, the defendant confers with his counsel.)

20 MR. ETHERIDGE: He says he does not, Your Honor. We'll
21 proceed with the trial and I apologize.

22 THE COURT: That's okay. All right. Mr. Wilson, I also
23 further looked at this crime of violence ---

24 MR. WILSON: Yes, sir.

25 THE COURT: --- under 16-23 ---

1 MR. JEPERTINGER: Ten.
2 THE COURT: Sir?
3 MR. JEPERTINGER: Ten.
4 THE COURT: No, 30. That's what -- he was indicted under
5 30.
6 MR. JEPERTINGER: Thirty, but the definition of crime of
7 violence ---
8 THE COURT: I'm getting there.
9 MR. JEPERTINGER: Okay.
10 THE COURT: Ten defines it, crimes of violence.
11 MR. JEPERTINGER: Yes, sir.
12 THE COURT: Okay. 16-23-10 defines crime of violence, of
13 which 16-23-10(3), along with other crimes of violence, says
14 assault with intent to commit any offense punishable by
15 imprisonment for more than one year. Clearly, assault and
16 battery of a high and aggravated nature was punishable by a
17 sentence of imprisonment for more than one year.
18 MR. WILSON: Yes, sir.
19 THE COURT: Furthermore, I went and looked at State v.
20 Dennis, which is 402 S.C. 627, 742 S.E.2d 21, which defines
21 the common law offense of assault and battery of a high and
22 aggravated nature, and I say the common law because at the
23 time that these offenses were committed that your client pled
24 guilty to, they were still common law offenses. All right.
25 Under this State v. Dennis, it defines assault and

1 battery of a high and aggravated nature or it says that
2 assault and battery of a high and aggravated nature requires
3 an unlawful act of violent injury accompanied by circumstances
4 of aggravation, which may include the use of a deadly weapon,
5 the infliction of serious bodily injury, or the intent to
6 commit a felony. I say that to say that I believe that it
7 further defines assault and further brings the ABHAN within
8 the purview of a crime of violence.

9 MR. WILSON: Yes, sir.

10 THE COURT: Okay.

11 MR. WILSON: Your Honor?

12 THE COURT: Yes, sir?

13 MR. WILSON: In regards to that and in looking at 16-23-
14 30, where it says a person who has been convicted of a crime
15 of violence, my argument would be that he was never convicted
16 of a crime of violence. What he was convicted of was non-
17 violent. Now, what the statute does is goes back and say,
18 well, even though it may have been a non-violent crime that he
19 actually pled to, which is what -- what the problem is, when
20 he pled, he was pleading to a non-violent charge. And the
21 indictment and the sentencing sheet that he pled to was non-
22 violent.

23 And so my argument would be that since what he pled to
24 was non-violent, that simply looking at the statute now and
25 saying, okay, well -- because when he pled, it was not violent

1 and the -- and the sentencing sheet says it wasn't violent.

2 THE COURT: I understand your argument and I didn't mean
3 to cut you off if you're -- if you're not done, please
4 continue.

5 MR. WILSON: No, sir. That -- that's all I was concerned
6 with.

7 THE COURT: Well, what I -- what I have here is 16-23-10
8 defines it as violent..

9 MR. WILSON: Yes, sir.

10 THE COURT: Now, what the sentencing sheet says, at least
11 from my understanding, I mean that's more for what the
12 Department of Corrections and how they determine whatever they
13 determine when he gets to the Department of Corrections. But
14 what you also have is 16-1-60, which defines all of these
15 violent crimes and at the time that he pled guilty to ABHAN,
16 violent -- ABHAN was not a part of the 16-1-60.

17 MR. WILSON: Right.

18 THE COURT: No question about that.

19 MR. WILSON: Yes, sir.

20 THE COURT: It was not a part of that. However, what
21 we're dealing with here is -- are offenses involving weapons.

22 MR. WILSON: Yes, sir.

23 THE COURT: Different type of scenario. Under Chapter 23
24 -- Chapter 23 of Title 16, I think that ABHAN clearly falls
25 within that definition of a crime of violence. Okay?

1 MR. WILSON: I understand.

2 THE COURT: And I -- I looked at all of that last night
3 and that was my conclusion after looking at it. I mean you
4 got two different statutes that are defining crime of violence
5 and -- and -- and the application of crime of violence in
6 various forms under Title -- excuse me, under Chapter 1 versus
7 Chapter 23, which deals specifically with offenses involving
8 weapons.

9 MR. WILSON: All right.

10 THE COURT: Okay.

11 MR. WILSON: Okay. And, Your Honor, one last thing. One
12 of the things that's different in Simmons is that Simmons
13 actually testified and here this defendant is not testifying,
14 which I think adds even greater prejudice in his case because
15 he is not testifying. He is not going to testify in the trial
16 of this case and, therefore, now his character is being
17 brought into evidence without -- and he's being prejudiced in
18 that regard as well is -- is my -- is my other argument.

19 THE COURT: I'll certainly note your objection for the
20 record. Again, it is an element of the offense. I am not --
21 and I'm -- if you ask me to, which I think you will. If you
22 ask me to instruct the jury that it is for solely for that
23 limited purpose ---

24 MR. WILSON: Yes, sir.

25 THE COURT: --- I will do so, but it is an element of the

1 offense. The State is allowed to put it up, but they are not
2 allowed to go into the facts of that -- of that offense.

3 MR. WILSON: Thank you very much, Your Honor.

4 THE COURT: Now, let me ask -- because I did this
5 yesterday before we broke. Now, let me go back. The bench
6 warrant on Coty Heneghan is in force and effect. I want him
7 picked up, please. All right?

8 THE DEPUTY: The deputy has it now.

9 THE COURT: Sir?

10 THE DEPUTY: The deputy has it now on the way.

11 THE COURT: Okay. Thank you. Before we broke yesterday,
12 I advised Mr. Thomas of his right to testify. Mr. Thomas, I
13 will remind you, sir, that you are still under oath. Have you
14 discussed with your lawyers whether or not you should testify
15 in your case?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: I gave you the overnight to consider whether
18 or not you wanted to testify in your case. Is it your desire?
19 Do you want to testify in the trial of your case?

20 THE DEFENDANT: No, sir.

21 THE COURT: All right. Is that decision your decision?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Your own free decision?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Okay. Thank you. All right. Anything else

1 before I bring the jury in, Mr. Wilson?

2 MR. WILSON: No, sir, Your Honor.

3 THE COURT: Mr. Jepertinger?

4 MR. JEPERTINGER: No, sir.

5 THE COURT: If you'll bring me the jury, please. Mr.
6 Wilson?

7 MR. WILSON: Yes.

8 THE COURT: Mr. Jepertinger, Mr. Etheridge, as the jury
9 is coming in, could y'all approach for a minute, please?

10 MR. JEPERTINGER: Yes, sir.

11 (Whereupon, a bench conference is held as follows.)

12 THE COURT: I just want to tell y'all to remind your
13 client that he better keep his mouth shut and not try to
14 disrupt this trial because I will escort -- have him escorted
15 out of here promptly.

16 MR. WILSON: I understand.

17 THE COURT: Do you understand?

18 MR. WILSON: Yes, sir.

19 (Whereupon, the bench conference ends.)

20 (Whereupon, the jury enters the courtroom at 10:33 a.m.)

21 THE COURT: Good morning, ladies and gentlemen. I
22 apologize for you all having to wait back there for the last
23 hour. There were some matters that I had to deal with that I
24 thought that I could get dealt with before I broke yesterday
25 and before you all got here this morning, but unfortunately,

DORIS POULIS O'HARA - DIRECT EXAMINATION BY MR. JEPERTINGER

1 they were not. They have now been dealt with and we are ready
2 to proceed with the trial of this case. Mr. Jepertinger, you
3 are recognized, sir.

4 MR. JEPERTINGER: The State would call Doris Poulis
5 O'Hara.

6 THE WITNESS/THE CLERK: I could do it myself.

7 THE COURT: This is usually her job. Do you swear to
8 tell the truth, the whole truth, and nothing but the truth, so
9 help you God?

10 THE WITNESS/THE CLERK: I do.

11 THE COURT: Please be seated and state your full name for
12 the record.

13 THE WITNESS/THE CLERK: Doris Poulis O'Hara.

14 DORIS POULIS O'HARA, being first
15 duly sworn, testifies as follows:

16 DIRECT EXAMINATION

17 BY MR. JEPERTINGER:

18 Q: Mrs. O'Hara, can you tell the ladies and gentlemen of the
19 jury what you do?

20 A: I am a deputy clerk of court for General Sessions. I
21 keep the records -- all the records for General Sessions.

22 Q: All right. Did I ask you to look up a particular record?

23 A: You did.

24 Q: Okay. And what indictment did I have you look up?

25 A: Indictment 2009-GS-21-1550.

DORIS POULIS O'HARA - DIRECT EXAMINATION BY MR. JEPERTINGER

1 Q: And against whom was that indictment?

2 A: William Jamell Thomas, Jr.

3 Q: And is there a sentence in that case?

4 A: There is.

5 Q: And what was the sentence for?

6 A: He pled to assault and battery of high and aggravated
7 nature.

8 Q: And the date of the sentence?

9 A: He was sentenced on March 1st, 2010.

10 MR. JEPERTINGER: Thank you, Judge. That's all the
11 questions I have for this witness.

12 THE COURT: Any cross examination, Mr. Wilson?

13 MR. WILSON: I have no questions, Your Honor.

14 THE COURT: All right. Ma'am, you may step down. Thank
15 you.

16 (Whereupon, the witness leaves the stand at 10:36 a.m.)

17 MR. JEPERTINGER: Your Honor, that would be the State's
18 case.

19 THE COURT: All right. All right, ladies and gentlemen,
20 I hate to do this, but I've got to send you back to the jury
21 room for a minute. So not discuss the case. I'll get you
22 back out here as quickly as possible.

23 (Whereupon, the jury exits the courtroom at 10:36 a.m.)

24 THE COURT: Mr. Wilson?

25 MR. WILSON: Yes, sir. Your Honor, at this time I would

1 move for a directed verdict as to the crime of attempted
2 murder in Count I of the indictment and also a directed
3 verdict as to Count II, which is possession of a pistol by a
4 person convicted of a crime of violence, on the grounds that
5 the -- of the insufficiency of the evidence in the particular
6 case to warrant sending the case to a jury for them to make a
7 decision.

8 I think that at best in this case the information is
9 insufficient in that, one, the police in their investigation
10 left a lot of things that just were undone, which could have
11 proven that the defendant was not the shooter in the case.
12 And secondly, I think that when you look at the fact that in
13 this particular case the victim gave a -- gave one story to
14 law enforcement, gave a second story to law enforcement, and
15 really law enforcement did absolutely nothing to verify either
16 of the stories and -- and I would submit that because of that,
17 what they have presented is insufficient at this time to send
18 this matter to a jury.

19 THE COURT: All right.

20 MR. WILSON: That would be my argument.

21 THE COURT: Anything in response, Mr. Jupertinger?

22 MR. JEPERTINGER: Your Honor, in the light most favorable
23 to the State, I think there's ample evidence throughout the
24 course of this trial for this matter to go to the jury on both
25 counts.

1 THE COURT: All right. Based upon what I've heard in the
2 light most favorable to the State, the non-moving party here,
3 a trial court is concerned with the existence of evidence,
4 with the existence, not its weight. If there is any direct or
5 substantial circumstantial evidence reasonably tending to
6 prove the guilt of the accused or from which guilt may
7 reasonably, fairly and logically be deduced, the case should
8 be submitted to the jury. Your motion is so noted for the
9 record, but respectfully denied, Mr. Wilson.

10 MR. WILSON: Thank you, Your Honor.

11 THE COURT: All right.

12 MR. WILSON: Your Honor, secondly, I'd like to at this
13 time make a motion for a mistrial in -- on the issue that
14 we've been arguing about Simmons and whether or not the --
15 whether or not the -- the prior criminal history of the
16 defendant could be used in order to prove an element of the
17 crime and -- and I would think that my argument is that that
18 information is so prejudicial to the defendant with him not
19 testifying that it would be impossible at this point for him
20 to get a fair trial and, therefore, we should be granted a
21 mistrial at this point and -- or a new trial.

22 THE COURT: Mr. Jepertinger?

23 MR. JEPERTINGER: I'd just say I disagree with that based
24 on the previous Court rulings.

25 THE COURT: All right. We've addressed that issue or I

1 have addressed that issue previously in making my rulings and
2 I am going to respectfully deny your motion for a mistrial.
3 It is an element of the offense. I understand certainly that
4 Mr. Thomas has not -- he hasn't testified yet and he's
5 indicated to the Court that he's not going to testify, but
6 regardless of whether or not he testifies, it's still an
7 element of the offense.

8 I have limited the State to putting up solely the
9 conviction. He had two. I limited the State to only putting
10 up one of those convictions and, furthermore, I limited the
11 State and would not allow them to go into any -- any facts or
12 circumstances whatsoever surrounding that conviction and I
13 will further give instructions to this jury that they are not
14 in any way to consider the prior conviction as evidence of
15 guilt in this particular case or as it relates to these
16 particular charges that he faces in this court right now. But
17 your motion is so noted for the record.

18 MR. WILSON: Thank you very much, Your Honor.

19 THE COURT: All right. All right. Anything from the
20 State at this time?

21 MR. JEPERTINGER: No, sir.

22 THE COURT: Does the defense intend to put up any further

23 ---

24 MR. WILSON: Yes, sir.

25 THE COURT: All right. Are you ready to proceed?

26

LINDA MACK - DIRECT EXAMINATION BY MR. WILSON

1 MR. WILSON: Yes, sir.

2 THE COURT: All right. Bring me the jury, please, ma'am.

3 (Whereupon, the jury enters the courtroom at 10:41 a.m.)

4 THE COURT: All right. Madam Forelady and ladies and
5 gentlemen of the jury, the State has rested in this case. I
6 am now going to recognize the defense for defense case. Mr.
7 Wilson?

8 MR. WILSON: Thank you so much, Your Honor. Mrs. Mack,
9 Linda Mack.

10 THE CLERK: If you will, ma'am, place your left hand on
11 the Bible and raise your right hand. Do you swear to tell the
12 truth, the whole truth, and nothing but the truth, so help you
13 God?

14 THE WITNESS: Yes.

15 THE CLERK: Please be seated and state your full name for
16 the record.

17 THE WITNESS: My name is Linda Mack.

18 LINDA MACK, being first duly sworn,
19 testifies as follows:

20 DIRECT EXAMINATION

21 BY MR. WILSON:

22 Q: Ms. Mack, you've got a pretty soft voice so I want you to
23 speak up real loud so that everybody can hear you. Okay?

24 A: Yes, sir.

25 Q: All right. Now, Ms. Mack, your name is Linda Mack. Now,

LINDA MACK - DIRECT EXAMINATION BY MR. WILSON

1 are you related in any way to Mr. Thomas, who is seated over
2 here?

3 A: Yes, sir.

4 Q: All right. And what is that relationship?

5 A: I'm his mother.

6 Q: Okay. And you have other children?

7 A: Yes, I do.

8 Q: All right. How many children do you have?

9 A: Four.

10 Q: All right. And where does Thomas -- where does Mr.
11 Thomas fit in those children?

12 A: He's my oldest.

13 Q: He's your oldest. And how old is he?

14 A: He's twenty-nine -- twenty-eight.

15 Q: Twenty-eight years old? All right. Now, let me ask you
16 just a couple of questions about Mr. Thomas. Now, where does
17 he live when -- where was he living when ---

18 A: He ---

19 Q: Back in -- let's go back to September of 2011, which is
20 when this incident occurred. Where was he living at that
21 time?

22 A: He was living with me ---

23 Q: Okay.

24 A: --- at that time.

25 Q: Okay. All right. And where were you living?

LINDA MACK - DIRECT EXAMINATION BY MR. WILSON

1 A: And I was living at 306 East Carolyn Avenue.

2 Q: Okay. And back in September of 2011, how long had you
3 been living at that address?

4 A: It was just maybe a couple of months.

5 Q: Okay. So you had just moved there shortly before this
6 incident occurred?

7 A: Yes, sir.

8 Q: Okay. Now, tell us who lived at that address with you
9 back in September of 2011?

10 A: It was my son William, myself, Johnny Smith, which was
11 ---

12 Q: Now, who is Johnny Smith?

13 A: He was a -- he was my friend.

14 Q: He was your friend?

15 A: Yes, sir.

16 Q: Meaning an adult male friend?

17 A: Yes, sir.

18 Q: All right. Okay. Go ahead.

19 A: And my daughter, Juanita Renea.

20 Q: Your daughter, Juanita, who has been described during
21 this court proceeding as Renea?

22 A: Yes, sir.

23 Q: All right. And -- and other than the four of you, did
24 anyone else live in that house during that time? Was anyone

25 ---

LINDA MACK - DIRECT EXAMINATION BY MR. WILSON

- 1 A: No.
- 2 Q: --- else living there?
- 3 A: Not living there, no, but I have other children that have
- 4 stayed there.
- 5 Q: Okay.
- 6 A: Not lived there.
- 7 Q: Now, were you working during this period of time? Back
- 8 in September ---
- 9 A: Yes.
- 10 Q: --- of 2011, were you employed?
- 11 A: Yes, sir.
- 12 Q: All right. And where were you employed at that time?
- 13 A: Nurses on Call.
- 14 Q: I'm sorry?
- 15 A: Nurses on Call.
- 16 Q: Nurses on Call?
- 17 A: Yes, sir.
- 18 Q: Okay. All right. And now, what is that? Tell us what
- 19 Nurses on Call is?
- 20 A: It's a private health care for patients, hospice
- 21 patients, patients that cannot care for themselves.
- 22 Q: Okay. And how long had you been working there back at
- 23 that time?
- 24 A: For maybe approximately about -- just about ten years.
- 25 Q: Okay. All right. Now, are you still employed there?

LINDA MACK - DIRECT EXAMINATION BY MR. WILSON

1 A: Yes, sir.

2 Q: Okay. And now, what about your son, William Thomas? Was
3 he working during that time?

4 A: No, sir.

5 Q: Okay. Has he ever worked?

6 A: No, he hasn't.

7 Q: Okay. All right. And did he have income of any kind?

8 A: Yes.

9 Q: What was the income?

10 A: Disability.

11 Q: Okay. Now, let me ask you -- again going back to
12 September of 2011. Do you remember the -- the day that we've
13 been talking about, which is I guess the night of -- of the
14 10th, the morning of the 11th of September, 2011?

15 A: Yes, sir. I remember it.

16 Q: All right. Now, I want you to -- let's go back and tell
17 us about that day starting with early in the day. Well, first
18 of all, do you recall the shooting?

19 A: Yes, sir.

20 Q: All right. Well, let's go back to the early day before
21 the shooting occurred and tell me what the day was like. Just
22 tell us what was going on that day with you?

23 A: Well, with me?

24 Q: Yes, ma'am.

25 A: Earlier on that day, I had a pretty good day. It was

LINDA MACK - DIRECT EXAMINATION BY MR. WILSON

1 just a regular day until ---

2 Q: Okay. Well, let me -- let me help you a little bit. Let
3 me ask you this. Prior to September the 11th, did you know Ms.
4 Brittany Singletary?

5 A: Yes.

6 Q: Okay.

7 A: I did.

8 Q: And had you met her before then?

9 A: I have, yes, sir.

10 Q: Okay. And had she ever been to your home prior to
11 September the 11th?

12 A: Yes, sir.

13 Q: Okay. On how many occasions would you say that she had
14 been to your home prior to September the 11th of ---

15 A: She'd been there several times.

16 Q: Okay. And the times that she came there, I mean how did
17 she get to your home?

18 A: She was driving her mother's Explorer.

19 Q: Okay. And what kind of Explorer was that she was
20 driving?

21 A: It was a tan color Explorer with a dent in the back of it
22 at the bottom.

23 Q: Okay. All right. Now, let me ask you about your
24 vehicles. Back in September of 2011, did you own any kind of
25 black SUV of any type?

LINDA MACK - DIRECT EXAMINATION BY MR. WILSON

- 1 A: I did not.
- 2 Q: Okay. Did your son own a black SUV?
- 3 A: No, he did not.
- 4 Q: All right. Did anybody in your family that you know of
- 5 own a black SUV?
- 6 A: Yes.
- 7 Q: All right. Who owned one?
- 8 A: My brother did.
- 9 Q: Okay. And where is he?
- 10 A: And he lives in Camden, South Carolina.
- 11 Q: Where is that?
- 12 A: Camden.
- 13 Q: Camden? Camden?
- 14 A: Camden.
- 15 Q: Okay. And how far is that from where y'all live?
- 16 A: Maybe seventy to eighty miles.
- 17 Q: Okay. And did he ever loan that car to you or to your
- 18 son or anybody else?
- 19 A: Not to my son, but from time to time I did have it.
- 20 Q: Okay. All right. Back in September of 2011, did you
- 21 have it?
- 22 A: In September, I probably drove it a couple of times in
- 23 that month.
- 24 Q: Okay. All right. Now, did your son drive it?
- 25 A: No, he did not drive it.

LINDA MACK - DIRECT EXAMINATION BY MR. WILSON

1 Q: Okay. Was he driving at all during that time?

2 A: No. We were transporting him.

3 Q: Okay. Now, let me ask you -- on September the 11th, when
4 is the first time you saw Brittany Singletary on the evening
5 or the night of September the 11th?

6 A: The first time that I saw her was when they knocked on my
7 door.

8 Q: When you say they -- they knocked on my door, who is
9 they?

10 A: Her and her boyfriend.

11 Q: Her and her boyfriend?

12 A: Knocked on my door.

13 Q: All right. Do you know the boyfriend's name?

14 A: She called him Joe.

15 Q: Okay. All right. And describe Joe to us?

16 A: He was of medium height, kind of medium brown complexion,
17 medium -- not -- not a heavyweight and not thin, but very much
18 in-between. I wouldn't say skinny. Bigger than skinny.

19 Q: Okay. All right. So what time of day or night are we
20 speaking of now that these individuals come to your house?
21 That is Ms. Singletary and this person Joe?

22 A: It was -- you said what time?

23 Q: Yes, ma'am.

24 A: It was -- I know it was after -- to be specific, it was
25 after -- I can't say a specific time, but it was after -- I

LINDA MACK - DIRECT EXAMINATION BY MR. WILSON

1 would say after ten. It was too late for them to be coming to
2 my home.

3 Q: Okay. Now, when they came to the house, who was home at
4 that time? Who was at your house at 306 at that time?

5 A: When they came to the house, it was me, my daughter, and
6 my boyfriend.

7 Q: Okay. You, your daughter, and your boyfriend?

8 A: Yes.

9 Q: And your daughter being Renea?

10 A: Yes, sir.

11 Q: And your boyfriend being Johnny Smith?

12 A: Yes, sir.

13 Q: All right. So the three of you were at home?

14 A: Yes, sir.

15 Q: All right. And what were y'all doing on this evening
16 when these two individuals appeared at your house?

17 A: I was watching TV and I was trying to relax until this
18 knock came and then they rung the doorbell as well.

19 Q: Okay. And who answered the door? Once the knock came,
20 who answered the door?

21 A: I did.

22 Q: Okay.

23 A: I went to the door.

24 A: Now, at your house, is there a glass screen door and then
25 the wooden door or is it just the wooden door when you're

LINDA MACK - DIRECT EXAMINATION BY MR. WILSON

1 coming?

2 A: It was a wooden door and it was a -- it was a storm door
3 -- like a storm door.

4 Q: Okay. So it was a storm door and then the wooden door
5 inside the storm door?

6 A: Yes, sir.

7 Q: Now, you said you answered the door; is that correct?

8 A: I did.

9 Q: All right. Tell us about that? When you -- tell us what
10 happened from that point?

11 A: Well, when I first looked out, I saw Brittany and then I
12 opened the door, but then the guy -- the guy came from around
13 the side. He came and presented himself with her and I asked
14 her, you know, what did she want. You know, what is it. And
15 he started talking. He said where's your son. He said
16 where's your son at and I said he's not here. My son is not
17 here. What do y'all want with him?

18 MR. JEPERTINGER: Your Honor, I would object to hearsay
19 from this individual.

20 THE COURT: Objection sustained.

21 Q: All right. Don't tell me what he said to you. You can
22 tell me what Ms. Singletary said to you, but you can't tell me
23 what he said.

24 A: Okay.

25 Q: All right. So there's some conversation with you and

LINDA MACK - DIRECT EXAMINATION BY MR. WILSON

1 this Johnny person; is that correct? I'm sorry. You and this
2 Joe person?
3 A: Yes.
4 Q: At the door?
5 A: Yes.
6 Q: All right. As a result of that conversation, what did he
7 and Ms. Singletary do?
8 A: Well, when I turned, I was getting ready to close the
9 door. He pushed his way in.
10 Q: Okay.
11 A: He stepped up and pushed his way into the house and he
12 told her to come in.
13 Q: Okay. Don't ---
14 A: Okay.
15 Q: Don't tell me what he told you.
16 A: Sorry. He ---
17 Q: Go ahead.
18 A: --- pushed his way into my house.
19 Q: Okay.
20 A: And he went like ---
21 (Whereupon, the witness gestures.)
22 Q: Okay. And what are you saying when he -- when they're
23 pushing their way into the house, what are you saying to them?
24 A: Get out. Leave. My son is not here. Y'all are not
25 welcome here. Leave.

LINDA MACK - DIRECT EXAMINATION BY MR. WILSON

1 Q:) Okay. And what did they do ---
2 A: They ---
3 Q: --- once they come into the house?
4 A: They went straight to my son's room because she --
5 Brittany showed him where my son's room was at.
6 Q: Okay. So the two of them then go to your son's room?
7 A: Yes.
8 Q: Were you with them at that point?
9 A: I went right behind them.
10 Q: All right. And then what?
11 A: Then he -- he went in the room. They was in the room.
12 My son wasn't there and he saw he wasn't there and he was --
13 there was an argument between Brittany and him -- and Joe.
14 Q: Okay. What was the argument about?
15 A: About her being -- coming to my house being with my son.
16 Q: Okay. All right. And what was -- what was she saying to
17 Joe?
18 A: She said that it -- it wasn't really a relationship. She
19 said I told you the truth and you're still angry at me about
20 this. And I said y'all have got to get out of here. Leave my
21 house now. But as soon as I said that, Joe pulled out a gun
22 and he pointed the gun in the room and by this time Johnny --
23 my friend Johnny was in the room. He came in and he grabbed
24 the -- the gun. He tried to -- he grabbed it and a shot went
25 off and then another shot went in some direction and that's

LINDA MACK - DIRECT EXAMINATION BY MR. WILSON

1 when Brittany was hit.

2 Q: Okay. So by the time -- by the time the shots were
3 fired, who was in the bedroom at that time?

4 A: It was me, Johnny Smith, Joe, and Brittany.

5 Q: Okay. Was anybody else in the room?

6 A: My daughter was standing at an angle, not in the room,
7 but she was like where I could see her peeping in. She was
8 like on the -- on the corner door. The other rooms was
9 closed.

10 When Brittany got hit, Joe ran out the house and left her
11 there with us and I was so upset about it and I was frightened
12 for her and I wanted to call for help and she said no, I just
13 don't want to be in here. She said just help me out of here.
14 I said no, I got to call somebody. She said no, I don't want
15 nobody to know that I was ever here. I don't want nobody to
16 know I've been here so please just -- just help me out. And
17 my daughter helped her out and I was having panics because I
18 do have heart panics sometimes for irregular heartbeat and my
19 daughter helped her.

20 That was her wish to say she wasn't in the house and I
21 did not agree with it. She didn't -- I don't know what her
22 reasons for saying she did not want anyone to know that she'd
23 been in my house or that it happened in my house.

24 Q: Okay. What happened to Johnny? Where -- where was he
25 after this occurred?

LINDA MACK - DIRECT EXAMINATION BY MR. WILSON

1 A: Johnny was with me trying to get -- help me.

2 Q: Okay.

3 A: He was helping me. My daughter and her, they went out
4 the door into the -- and went and stood at the road. She
5 insisted on saying she was not inside of my house and I don't
6 know why she wanted to say that.

7 Q: Okay. All right. So let me ask you when -- when the
8 ambulance and the police came out onto the highway, where were
9 you at that point?

10 A: When they came to the highway?

11 Q: Yes, ma'am.

12 A: At one point in time, I was in the -- I was in the house
13 at one point in time, but I did come out. I came out there
14 and I tried to speak to the police which was there, but they
15 pushed me back. I made three attempts to talk with them. My
16 daughter was already speaking with them and I guess Brittany
17 had already spoken with them as well. When I came out the
18 door, they didn't want to talk to me. They told me just,
19 ma'am, stay back. I was trying to tell them I live here and I
20 wanted to tell you what happened. Let me -- you know, I could
21 have told them, but they would not listen to anything I had to
22 say. They just said back up, ma'am, and then the third time
23 when I made attempt to talk to them, they said I'm not going
24 to warn you again. Stay -- stay out the way. So they didn't
25 let me say anything at all.

LINDA MACK - DIRECT EXAMINATION BY MR. WILSON

1 Q: Let me ask you from -- from that day until now, has any
2 other police officer ever come to you, contacted you, and
3 asked you for a statement?

4 A: Never.

5 Q: Okay. To your knowledge, have they ever contacted Renea,
6 your daughter, and asked her for a statement?

7 A: Not to my knowledge.

8 Q: All right. And what about Johnny? To your knowledge,
9 did they ever contact him and ask him for a statement about
10 what happened that night?

11 A: No, sir.

12 Q: All right. Now, let me ask you, if I could, after the --
13 after the -- well, let me -- let me go back. That night, did
14 you stay home the rest of the night after the ambulance and
15 the police had arrived to take Brittany away? Did you stay at
16 home that night?

17 A: I stayed at home until early that morning maybe and I
18 don't know what time it was, but I stayed home until early
19 morning and I really was -- I was uncomfortable there because
20 of what had happened, and I was not -- I just wasn't feeling
21 good. It was just a very traumatizing thing that had happened
22 ---

23 Q: Okay.

24 A: --- for someone to come there and threaten our lives.

25 Q: Okay. Let me ask you -- prior to September the 11th, had

LINDA MACK - DIRECT EXAMINATION BY MR. WILSON

1 you ever seen this person Joe before?

2 A: Have I ever seen him?

3 Q: Prior to September 11th, the day that he came to your
4 house, had you ever seen him or had a conversation with him
5 before that?

6 A: No, I hadn't.

7 Q: Okay. Have you seen or had contact with him since that
8 time?

9 A: I have not never had no contact with him until that --
10 just that night when he was in my home.

11 Q: Okay.

12 A: That's the only time.

13 Q: All right. Now, if you would, have you ever -- you said
14 for the last ten years that you have worked at this same job,
15 and where is your job located? Do y'all have an office where
16 your job is located?

17 A: It's between Darlington and Hartsville, South Carolina.

18 Q: All right. All right. And you continuously worked there
19 the entire time?

20 A: Yes, sir.

21 Q: All right. How long did you stay at 306 after September
22 the 11th? How long did you live there is what I'm asking after
23 September the 11th?

24 A: I didn't anymore.

25 Q: That's the last time you lived there?

LINDA MACK - DIRECT EXAMINATION BY MR. WILSON

1 A: Yes.

2 Q: You moved after that?

3 A: Yes.

4 Q: Where did you move to?

5 A: Well, I stayed at the hotel for a while and then I stayed
6 with some family members and then I moved after that for a
7 little while.

8 Q: Okay. Moved where?

9 A: Out of -- I moved to another state for a little -- just a
10 little while.

11 Q: Okay. When did you move to another state?

12 A: I think it was -- it was a couple of months I know after
13 maybe -- I mean after that.

14 Q: All right. And when you moved to another state, you no
15 longer worked at this same job?

16 A: I was close enough where I could drive to my -- to my
17 job.

18 Q: So you moved to North Carolina?

19 A: It was North -- yes, sir.

20 Q: All right. And -- and you were just commuting back and
21 forth to -- to your job which is in Darlington ---

22 A: Yes, sir.

23 Q: --- and Hartsville? Okay. And -- and you still work
24 there now?

25 A: Yes, sir.

LINDA MACK - DIRECT EXAMINATION BY MR. WILSON

1 Q: All right. Now, let me ask you in terms of -- of any of
2 these investigators, did any of them ever come to your job
3 site and ask the people there about you or how to get in touch
4 with you that you know about?

5 A: No, sir.

6 Q: All right. All right. Did your son have a bond hearing?

7 A: Yes, sir.

8 Q: Did you appear at the bond hearing with him?

9 A: Yes, sir.

10 Q: Okay. Did they ask to talk to you then?

11 A: No, sir.

12 Q: Did any of the police officers talk with you then or ask
13 you to give them a statement or tell them what happened at
14 that time?

15 A: No, sir.

16 MR. WILSON: Answer any questions that the solicitor
17 might have for you.

18 THE COURT: Cross examination.

19 CROSS EXAMINATION

20 BY MR. JEPERTINGER:

21 Q: Ms. Mack, you said you've had this job for a while;
22 correct?

23 A: Yes, sir.

24 Q: All right. And did Johnny Smith have a job?

25 A: Yes, sir.

LINDA MACK - CROSS EXAMINATION BY MR. JEPERTINGER

1 Q: All right. Do you know where he worked?

2 A: Yes, sir.

3 Q: Where did he work?

4 A: He worked at a mattress recycling mattress company and

5 ---

6 Q: Where was -- was that here in Florence?

7 A: That was in Pamplico, South Carolina.

8 Q: Pamplico, South Carolina?

9 A: Yes, sir.

10 Q: All right. And how did -- how about Renea? Did she have
11 a job?

12 A: She did.

13 Q: And I'm talking back on September 11th, 2011. Did she
14 have a job?

15 A: I'm not sure if she was working then. I knew that she
16 did have a job at Pizza Hut, but I don't know if she was
17 working then at Pizza Hut.

18 Q: Okay. And was Pizza Hut located here in Florence or was
19 it located some other place?

20 A: It's in Florence on Irby Street and ---

21 Q: It's on Irby Street?

22 A: Right. Yes, sir.

23 Q: Okay. And how -- how did you get to work every morning?

24 A: How did I get to work ---

25 Q: Mm-hmm.

LINDA MACK - CROSS EXAMINATION BY MR. JEPERTINGER

1 A: --- every morning? I had three -- I've got two other --
2 I have two cars.

3 Q: Okay. And you kept both cars at 306 Carolyn and used one
4 to go to work?

5 A: Not -- not both of them all the time. No, sir, I didn't.

6 Q: All right. How about Johnny? He was staying there with
7 you. Did he have a car that he went to and from or did he use
8 one of your cars?

9 A: No. I would drop Johnny off at work and sometimes
10 somebody else would pick him up.

11 Q: All right. So he didn't have a car?

12 A: He did not have a car.

13 Q: How about Renea?

14 A: I don't know if she had a car at that time. She did have
15 a -- I don't think she had a car at that time.

16 Q: So she walked to and from Pizza Hut?

17 A: No, she didn't walk.

18 Q: Okay. You took her; correct?

19 A: A lot of times, I did take her and -- and there were
20 certain hours. I -- I didn't work all day. I only worked,
21 you know, just a few hours so we -- we would work things out
22 like that.

23 Q: So you're saying two o'clock September 11th, 2011, you're
24 at home, Johnny's at home, Renea's at home. Your two vehicles
25 should be right there at 306 Carolyn?

LINDA MACK - CROSS EXAMINATION BY MR. JEPERTINGER

1 A: I didn't have two vehicles there. Sometimes I kept one
2 vehicle at a relative's house. I only drive one. I only can
3 drive one.

4 Q: Your vehicle was there at 306 Carolyn; correct?

5 A: My vehicle was.

6 Q: Okay. Now, you're saying that after ten p.m. you were
7 watching television; correct? That was your testimony?

8 A: I said I was relaxing.

9 Q: Okay.

10 A: I was trying to just relax.

11 Q: Relax. And Johnny Smith was home with you and Renea was
12 home; correct?

13 A: Yes, sir. That is correct.

14 Q: And those were the only three that you're saying were
15 home; is that correct?

16 A: Renea, me, and Johnny. Yes, sir, you're correct.

17 Q: Okay. I just want to make sure I got it right. And you
18 hear a knock and a -- a ring of the doorbell; is that correct?

19 A: Yes, sir.

20 Q: And was that at the carport or at the front door?

21 A: It was at the carport.

22 Q: Okay. And you opened the door; correct?

23 A: I did.

24 Q: And a gentleman by the name of Joe that you really don't
25 know basically forced his way in with Brittany Singletary;

LINDA MACK - CROSS EXAMINATION BY MR. JEPERTINGER

1 correct?

2 A: He wasn't the first person I saw, but yes, he did.

3 Q: All right. And then they go over to Jamell's room;

4 correct?

5 A: Yes. They did because she led him there.

6 Q: All right. And then for some reason you're testifying

7 that he pulls a gun on Brittany, two shots, and Brittany is

8 hit; correct?

9 A: He pulled a gun out. I don't -- I couldn't say that he
10 just pulled it out to shoot her. He was threatening anyone in
11 the room.

12 Q: All right. Did you feel threatened by Joe when you saw
13 that gun?

14 A: Yes, I did.

15 Q: All right. Scared you; didn't it?

16 A: Yes, it did.

17 Q: All right. And then shortly thereafter after she was
18 shot, you say your daughter took her out of the house and put
19 her in the road -- put her in the street; is that correct?

20 A: My daughter didn't put Brittany anywhere. Brittany
21 helped walk out herself. She pleaded with us ---

22 Q: Mm-hmm.

23 A: --- not to call for help, that she -- let her go outside
24 and let her say what she want to say. She didn't want nobody
25 to know she was coming to my house and ---

LINDA MACK - CROSS EXAMINATION BY MR. JEPERTINGER

1 Q: So a man that you really don't know forces his way into
2 your house at 306 Carolyn Avenue, shoots a woman in your
3 house, and you don't call the police to let them know a man
4 just shot a woman in my house?

5 A: She called.

6 Q: Did you call?

7 A: She called the police.

8 Q: Did you call?

9 A: I did not call. No, I did not.

10 Q: Did Johnny Smith call?

11 A: Johnny didn't have a phone. I didn't have a house phone.

12 Q: Did Renea call?

13 A: No. Renea did not call because Brittany called.

14 Q: And when the ambulance and the police got there, you
15 didn't think it was important, because you were suffering from
16 a panic attack you say because you have heart panics, to get
17 out of the house and say, hey, there was a guy that just got
18 away and pushed his way into my house and shot this woman?
19 You didn't say that; did you?

20 A: I tried to.

21 Q: Three times?

22 A: I tried.

23 Q: Which officer? Was it Mike Jack? This officer?

24 A: I don't know which officer it was. It was the officer
25 that had -- was telling stay back. That -- that was the

LINDA MACK - CROSS EXAMINATION BY MR. JEPERTINGER

1 officer. I don't know what his name was, but he -- he told me
2 every time I tried to tell him, he tell me to, ma'am, move out
3 the way. Get out the way. I said, sir, I need -- he said,
4 ma'am, back up.

5 Q: Okay. How about ---

6 A: And I ---

7 Q: --- Johnny Smith? Did he go and say, hey, hey, this man
8 just broke into -- into our house and shot this woman? Did he
9 come out and try to tell the officer that?

10 A: Johnny was standing right beside me when he -- when the
11 officer told me to get out the way and stay out the way and
12 wasn't going to warn me again. He was standing right there.

13 Q: Now, you say that after this shooting that you moved out
14 of this state; is that correct? For a period of time?

15 A: Not right away I didn't move. I said at some point in
16 time I did move.

17 Q: About how long afterwards, ma'am?

18 A: It was a few months.

19 Q: A few months?

20 A: It was a few months before I -- before I went to North
21 Carolina.

22 Q: You went to North Carolina; right?

23 A: Yes, sir, I did.

24 Q: Now, did you go back to your house on September 11th?

25 A: I was at my house on September 11th.

LINDA MACK - CROSS EXAMINATION BY MR. JEPERTINGER

1 Q: Okay.

2 A: That's where I was at.

3 Q: All right. So you didn't hear the officers knocking at
4 your door at 3:27 a.m.; correct? Saying we need to talk to
5 you, banging on the door?

6 A: Three or four o'clock -- between three and four, I don't
7 know what time. It was sometime that morning when I left. I
8 couldn't -- I just -- I just -- I didn't hear anyone knock at
9 my door. No, sir, I did not.

10 Q: Okay. And you were at the house the whole day on the
11 11th?

12 A: Yes.

13 Q: So when the police came rushing in at about twelve
14 o'clock with a search warrant, where were you hiding?

15 A: Are you -- are you talking about on Sunday after seven
16 a.m.?

17 Q: Well, you said you were home at -- on September 11th.

18 A: You said September -- but this thing happened that
19 Saturday night.

20 Q: It happened Sunday morning at two p.m. [sic.] Now, where
21 were you at -- when the police came with the search warrant?

22 A: Okay. Well, between eleven thirty or twelve is when the
23 incident happened to my knowledge. You're saying the whole
24 day of the 11th, which was that Sunday?

25 Q: Uh-huh.

LINDA MACK - CROSS EXAMINATION BY MR. JEPERTINGER

1 A: That's after the incident. No, I didn't stay there all
2 day that day.

3 Q: Okay. When did you go?

4 A: I left that morning.

5 Q: Okay. You left that morning and you were not there when
6 the police executed the search warrant; correct?

7 A: I was not there ---

8 Q: All right.

9 A: --- when anyone came to the home.

10 Q: All right. And did you -- did you go back to the home
11 after the police had been there?

12 A: I didn't know when the police been there.

13 Q: Okay. So it didn't cause any red flags to see your door
14 by your carport busted in with a search warrant on a table?

15 A: I did not see a search warrant on the table.

16 Q: Did you call the police to tell them, hey, I think my
17 home was broken into?

18 A: No, because I thought Joe helped broke it when he helped
19 force his way in when I was trying to hold him from coming in.
20 I didn't really think much about the door.

21 Q: Well, you didn't say that at all that he busted the door.
22 That's what you were ---

23 A: I'm not saying he ---

24 Q: --- saying that he forced his way in ---

25 THE COURT: Hold on a minute. Ma'am, when he's talking,

LINDA MACK - CROSS EXAMINATION BY MR. JEPERTINGER

1 please let him finish and, sir, when she's talking, let her
2 finish.

3 Q: You didn't say anything about -- to Mr. Wilson about him
4 busting the door when he pushed his way in?

5 A: I'm not saying that he bust the door. I'm saying that it
6 could have happened and I just didn't not -- I did not think
7 much about that.

8 Q: It wasn't important to you?

9 A: Nothing was stolen or missing from my home so, no, it
10 didn't. It didn't bother me.

11 Q: Uh-huh. Now, let's be honest, Ms. Mack. You love your
12 son very much; correct?

13 A: Yes, I do. I love my son, yes.

14 Q: In fact, you'd want to help him out the best way you can;
15 correct?

16 A: Not lie though, if that's what you mean. Not to lie.

17 MR. JEPERTINGER: I beg the Court's indulgence. That's
18 all the questions I have for her.

19 THE COURT: Any redirect?

20 MR. WILSON: Just one question.

21 REDIRECT EXAMINATION

22 BY MR. WILSON:

23 Q: Ma'am, just let me ask you -- Johnny was your boyfriend;
24 right? Is that correct?

25 A: Yes.

LINDA MACK - REDIRECT EXAMINATION BY MR. WILSON

1 Q: Are y'all still together?

2 A: No.

3 Q: All right.

4 MR. WILSON: I don't have any other questions.

5 MR. JEPERTINGER: Nothing further, Judge.

6 THE COURT: You may step down, ma'am. Thank you.

7 THE WITNESS: Okay. Thank you.

8 (Whereupon, the witness leaves the stand at 11:15 a.m.)

9 THE COURT: Call your next witness, please.

10 MR. WILSON: Thank you very much, Your Honor. Renea
11 Cochran.

12 THE CLERK: If you will, ma'am, place your left hand on
13 the Bible and raise your right hand. Do you swear to tell the
14 truth, the whole truth, and nothing but the truth, so help you
15 God?

16 THE WITNESS: I do.

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

19 THE WITNESS: Renea Cochran.

20 RENEA COCHRAN, being first duly
21 sworn, testifies as follows:

22 DIRECT EXAMINATION

23 BY MR. WILSON:

24 Q: Renea, how are you today?

25 A: Fine.

RENEA COCHRAN - DIRECT EXAMINATION BY MR. WILSON

1 Q: Good. And you -- like your mom, you've got a kind of soft
2 voice so I need you to speak into that microphone and -- and
3 speak loudly so that we can all hear you when you speak.

4 A: Okay.

5 Q: Now, what is your full name again?

6 A: Juanita Renea Cochran.

7 Q: Okay. And you go by Renea? Is that what everybody calls
8 you?

9 A: Yes, sir.

10 Q: Okay. And how old are you, Renea?

11 A: Twenty-two.

12 Q: And back in September of 2011, you would have been twenty
13 at that point?

14 A: Yes, sir.

15 Q: All right. Were you in school or were you -- what were
16 you doing at that point?

17 A: No, sir. I wasn't in school.

18 Q: Okay. Were you working?

19 A: No, sir.

20 Q: All right. You had a job -- did you have a job during
21 that time at all during September of 2011?

22 A: No.

23 Q: Okay. And where were you living during that time?

24 A: 306 Carolyn Avenue, Florence.

25 Q: And who lived at that address with you at 306?

RENEA COCHRAN - DIRECT EXAMINATION BY MR. WILSON

- 1 A: Me, my mom and Johnny and my brother.
- 2 Q: I'm sorry. Me, my mom ---
- 3 A: Johnny.
- 4 Q: And who else?
- 5 A: My brother.
- 6 Q: And your brother? And what's your brother's name?
- 7 A: Jamell Thomas.
- 8 Q: All right. And that's Jamell sitting here?
- 9 A: Yes, sir.
- 10 Q: All right. And did anybody else live at that house
- 11 during that period of time other than the four of you?
- 12 A: And my daughter.
- 13 Q: Okay. And how old is your daughter?
- 14 A: She's five now.
- 15 Q: Okay. And she would have been two or three at the time?
- 16 A: Three.
- 17 Q: All right. All right. And now, Johnny was the friend of
- 18 your mother's?
- 19 A: Yes, sir.
- 20 Q: Okay. And are they still together now?
- 21 A: No.
- 22 Q: Okay. Let me ask you -- if you would, let's go back to
- 23 the events of September the 11th, I guess the morning hours of
- 24 September the 11th. And tell this jury what happened at the
- 25 house that morning?

RENEA COCHRAN - DIRECT EXAMINATION BY MR. WILSON

- 1 A: That morning, me, my mom and Johnny was home, and I
2 mostly stay in my room and watch TV, and my mom and Johnny was
3 in the -- the room -- I guess you call it a living room,
4 watching TV.
- 5 Q: Okay. So y'all were in the room watching TV. You were
6 in your room?
- 7 A: Mm-hmm.
- 8 Q: Where was your child?
- 9 A: She was at my grandmother's.
- 10 Q: All right. She was at your grandmother's. All right.
11 And now, tell us what happened from that point? You were
12 there. You were in your room. What happens?
- 13 A: We was just having a regular day to that -- to that night
14 when Brittany and her friend came to the house.
- 15 Q: Okay. All right. Brittany and her friend. Now, did you
16 know Brittany before this night?
- 17 A: Yes, sir.
- 18 Q: All right. How long had you known Brittany before this
19 night?
- 20 A: Well, we used to ride the bus together.
- 21 Q: All right. Going to school?
- 22 A: Mm-hmm.
- 23 Q: All right. And so y'all -- and you need to say yes or
24 no. I know you --
- 25 A: Yes, sir.

RENEA COCHRAN - DIRECT EXAMINATION BY MR. WILSON

1 Q: I know what you mean, but the court reporter has to take
2 it down.

3 A: Okay.

4 Q: Okay. So you had known Brittany for a while from riding
5 the bus back and forth to school?

6 A: Yes, sir.

7 Q: All right. And let me ask you -- was there some kind of
8 relationship between Brittany and your brother?

9 A: No, sir.

10 Q: Okay.

11 A: Not that I know of.

12 Q: All right. Had Brittany been coming to y'all's house?

13 A: Yes, sir.

14 Q: Okay. And how often would she come over to the house?

15 A: Well, I just -- her truck would be there. She'd usually
16 drive an Explorer -- a tan colored Explorer or a pick-up
17 truck.

18 Q: Okay. All right. And she would come over to visit him?

19 A: Mm-hmm.

20 Q: Okay. And when she would come over to visit him, where
21 would they do most of their visiting?

22 A: In his room.

23 Q: In his room? All right. Now, when is the last time that
24 you had seen Brittany at the house before the morning hours of
25 September the 11th?

RENEA COCHRAN - DIRECT EXAMINATION BY MR. WILSON

1 A: It might have been that Tuesday.

2 Q: That Tuesday?

3 A: Yes, sir.

4 Q: Okay. All right. And let me ask you -- on this
5 particular morning, the morning of September the 11th, the
6 early morning hours of September the 11th, tell us -- tell this
7 jury what happened at your house?

8 A: That morning?

9 Q: Yes. That -- that morning that Brittany was shot.

10 A: Where was it at?

11 Q: Tell us how it occurred? Everything that occurred?

12 A: That morning to that night?

13 Q: Yes.

14 A: That morning, my -- well, I was in my room like I said.
15 My mom and Johnny was in the living room watching TV. We was
16 home all that day, and that night I was back there in my
17 mama's room just finished washing and I hear her at the door
18 saying my son's not here. And that's when the guy and
19 Brittany brushed through the door. I was standing between my
20 mama's room and my brother's room, just kind of like right
21 across from each other.

22 And he took Brittany -- well, Brittany showed him to my
23 brother's room and they started arguing and the guy pulled out
24 a gun and I heard a pow and then I shut my mama's door and I
25 heard another gunshot and a guy running out the house. And I

RENEA COCHRAN - DIRECT EXAMINATION BY MR. WILSON

1 opened the door to see, you know, was somebody hurt. I seen
2 Brittany laying on the floor and I went to Brittany and I said
3 like, Brittany, you shot? And she was like get me out of
4 here. I don't want to be in here. So I helped Brittany up
5 and took her outside. I helped her up. She put her arm
6 across my shoulder and I helped her outside.

7 Q: Okay. Who -- who -- at whose request -- or whose
8 decision was it that she go outside?

9 A: Brittany's.

10 Q: All right. Did you tell her I'm going to take you
11 outside?

12 A: No.

13 Q: All right. Did you ask her if she wanted to go outside?

14 A: No. I was like, Brittany, let me get you some help.
15 Brittany said no, just get me out of here. I don't want to be
16 in here.

17 Q: Okay. All right. Now, once -- you were not in the room
18 -- well, let me ask you this way. Were you actually
19 physically in the room when the shooting actually occurred?

20 A: No.

21 Q: Okay. Where were you located in relationship to the
22 shooting?

23 A: I was in-between the hallway and my -- like right in the
24 middle of my mama's doorway of her room.

25 Q: Okay. All right. Now -- and -- and -- and when you go

RENEA COCHRAN - DIRECT EXAMINATION BY MR. WILSON

1 in to the room, the shots had already been fired?

2 A: I was standing right there between the doorway when they
3 was going in the room.

4 Q: Okay.

5 A: And when I heard -- well, when I saw the guy pull out the
6 gun, that's when Johnny grabbed his wrist. I heard a pow and
7 I shut the door.

8 Q: All right.

9 A: And then I heard another one and I heard a guy running
10 out the house and I opened the door to see if anybody was hurt
11 and that's when I saw Brittany laying on the floor.

12 Q: Okay. All right. And you went to Brittany at that
13 point?

14 A: Mm-hmm.

15 Q: All right.

16 A: Yes, sir.

17 Q: And -- and then ultimately took her outside at her
18 request?

19 A: I said, Brittany, we need to get you some help. She
20 said, no, just get me out of here. I don't want to be in here
21 any longer.

22 Q: Okay.

23 A: And I helped Brittany up. She put her arm across my
24 shoulder and I helped her outside.

25 Q: Okay. Did you tell Brittany to tell the police that --

RENEA COCHRAN - DIRECT EXAMINATION BY MR. WILSON

1 that somebody shot her on the street or that this was a drive-
2 by shooting?

3 A: No, sir.

4 Q: All right. Did you withhold her cell phone from her at
5 any point in time to keep her from calling 9-1-1 or the
6 police?

7 A: No, sir, because I told her when she was in the house
8 that we needed to get you some help. She said no. Take ---

9 Q: Did you ---

10 A: --- me outside.

11 Q: I'm sorry.

12 A: She said no, help her outside.

13 Q: Did you use her phone to talk to anybody or make any
14 calls on her cell phone at all that night?

15 A: No, sir.

16 Q: All right. Did she have a cell phone?

17 A: Yes, sir.

18 Q: All right. And -- and is that the cell phone that she
19 used in order to call 9-1-1?

20 A: Yes, sir.

21 Q: Okay. Did -- tell me -- tell us then once she was
22 outside, what did you and Brittany do while you were waiting
23 for the ambulance or 9-1-1?

24 A: She said whatever you do, don't let nobody know I was
25 here. She said just tell them that I was walking, you was in

RENEA COCHRAN - DIRECT EXAMINATION BY MR. WILSON

1 the house, and you heard a gunshot, and you came outside to
2 help me.

3 Q: Okay. And is that what you told the police ---

4 A: Yes, sir.

5 Q: --- when they came? Okay. All right. And -- but that
6 wasn't true?

7 A: No, sir.

8 Q: All right. And now, when is the first time that you
9 learned that Brittany had changed her story?

10 A: I think it was maybe -- I'd say probably September the
11 13th.

12 Q: Okay. A couple of days later?

13 A: Yes, sir.

14 Q: Okay. All right. Did the police ever come back to the
15 house and talk to you about what had happened?

16 A: No, sir.

17 Q: All right. And that night after the -- the ambulance and
18 the police took Brittany away, where did you go?

19 A: Where did I go? Well, actually I left. I didn't want to
20 be there no more ---

21 Q: Okay.

22 A: --- after that happened.

23 Q: All right. So you left the house after the shooting?

24 A: Mm-hmm.

25 Q: All right. All right. But from -- from September the

RENEA COCHRAN - DIRECT EXAMINATION BY MR. WILSON

1 11th until now, have the police contacted you about ---

2 A: No, sir.

3 Q: --- a statement?

4 A: No, sir.

5 Q: All right. All right. And where were you -- where --

6 where were you living between September 11th and -- and the

7 time we started this trial?

8 A: September I was living at 306 Carolyn and after that I

9 was staying with my grandmamma and my aunt and then I moved to

10 North Carolina.

11 Q: All right. So you stayed with your grandmamma and your

12 aunt ---

13 A: Sometimes.

14 Q: --- in Coward?

15 A: Mm-hmm.

16 Q: All right.

17 A: I stayed there sometimes.

18 Q: And how far is that from where Brittany lives in Coward?

19 A: From Brittany's house to my grandma's?

20 Q: Yeah.

21 A: Not that far, maybe a minute.

22 Q: Okay. All right. And you were staying there that entire

23 time? You and your daughter?

24 A: Not that entire time, but ---

25 Q: Okay. But for the -- for a period after September the

RENEA COCHRAN - DIRECT EXAMINATION BY MR. WILSON

1 11th?

2 A: Yes, sir.

3 Q: Before you moved to North Carolina?

4 A: Yes, sir.

5 Q: Okay. All right. And then y'all moved to North Carolina
6 for a period of time?

7 A: Yes, sir.

8 Q: How long did y'all stay over in North Carolina?

9 A: I'd say maybe five months.

10 Q: Okay. And then you moved back?

11 A: Mm-hmm.

12 Q: All right. And moved back to -- to where?

13 A: Right now -- right now, I'm at my grandmother's house.

14 Q: Okay.

15 A: While ---

16 Q: Which is in Coward?

17 A: Mm-hmm.

18 Q: All right. All right. And -- and that's where you're
19 living now?

20 A: Mm-hmm.

21 Q: Okay. Now, is your -- does your grandmamma have a phone

22 ---

23 A: A house phone?

24 Q: --- at her house? Yes.

25 A: Yes, sir.

RENEA COCHRAN - DIRECT EXAMINATION BY MR. WILSON

1 Q: Okay. Is it listed in the phone book?

2 A: No, sir.

3 Q: All right. And have the police in Coward or the police
4 from Florence come to Coward to talk to you or your grandma or
5 anybody that you are aware of?

6 A: No, sir.

7 Q: All right. Has anybody ever asked you to give any kind
8 of a statement regarding what happened that night?

9 A: Did anybody ask me to give a statement?

10 Q: Mm-hmm. Other than -- other than -- I'm talking about
11 law enforcement, anybody from the police department.

12 A: No, sir.

13 Q: All right. Now, have you had any contact with Brittany
14 or this person Joe since all this happened?

15 A: No, sir. I seen Brittany at the gas station.

16 Q: Now, let me ask you -- prior to September the 11th, did
17 you even know this person named Joe?

18 A: I heard of him, but I didn't -- I don't know him.

19 Q: Okay. All right. All right. And now, one of the things
20 I have not asked you is that night, was your brother home?

21 Was ---

22 A: No, sir.

23 Q: --- Jamell home that night?

24 A: No, sir.

25 Q: Okay. All right. And other than Johnny, yourself, and

RENEA COCHRAN - DIRECT EXAMINATION BY MR. WILSON

1 your mom, was there anybody at 306 Carolyn Avenue before the
2 shooting occurred?

3 A: No, sir.

4 Q: That was all that was there?

5 A: Mm-hmm.

6 Q: All right.

7 A: Yes, sir.

8 Q: Okay. Now, that night -- in fact, that night when --
9 when the police arrived before the ambulance arrived, you were
10 there with Brittany; were you not?

11 A: Yes, sir.

12 Q: Did the police at that time tell you we want to take a
13 statement from you and we want you to come down to the police
14 station tomorrow and give us a statement?

15 A: No, sir, not at all.

16 Q: Did they ask you give us your address and your
17 identification card so we can contact you at some point later
18 in case we need to get information from you?

19 A: They asked me for my name and my phone number, but they
20 didn't never contact me.

21 Q: Okay. Let me ask you this. That night, did they ask you
22 -- did the police ask you about doing a gunshot residue kit on
23 your hands to see if you had fired a gun or anything like
24 that? Did they ask you to do that?

25 A: No, sir.

RENEA COCHRAN - CROSS EXAMINATION BY MR. JEPERTINGER

1 Q: All right. Did they ever ask you to do that?

2 A: No, sir.

3 MR. WILSON: I don't have any other questions. Answer
4 any questions the solicitor might have for you.

5 THE COURT: Cross examination.

6 CROSS EXAMINATION

7 BY MR. JEPERTINGER:

8 Q: I believe Mr. Wilson just asked you when did you learn
9 Brittany had changed her story and you said somewhere along
10 September 13th, 2000 ---

11 A: Yes, sir. I think so.

12 Q: '11, correct?

13 A: Yes, sir.

14 Q: When did you change your story that you came out of the
15 house after you heard a gunshot and found the body just lying
16 there?

17 A: September the 11th. Brittany told me to say that.

18 Q: I know. When -- but that's the story you stuck with when
19 the police got there. When the ambulance doors closed, when
20 she was carted off, and you had an opportunity to tell Mike
21 Jack that's just a -- that was just a bold-faced lie. This is
22 what happened.

23 A: When I found out Brittany was accusing my brother with
24 it.

25 Q: In fact, you did give a statement, not to a police

RENEA COCHRAN - CROSS EXAMINATION BY MR. JEPERTINGER

1 officer, but to a defense attorney; did you not?

2 A: A defense attorney? What defense attorney?

3 Q: Jim Cox?

4 A: Yeah, I gave a statement to Mr. Jim Cox.

5 Q: And that statement was on October 11th, 2012; correct?

6 A: Yes, sir.

7 Q: And it's basically what you're testifying today in this
8 court that Joe and Brittany broke into your mother's home or
9 your home and he shot her?

10 A: Yes, sir.

11 Q: Okay. But you didn't think about picking up a phone at
12 any of that time prior to October of 2012 saying, look, Mr. or
13 Ms. Police Officer, this is what really happened?

14 A: I thought it was their job to get in contact with me if
15 they wanted a statement.

16 Q: Well, you gave a statement to a defense attorney so you
17 could give a statement; correct?

18 A: The lawyer asked me to come in and give a statement.

19 Q: Now, you had no questions about when you came home
20 afterwards before you moved to North Carolina -- and I suppose
21 you took your clothing from the house on 306 Carolyn Avenue.
22 You got your personal belongings to move to North Carolina; is
23 that correct? Or your grandmother's house?

24 A: Yeah. I have clothes at my grandmother's house.

25 Q: Okay. You didn't take any personal items from 306

RENEA COCHRAN - CROSS EXAMINATION BY MR. JEPERTINGER

1 Carolyn Avenue that belonged to you?

2 A: Yeah.

3 Q: Okay.

4 A: Yes, sir.

5 Q: So there was no -- your house is broken into and there is
6 a search warrant on a table and you didn't call the cops at
7 all about what happened?

8 A: I didn't see no search warrant on any table when I went
9 back to my house.

10 Q: Did you have any questions about why the door was busted
11 open?

12 A: I thought that could have happened when they busted --
13 brushed into my mama's house.

14 Q: Well, you went -- you went out -- you went out the door
15 with -- with Brittany carrying her to the street; isn't that
16 correct?

17 A: Yes, sir.

18 Q: And you went out that carport door; didn't you?

19 A: Yes, sir.. I went out that carport door, but I wasn't
20 paying the door any attention like it's been -- like the wood
21 and stuff has been broken off of it.

22 Q: You didn't tell the police officer, man, I heard this --
23 this busted into the door and all that and a guy I barely know
24 shot this woman?

25 A: No, because Brittany said don't tell anybody that she was

RENEA COCHRAN - CROSS EXAMINATION BY MR. JEPERTINGER

1 there.

2 Q: What's Brittany to you to not tell the truth?

3 A: What, sir? You just not tell the truth?

4 Q: Yeah. What's she to you?

5 A: Brittany is nobody to me.

6 Q: Why didn't you tell the cops then if she's nothing to
7 you?

8 A: Brittany told me to say that. You'd have to ask Brittany
9 why she wanted me to say that.

10 Q: So you're going to do whatever Brittany tells you to do?
11 So if Brittany tells you to put a gun to your head and blow
12 your brains out, you'll do it because she asked you to do it?

13 A: No, I will not.

14 Q: Do you know the difference between right and wrong?

15 A: Yes, I do.

16 MR. JEPERTINGER: That's all I have for this witness.

17 MR. WILSON: Nothing further. -

18 THE COURT: You may step down.

19 (Whereupon, the witness leaves the stand at 11:35 a.m.)

20 MR. WILSON: Ms. Zolandria Brown.

21 THE CLERK: If you will, ma'am, place your left hand on
22 the Bible and raise your right hand. Left hand. There you
23 go. Do you swear to tell the truth, the whole truth, and
24 nothing but the truth, so help you God?

25 THE WITNESS: I do.

ZOLANDRIA BROWN - DIRECT EXAMINATION BY MR. WILSON

1 THE CLERK: Please be seated and state your full name for
2 the record.

3 THE WITNESS: My name is Zolandria Latrice Brown.

4 MR. WILSON: Okay.

5 ZOLANDRIA BROWN, being first duly
6 sworn, testifies as follows:

7 DIRECT EXAMINATION

8 BY MR. WILSON:

9 Q: Ms. Brown, how old are you?

10 A: Twenty-eight.

11 Q: All right. And where do you live?

12 A: 2672 Mary Road in Scranton.

13 Q: Scranton?

14 A: Yes.

15 Q: Now, you've got a soft voice, too, and I need you to
16 speak up because I need everybody to hear what you have to
17 say. Okay? So I want you to just get right up to that
18 microphone and talk right into it ---

19 A: Okay.

20 Q: --- so we can hear you. All right. And you live in
21 Scranton?

22 A: That's correct.

23 Q: All right. And are you employed?

24 A: Not now I'm not.

25 Q: Okay. Where is the last place that you've been working?

ZOLANDRIA BROWN - DIRECT EXAMINATION BY MR. WILSON

1 A: ACS Technologies.
2 Q: All right. How long did you work there?
3 A: About two or three years..
4 Q: And how long have you been unemployed now?
5 A: About a year now.
6 Q: Okay. All right. Now, let me ask you if you have
7 children?
8 A: Yes, I do.
9 Q: How many children do you have?
10 A: Two.
11 Q: All right. And do they live with you?
12 A: Yes, they do.
13 Q: All right. And now, Scranton is -- were you living in
14 Scranton back in September 11th of 2011?
15 A: Yes, sir.
16 Q: Okay. And how long had you been living at that address
17 back then?
18 A: Since 2004.
19 Q: Okay. Now, let me ask you if you know the defendant,
20 Jamell Thomas?
21 A: Yes, I do.
22 Q: Okay. And how long have you known Jamell Thomas?
23 A: About fifteen -- sixteen years.
24 Q: Okay. And did the two of you have some kind of
25 relationship?

ZOLANDRIA BROWN - DIRECT EXAMINATION BY MR. WILSON

1 A: We do have a very good friendship.

2 Q: Okay. All right. And it's a little more than ---

3 A: It's a little more.

4 Q: --- friendship; right?

5 A: Yes, sir.

6 Q: Okay. And how long has that been going on?

7 A: Probably the last eight or nine years.

8 Q: Okay. All right. Now, do y'all have any children
9 together?

10 A: No, sir.

11 Q: Okay. All right. Let me ask you -- back on September
12 11th of 2011, if you saw Jamell Thomas on that particular day?

13 A: I saw him that Saturday. Yes, sir.

14 Q: Okay. And tell us about that. Tell us how you got in
15 contact with him in -- on Saturday and what y'all did and just
16 go from there?

17 A: I always go by his grandmother's house on the weekends to
18 take my boys to play with Renea's daughter and he was there
19 and that's when I saw him.

20 Q: Okay. And -- and about what time on Saturday would you
21 say that you were -- you had taken your kids up there?

22 A: I got there about two thirty -- three o'clock.

23 Q: Okay.

24 A: Mm-hmm.

25 Q: All right. And ---

ZOLANDRIA BROWN - DIRECT EXAMINATION BY MR. WILSON

- 1 A: And we left about -- we left there about four o'clock.
- 2 Q: Okay. You and your kids left about four o'clock?
- 3 A: Yes, sir. And also Mr. Thomas.
- 4 Q: All right. And when you left, who left with you?
- 5 A: Mr. Thomas and me and my children.
- 6 Q: Okay. All right. And where did y'all go?
- 7 A: We went back to my home in Scranton.
- 8 Q: Okay. And how far is Scranton from 306 Carolyn Drive?
- 9 A: Probably thirty -- thirty-five miles.
- 10 Q: Okay. And you said that y'all left about four o'clock to
- 11 go ---
- 12 A: About four o'clock.
- 13 Q: --- to Scranton?
- 14 A: Yes.
- 15 Q: Okay. And who -- who was driving when y'all are leaving
- 16 his grandmother's house to go to Scranton?
- 17 A: I was driving.
- 18 Q: Okay. All right. And where is Mr. -- I'm sorry. Where
- 19 is -- is -- is Mr. Thomas seated in your vehicle?
- 20 A: He's seated in the front passenger seat.
- 21 Q: All right. And where are your kids?
- 22 A: They're in the back seat.
- 23 Q: All right. And do y'all stop anywhere? Between the time
- 24 you go to -- the time you leave until the time you get to
- 25 Scranton, do y'all make any stops anywhere?

ZOLANDRIA BROWN - DIRECT EXAMINATION BY MR. WILSON

1 A: No, we did not.

2 Q: All right. And when you got home in Scranton, tell us
3 what y'all kind of did? I mean we don't need details of
4 anything, but just kind of in general what you did that
5 afternoon.

6 A: The kids went in the house. They started playing their
7 Playstations, their games and stuff. Him and I were sitting
8 in a chair watching TV until about eight o'clock. He wanted
9 something to snack on. There's a store down from my house.
10 It's Coker's Grocery Store. And we went there. I went there
11 and got him two bags of barbecue potato chips because he does
12 not eat regular food like we eat.

13 Q: Okay. All right. And how long would you say you were
14 gone?

15 A: Ten minutes maybe.

16 Q: Okay. And other than that, did you ever leave the house
17 other than that?

18 A: No, sir, I didn't.

19 Q: When you came back home, was he still there?

20 A: Yes, he was.

21 Q: All right. And did he leave any time before daylight the
22 next day, which would have been Sunday?

23 A: No, he did not.

24 Q: Okay. He was with you the rest of the night?

25 A: Yes, he was.

ZOLANDRIA BROWN - DIRECT EXAMINATION BY MR. WILSON

1 Q: Y'all spent the night together?

2 A: Yes, we did.

3 Q: Is there any question in your mind about that?

4 A: There's no question in my mind, no.

5 Q: All right. And let me ask you this. Why do you remember
6 that particular night?

7 A: Because ---

8 Q: Is there anything that would ---

9 A: I keep a diary. I've kept a diary since I was the age of
10 ten years old and I write in my diary every night -- every
11 night.

12 Q: Okay. All right. Is there any question in your mind
13 that it was this particular night that he was there with you
14 the entire night?

15 A: There's no question in my mind that he was there.

16 Q: Let me ask you this. Did -- did -- did the police ever
17 talk with you?

18 A: No, they did not.

19 Q: Okay.

20 MR. WILSON: I don't have any other questions. Answer
21 any questions the solicitor may have for you.

22 THE COURT: Cross examination.

23 MR. JEPERTINGER: Yes.

24 CROSS EXAMINATION

25 BY MR. JEPERTINGER:

ZOLANDRIA BROWN - CROSS EXAMINATION BY MR. JEPERTINGER

1 Q: Ms. -- Ms. Brown, you brought the diary here today to
2 court so we could look at it?

3 A: No, sir, I didn't. If you would have asked for it, I
4 would have been happy to bring it.

5 Q: Okay. Well, maybe next time if we -- if we have to
6 appeal this.

7 A: Hopefully, you won't have a next time.

8 Q: All right. We'll read your -- we'll read your diary. So
9 you had a chance probably to review that diary prior to your
10 testimony in court today; is that correct?

11 A: Yes, sir, because I wrote in it last night.

12 Q: Okay. That -- that's good. Let's -- let's go back just
13 a week. That Saturday, where -- where were you on Saturday,
14 September the 4th? Excuse me. It would have been -- yes, it
15 would have been -- let me see. It would have been the 4th --
16 3rd, Saturday, September the 3rd?

17 A: September 3rd I was with my mother because my -- my
18 brother's birthday is September 3rd and we had a birthday party
19 for him.

20 Q: Were you with Jamell at all on September the 3rd?

21 A: On September the 3rd, no, I was not.

22 Q: How about September the 4th?

23 A: Yes. I saw him on September the 4th, that Sunday.

24 Q: And ---

25 A: I stopped by his grandmother's house and they were there.

ZOLANDRIA BROWN - CROSS EXAMINATION BY MR. JEPERTINGER

- 1 Q: Were you with him the whole day?
- 2 A: No.
- 3 Q: Okay. How about Monday?
- 4 A: No. I did not see him on Monday.
- 5 Q: Okay. How about on Tuesday?
- 6 A: No, I did not.
- 7 Q: How about on Wednesday?
- 8 A: No, I did not.
- 9 Q: Thursday?
- 10 A: No.
- 11 Q: Friday?
- 12 A: No.
- 13 Q: Okay. Saturday?
- 14 A: I saw him on Saturday.
- 15 Q: Saturday. And you had a relationship with him for eight
- 16 or nine years?
- 17 A: Yes.
- 18 Q: Okay. Anyone else?
- 19 A: Yes.
- 20 Q: And who would that other fellow be?
- 21 A: His name would be Jason Boston. I have been dating him
- 22 for the last four years now.
- 23 Q: All right. Were you dating him at -- well, you were
- 24 dating him at that time as well then; correct?
- 25 A: No, I wasn't because he was incarcerated.

ZOLANDRIA BROWN - CROSS EXAMINATION BY MR. JEPERTINGER

1 Q: All right. So were you dating him while he was in jail?

2 A: Dating Mr. Boston?

3 Q: Were you dating anyone in jail?

4 A: Mr. Boston?

5 Q: Mr. Boston.

6 A: I wrote to him. Yes, I did write to him.

7 Q: Okay. All right. And when did he get placed in jail?

8 A: That March of 2011.

9 Q: Okay. All right. Now, surely you talked to -- since you
10 have a close relationship with Jamell, you must have had a
11 close relationship with his mother, Linda Mack, and his
12 sister, Renea; correct?

13 A: Yes, I did.

14 Q: Okay. And certainly they would have told you about this
15 guy Joe just busting into their home and shooting this woman;
16 correct?

17 A: No, they did not.

18 Q: They didn't tell you that at all?

19 A: I -- after we went to the attorney's office, after I got
20 back in from town because I left out for two weeks. I did not
21 see him after I dropped him off that Sunday. I was gone. I
22 came back in. I heard about what happened and they wanted to
23 know was he with me and I told them, yes, he was with me.

24 Q: Okay. So ---

25 A: I went and gave the statement to the attorney.

ZOLANDRIA BROWN - CROSS EXAMINATION BY MR. JEPERTINGER

1 Q: And that would have been on October 11th, 2012; correct?

2 A: No.

3 Q: Well ---

4 A: October, yes. I thought you meant September.

5 Q: October 11th, 2012.

6 A: I'm sorry. You are correct.

7 Q: But you didn't think about picking up the phone and
8 calling Ms. Cain; did you?

9 A: I did make a -- a call to Ms. Cain. Ms. Cain never
10 returned my call.

11 Q: Okay. Did Ms. Cain ask you to come in to see her?

12 A: No, she did not.

13 Q: Never?

14 A: No, she did not.

15 Q: Never made an appointment?

16 A: No, she did not. Not for the case for Mr. Thomas.

17 Q: Okay. All right. Zolandria, thank you. That's all I
18 have.

19 A: Thank you, sir.

20 THE COURT: Mr. Wilson, anything further?

21 MR. WILSON: Nothing further.

22 THE COURT: You may step down, ma'am.

23 (Whereupon, the witness leaves the stand at 11:45 a.m.)

24 MR. WILSON: Coty is the next one.

25 THE COURT: All right. Can y'all approach a minute,

1 please?

2 (Whereupon, a bench conference is held in the presence of
3 the jury but out of the hearing of the jury as follows.)

4 THE COURT: We can take an early lunch.

5 MR. WILSON: He's not here yet.

6 MR. JEPERTINGER: Do they have him?

7 THE COURT: They just went to check and see.

8 MR. WILSON: Okay.

9 (Whereupon, the bench conference ends.)

10 THE COURT: Ladies and gentlemen, I'm going to ask you to
11 step to the jury room for just a minute. Do not discuss the
12 case. I'll get you back out here as quickly as possible.

13 (Whereupon, the jury exits the courtroom at 11:45 a.m.)

14 THE COURT: All right. We'll stand down for about ten
15 minutes.

16 (Whereupon, there is a break in the proceedings from
17 11:46 a.m. until 11:56 a.m.)

18 THE COURT: All right. I've been informed that law
19 enforcement has located Mr. Coty Heneghan. Is that correct?

20 MR. WILSON: That is correct, Your Honor.

21 MR. ETHERIDGE: That's correct.

22 THE COURT: All right. Have you all had an opportunity
23 to speak with him, Mr. Wilson?

24 MR. WILSON: I have. Yes, sir.

25 THE COURT: Are you ready to proceed?

26

COTY HENEGHAN - DIRECT EXAMINATION BY MR. WILSON

1 MR. WILSON: Your Honor, what -- I think the better
2 course of action might be, if His Honor sees fit, to maybe do
3 a proffer and then let the Court decide whether the testimony
4 is admissible. I don't want to bring him up there and then
5 find out that the testimony is not admissible and the Court
6 decides not to -- I just think that I would ---

7 THE COURT: Okay. Bring him around.

8 THE CLERK: If you will, sir, go to the -- to the Bible
9 right there and stop right there. Place your left hand on the
10 Bible and raise your right hand. Do you swear to tell the
11 truth, the whole truth, and nothing but the truth, so help you
12 God?

13 THE WITNESS: Yes, ma'am.

14 THE CLERK: Please have a seat right there in the witness
15 chair and state your full name for the record.

16 THE COURT: State your name for the record, please.

17 THE WITNESS: Coty Heneghan.

18 THE COURT: Thank you. Mr. Wilson?

19 MR. WILSON: Yes, sir.

20 COTY HENEGHAN, being first duly
21 sworn, testifies as follows:

22 PROFFERED DIRECT EXAMINATION

23 BY MR. WILSON:

24 Q: Mr. Heneghan -- Mr. Heneghan, let me ask you a couple of
25 questions. First of all, let me show you ---

COTY HENEGHAN - DIRECT EXAMINATION BY MR. WILSON

1 MR. WILSON: Your Honor, may I approach the witness?

2 THE COURT: Yes, sir.

3 Q: Let me show you this statement here. Take a look at that
4 for me, please, sir. Do you recognize the signature at the
5 bottom of that statement?

6 A: Yes, sir.

7 Q: All right. And is that your signature?

8 A: Yes, sir.

9 Q: All right. And did you give that statement to someone?

10 A: Yes, sir.

11 Q: All right. Do you know who you gave it to?

12 A: That woman right there.

13 (Whereupon, the witness indicates a female seated at the
14 defense table.)

15 Q: Which? Right here?

16 A: Yeah.

17 Q: Okay. And when was that?

18 A: The date on this.

19 Q: May?

20 A: Yeah.

21 Q: Okay. And -- and let me ask you -- the things that you
22 said in that statement, are they true?

23 A: Yes, sir.

24 Q: Okay. And do you know those things of your own
25 knowledge?

COTY HENEGHAN - DIRECT EXAMINATION BY MR. WILSON

1 A: Yes, sir.

2 Q: Okay. Now, let me also show you this. Take a look at
3 that. And do you recognize that?

4 A: Yes, sir.

5 Q: All right. And tell us what that is?

6 A: Threats.

7 Q: Threats against whom?

8 A: Him right there.

9 (Whereupon, the witness indicates the defendant.)

10 Q: Threats against him?

11 A: Whole family.

12 Q: All right.

13 A: The whole family.

14 Q: And -- and who received those threats?

15 A: Me.

16 Q: All right. And where did you get them from?

17 A: The internet.

18 Q: Okay. From who?

19 A: This dude right here.

20 Q: Do you know who this dude is?

21 A: All I know his name is Joe.

22 Q: His name is Joe?

23 A: Yeah.

24 Q: Okay. And how do you know Joe?

25 A: He was around the way.

COTY HENEGHAN - DIRECT EXAMINATION BY MR. WILSON

1 Q: I'm sorry?

2 A: He is from around the way.

3 Q: He was from around the way meaning your neighborhood?

4 A: Yeah.

5 Q: Okay.

6 A: You could say that.

7 Q: And what is Joe's relationship with Brittany?

8 A: I really don't know. I know they was talking.

9 Q: Okay. Talking meaning girlfriend/boyfriend?

10 A: I don't know how serious it was. I don't know.

11 Q: Okay. But -- but that's the same Joe that she had some
12 kind of relationship with?

13 A: Yeah.

14 Q: Or friendship or whatever it was?

15 A: (Gesturing)

16 Q: Okay.

17 THE COURT: Is that a yes?

18 THE WITNESS: Yes, sir.

19 MR. WILSON: Okay. That's what I wanted to ask and what
20 I wanted to ask him was what -- to give us the content of the
21 statement and just ---

22 THE COURT: Of his statement?

23 MR. WILSON: Yes, sir.

24 THE COURT: All right.

25 MR. WILSON: I was going to ask him when he's on the

1 stand about the content of his statement.

2 THE COURT: Mr. Jepertinger?

3 MR. JEPERTINGER: Yes, sir.

4 THE COURT: First of all, any questions you wish to ask
5 this witness on -- while he's on the stand for his testimony
6 to be proffered?

7 MR. JEPERTINGER: If the substance is what he has in this
8 statement and in this Facebook -- email -- I don't know what
9 this is, Judge. It ---

10 THE COURT: Well, let's address each one of them
11 individually, first his statement.

12 MR. JEPERTINGER: Well, Judge, I mean I just looked at
13 it. I have more of a legal argument than what he -- what he
14 says in here, first of all, because I don't think it's -- it's
15 relevant to this case, Judge, and the second, I would consider
16 this all hearsay in terms of the -- the Facebook or whatever
17 it is, Judge.

18 THE COURT: All right. Mr. Wilson, anything else?

19 MR. WILSON: Yes, sir. Just briefly, Your Honor. I --
20 my position is -- is that it is relevant. I mean first of
21 all, she is the victim in this case and she testified. Her
22 character is clearly an issue in here. This is also
23 information which shows her motive to lie or to -- to not tell
24 the truth about what occurred. It also proves her
25 relationship with this person Joe.

1 And so I think that it would be relevant and if the Court
2 recalls, there is also testimony by the victim in the trial
3 that this young man was the one who told the defendant about
4 her having Morell or Maurice or whatever the young man's name
5 was down at the beach with her. So I think all of this is --
6 is certainly tied into that.

7 MR. JEPERTINGER: Judge, he has a very wonderful
8 conclusory statement at the end of his statement here. I
9 believe she set Jamell Thomas up just like she did me. That's
10 -- that's a conclusion that he reaches based -- and if you
11 notice in the statement, it says a couple of months before
12 this incident happened, this is what happened to me. You
13 know, it's not relevant nor germane in terms of length of time
14 and we don't know. He just put Joe. I don't know if it's the
15 same Joe.

16 MR. WILSON: Your Honor, I agree with the solicitor with
17 regard to the last statement -- the last sentence in the
18 statement. I mean obviously that is not admissible. That's
19 -- that's a conclusion that he draws and -- and I would agree
20 that that would not be admissible, but I don't think that that
21 takes away from the rest of the statement. And obviously, the
22 statement itself wouldn't come in. It would be his testimony.

23 THE COURT: All right. Let me look at something real
24 quick.

25 MR. JEPERTINGER: Your Honor, I would argue that this

1 doesn't even go to third party guilt because it would have to
2 be third party guilt as knowledge that he has in terms of
3 someone else committing the present offense, not third party
4 guilt of just this guy's general character.

5 THE COURT: All right.

6 (Whereupon, there is a pause in the proceedings.)

7 MR. JEPERTINGER: Judge, a little bit further for the
8 record if you don't mind?

9 THE COURT: Yes, sir.

10 MR. JEPERTINGER: This is akin to putting up a prior bad
11 act by a non-defendant or non-party to the case, Judge.

12 THE COURT: Yeah.

13 MR. JEPERTINGER: And, Your Honor, I don't think it would
14 go to show anything of motive, intent, absence of mistake,
15 facts, and then common scheme or plan, that -- that type
16 stuff. I just -- I just don't think it's there.

17 THE COURT: All right. I'm going to stand down. I want
18 to look at this a little closer and certainly give due
19 consideration to whether or not I'm going to allow this in.
20 Sir, you may step down. He is not to leave the courtroom. He
21 is still in custody of the Sheriff's Department. You can take
22 -- there's a juror I believe that wants to smoke.

23 THE BAILIFF: Yes, sir.

24 THE COURT: You can take him -- him down. It is a him;
25 right?

1 THE BAILIFF: Yes, sir.

2 THE COURT: That's why I kind of stuttered on that. You
3 can take him down, but make sure he's escorted by law
4 enforcement.

5 THE BAILIFF: Yes, sir.

6 (Whereupon, there is a break in the proceedings from
7 12:10 p.m. until 12:24 p.m.)

8 THE COURT: All right. Anything further from defense
9 counsel by way of argument?

10 MR. WILSON: Nothing, Your Honor.

11 THE COURT: Anything further from the State?

12 MR. JEPERTINGER: No, sir.

13 THE COURT: All right. I am not going to allow this
14 witness to testify as to that. I do not believe that it is
15 relevant under the rules. I've looked at Rule 602, Rule 404.
16 This is evidence of other crimes, wrongs or acts directed at a
17 third party. And in the Court's opinion, this evidence of
18 other crimes, wrongs or acts is being put up in an effort to
19 show the actions of Joe or the alleged actions of Joe on
20 September the 11th, if the jury believes that, because of his
21 prior wrong act, his actions on September 11th were the same
22 types of actions.

23 Furthermore, the statement given by Mr. Heneghan were
24 actions directed at him -- at him, not Ms. Singletary.
25 According to Mr. Heneghan's statement, these actions by Joe

1 were directed at him and not Mr. Heneghan.

2 What is in this statement and has already been testified
3 to by Ms. Singletary is that there was a prior relationship
4 with Joe and that it was a physical relationship. By that, I
5 mean somewhat of an abusive relationship. She testified to
6 that and to that effect.

7 Therefore, I am going to respectfully deny defense's
8 motion to -- or request to allow him to testify. I will make
9 Mr. Heneghan's statement as a Court's exhibit.

10 MR. WILSON: Thank you, Your Honor.

11 (Whereupon, the statement is marked as Court's Exhibit
12 Number 8.)

13 THE COURT: If I'm wrong on that, it's there for -- for
14 such argument at a later time. With regards to the email, I
15 think that is hearsay. I think it is -- I read it and I'll be
16 happy to make that a Court's exhibit as well. I think it's --
17 based upon my recollection of reading it, I had a difficult
18 time reading it and was not sure -- I think it's a conclusory
19 statement as to who threats were being made against in it. So
20 -- but I'll be happy to make that a Court's exhibit as well if
21 you so desire.

22 MR. WILSON: I would appreciate that. Thank you, Your
23 Honor.

24 (Whereupon, the emails are marked as Court's Exhibit
25 Number 9.)

1 THE COURT: Yes, sir.

2 MR. WILSON: Your Honor, before you -- you leave, the
3 statement itself, one of the reasons that we were offering the
4 statement was that it -- it shows -- based on what he's
5 saying, it shows that this victim has the propensity and --
6 and a prior history of getting other people involved in these
7 physical altercations with her and this person Joe. And --
8 and that was what I wanted to elicit from -- that was the
9 gravamen of what I'm trying to get from the witness for the
10 case and I just wanted to make that a part of the record that
11 that was really what I'm after.

12 And -- and with regard to the email, I think that -- I
13 understand the Court's ruling and obviously I respect that. I
14 just -- my -- my position obviously is -- is that the
15 relevance of it would be over -- and I think the Court's
16 saying hearsay, but I think that it's a threat or at least
17 that's our position -- the defense's position that this is a
18 threat that's being communicated. Even though it's being
19 communicated to this person, it's directly directed at my
20 defendant and his family, and -- and for that reason, I would
21 think that the threat is admissible even though -- even if the
22 Court said that the -- the actual words are not admissible in
23 -- in its entirety -- the text in its entirety.

24 THE COURT: Well, can I see -- let me see the email
25 again, please, sir?

1 MR. WILSON: Yes, sir.

2 THE COURT: Mr. Jupertinger, anything further?

3 MR. JEPERTINGER: Judge, I still think it's hearsay, but
4 in terms of a -- a veiled threat, I mean it doesn't say 306
5 Carolyn. It doesn't mention the defendant's name, William
6 Jamell Thomas. It doesn't mention Renea Cochran. It does not
7 mention Zolandria Brown. It doesn't mention Linda Myers Mack.
8 It doesn't mention any -- anything. You know, it was just --
9 I don't know which house they're talking about.

10 So it's not only hearsay, but I would say -- I would
11 question the relevancy of the statement and I don't even know
12 who Stylez Ya Digg is. I mean, you know, he doesn't reference
13 himself as the -- as Joe, Your Honor, and then if you look on
14 the second page where it's September 13th, he goes you talking
15 about my house, you know, and apparently he's referencing --
16 there's a question of whose house he's talking about because
17 the next thing from September 14th is you know what the F I'm
18 talking. Don't care about you and your brother. He still
19 doesn't mention address, names, anything.

20 And, of course, the only person that wound up injured in
21 this whole incident was none other than Brittany Singletary.
22 It wasn't William Jamell Thomas. It wasn't Juanita Cochran.
23 It wasn't Linda Mack. It wasn't Johnny Smith. It wasn't
24 Zolandria Brown..

25 THE COURT: All right. All right. Anything further, Mr.

1 Wilson?

2 MR. WILSON: Nothing, sir.

3 THE COURT: All right. I've made my ruling on it. I do
4 not believe it would be admissible and based upon the reasons
5 I've previously stated and, therefore, I'm going to -- not
6 going to allow that.

7 MR. ETHERIDGE: Yes, sir. May it please the Court, Your
8 Honor.

9 THE COURT: Yes, sir.

10 MR. ETHERIDGE: When Zolandria Brown was testifying, I
11 think on cross examination Mr. Jepertinger talked to her or
12 mentioned -- in some kind of way it came about a diary.

13 THE COURT: Yes, sir.

14 MR. ETHERIDGE: She has a diary and it was kind of
15 implied that why didn't you bring it, and we would like the
16 opportunity for her to bring the diary. She's about an hour
17 from here. I mean not an hour, thirty minutes both ways.

18 MR. JEPERTINGER: Your Honor, this case has been going on
19 since the date of his arrest on May 24th, 2012. This is -- are
20 the fourth and fifth attorney. They knew about the case.
21 Zolandria Brown was listed as an alibi witness. They had
22 ample opportunity to speak with her for them to -- for her to
23 come into their office with whatever evidence they might have,
24 Your Honor.

25 Your Honor, they didn't produce it under Rule 5 and I

1 would ask the Court not to allow them to re -- recall that
2 witness, Judge. She's been -- she's been subject to direct
3 examination and cross examination already.

4 MR. ETHERIDGE: And, Your Honor, just one brief -- the
5 diary part came out during cross.

6 THE COURT: Okay. All right. I'm going to respectfully
7 deny that request, but your motion is so noted for the record.

8 MR. ETHERIDGE: That would be it. Thank you, Judge.

9 THE COURT: All right.

10 MR. WILSON: Your Honor, one last thing?

11 THE COURT: Yes, sir.

12 MR. WILSON: Then we would lift our subpoena and ask the
13 Court to lift our subpoena with Mr. Heneghan.

14 MR. JEPERTINGER: The State has no objection in terms of
15 Mr. Heneghan.

16 THE COURT: Well, I'm not going to release him at this
17 time. Mr. Heneghan has -- Mr. Heneghan, how about come around
18 here, sir.

19 (Whereupon, Coty Heneghan approaches the bench.)

20 THE COURT: And I'm going to remind you that you're still
21 under oath.

22 MR. HENEGHAN: Yes, sir.

23 THE COURT: When did you receive the subpoena ordering
24 you or commanding you to appear in this court on Monday of
25 this week? When did you receive the subpoena?

1 MR. HENEGHAN: Yesterday.

2 THE COURT: At what time?

3 MR. HENEGHAN: I wasn't home, sir. My mama had called
4 me.

5 THE COURT: Okay. At some point in time, did you talk
6 with an individual from Mr. Etheridge's office?

7 MR. HENEGHAN: Kevin.

8 THE COURT: How many times did you talk with him?

9 MR. HENEGHAN: He told me I didn't have to come up here.

10 THE COURT: He told you you didn't have to come up here?

11 MR. HENEGHAN: Yes, sir.

12 THE COURT: When? He told you you didn't have to come
13 when?

14 MR. HENEGHAN: Yesterday. He told me yesterday. He said
15 this case might be over with and you might have no point of
16 coming. That's what he told me.

17 THE COURT: Well, Mr. Etheridge?

18 MR. ETHERIDGE: Your Honor, I don't want to cause this
19 young man any trouble. I really don't.

20 THE COURT: You're not the one that's put him in this
21 trouble.

22 MR. ETHERIDGE: I understand. Your Honor, I know he had
23 communication with my office and I can't imagine we told him
24 not to come. If we went to the trouble and expense of serving
25 a subpoena, I can't imagine why we would tell him not to come.

1 But since his testimony is not going to be available, I -- I
2 -- I would like to -- like to see this young man be able to
3 leave.

4 THE COURT: Well, let me explain something to you, Mr.
5 Heneghan.

6 MR. HENEGHAN: Yes, sir.

7 THE COURT: When a subpoena is served on you, it's not an
8 option for you to appear in court.

9 MR. HENEGHAN: Yes, sir.

10 THE COURT: It is a command. It is an order that you
11 appear in court. It's not for you to make the decision
12 whether or not you want to come. Do you understand me?

13 MR. HENEGHAN: Yes, sir.

14 THE COURT: This Court very well could hold you in
15 contempt of court today and sentence you to a period of
16 incarceration for not appearing.

17 MR. HENEGHAN: Yes, sir.

18 THE COURT: Do you understand that?

19 MR. HENEGHAN: Yes, sir.

20 THE COURT: If you are ever served with a subpoena again,
21 it is incumbent upon you that you appear until released by the
22 Court. Do you understand that?

23 MR. HENEGHAN: Yes, sir.

24 THE COURT: All right. It is not law enforcement's job,
25 nor is it their responsibility to hunt down people to bring

1 them to court who have been served with a subpoena.

2 MR. HENEGHAN: Yes, sir.

3 THE COURT: Mr. Neal, you can release him. I'll allow

4 him to leave. I will not hold him in contempt of court.

5 Okay? You can go, Mr. Heneghan.

6 All right. Anything from the State before I bring the

7 jury back in?

8 MR. JEPERTINGER: No, sir.

9 THE COURT: Defense counsel?

10 MR. WILSON: No, sir. And, Your Honor, just so you're

11 aware, I'm going to rest at this time.

12 THE COURT: Well, what I'm going to do is I'm going to

13 bring them back in.

14 MR. WILSON: Yes, sir.

15 THE COURT: I'm going to let you rest.

16 MR. WILSON: All right.

17 THE COURT: And I'm going to release them for lunch.

18 MR. JEPERTINGER: Okay.

19 MR. WILSON: Yes, sir.

20 MR. JEPERTINGER: Your Honor, I do have short reply

21 testimony with one witness, but that would be Investigator

22 Mike Jack based on testimony elicited during the defense

23 presentation of their case.

24 THE COURT: All right. Mr. Wilson, anything?

25 MR. WILSON: I don't have any objection as long as it's

1 new matters and not ---
2 THE COURT: And not new matters. Not new matters; right?
3 MR. WILSON: Yes, sir.
4 MR. JEPERTINGER: They would -- would be what she --
5 specifically what Ms. Mack raised on ---
6 THE COURT: That's ---
7 MR. JEPERTINGER: --- the record.
8 THE COURT: Then -- then you're okay. Not new matters.
9 MR. JEPERTINGER: We're not -- we're not going to plow
10 the same field, Judge. We've been here for three days.
11 THE COURT: Nor are you going to plow something new. All
12 right. All right. Bring the jury, please.
13 THE BAILIFF: All right.
14 THE COURT: And, Mr. Wilson, please at the resting of
15 your case ---
16 MR. WILSON: Yes, sir.
17 THE COURT: --- just ---
18 MR. JEPERTINGER: Can we approach the bench ---
19 THE COURT: Yeah.
20 MR. JEPERTINGER: --- and put it on ---
21 THE COURT: You can approach the bench after you rest.
22 MR. JEPERTINGER: After you rest and we'll just put in on
23 the record.
24 THE COURT: Just renew your motions ---
25 MR. WILSON: Yes, sir.

1 THE COURT: --- on the record up here.

2 MR. WILSON: Yes, sir..

3 (Whereupon, the jury enters the courtroom at 12:35 p.m.)

4 THE COURT: All right. Mr. Wilson?

5 MR. WILSON: Yes, Your Honor. At this time, the defense

6 would rest.

7 THE COURT: All right. Can the lawyers approach, please?

8 MR. JEPERTINGER: Yes, sir.

9 (Whereupon, a bench conference is held in the presence of

10 the jury but out of the hearing of the jury as follows.)

11 THE COURT: All right. Just for the record, renew your

12 prior motions.

13 MR. WILSON: Your Honor, for the record then I would

14 renew all the motions that I made at the end of the -- at the

15 end of the State's case on the same grounds that I articulated

16 at that time.

17 THE COURT: Your objections are so noted for the record

18 and the holdings remain the same. The holdings remain the

19 same. All right.

20 MR. WILSON: And including the motion for mistrial.

21 THE COURT: Yes, sir.

22 MR. JEPERTINGER: And I would -- just also for the

23 record, I believe Mr. Wilson -- either here during the

24 testimony of Brittany Singletary made a contemporary --

25 contemporaneous objection, either -- I can't remember whether

1 it was at the defense table or up here -- in terms of the
2 Court's prior 404(b) ruling.

3 THE COURT: Yeah.

4 MR. JEPERTINGER: Is that correct?

5 MR. WILSON: Yes.

6 THE COURT: Yeah.

7 MR. JEPERTINGER: I do remember that, Judge.

8 THE COURT: Right. It's all prior objections,
9 exceptions, motions are renewed and the rulings remain the
10 same.

11 MR. WILSON: Thank you, Your Honor.

12 THE COURT: All right.

13 (Whereupon, the bench conference ends.)

14 THE COURT: Ladies and gentlemen, the defense counsel has
15 rested its case at this time. Mr. Jepertinger, you're
16 recognized for any reply.

17 MR. JEPERTINGER: Yes, sir. We would call Deputy Mike
18 Jack back to the stand. It would be Investigator Mike Jack
19 now.

20 THE COURT: All right.

21 THE CLERK: If you will, sir, place your left hand on the
22 Bible and raise your right hand. Do you swear to tell the
23 truth, the whole truth, and nothing but the truth, so help you
24 God?

25 THE WITNESS: I do.

INVESTIGATOR MIKE JACK - DIRECT EXAMINATION BY MR. JEPERTINGER

1 THE CLERK: Please be seated and state your full name for
2 the record.

3 THE WITNESS: Mike Jack.

4 MR. JEPERTINGER: Okay.

5 INVESTIGATOR MIKE JACK, being first
6 duly sworn, testifies as follows:

7 DIRECT EXAMINATION

8 BY MR. JEPERTINGER:

9 Q: Mr. Jack, you're still under oath; okay?

10 A: Yes, sir.

11 Q: All right. Just really briefly here. When you went out
12 to 306 Carolyn Avenue in the early morning hours, did you see
13 Linda Mack out there?

14 A: Absolutely not.

15 Q: Did you see any vehicles out there?

16 A: I did not.

17 Q: You say you left the scene and came back; correct?

18 A: Yes, sir.

19 Q: Okay. When you came back, what did you and the other
20 officers do?

21 A: We attempted to make entry into the residence by knocking
22 on the door.

23 Q: Okay.

24 A: Doors.

25 Q: Did you see the carport door?

INVESTIGATOR MIKE JACK - DIRECT EXAMINATION BY MR. JEPERTINGER

1 A: I did.

2 Q: And what was the condition of the carport door when you
3 saw it?

4 A: It was intact.

5 Q: Had it been busted up?

6 A: It had not.

7 Q: Had it been busted up, what would you have done?

8 A: At that point in time, we would have been able to gain
9 entry into the residence. Possibly a burglary or something
10 may have been in progress so we would have been able to
11 actually obtain our objective, which would have been to get
12 into the residence without having to do a search warrant.

13 Q: All right.

14 MR. JEPERTINGER: Thank you. That's all I have.

15 THE COURT: Any cross?

16 MR. WILSON: Just a couple of questions.

17 CROSS EXAMINATION

18 BY MR. WILSON:

19 Q: Did -- you said that you went back at 3:27. Did you ever
20 go back again other than to serve the search warrant?

21 A: I did not and I did not serve the search warrant. No,
22 sir.

23 Q: You did not serve the search warrant and you did not go
24 back other than that?

25 A: That's correct.

INVESTIGATOR MIKE JACK - CROSS EXAMINATION BY MR. WILSON

1 Q: Okay. And did you ever make an inquiry to find out where
2 they were when you went -- if they weren't home, where they
3 were?

4 A: I did not.

5 MR. WILSON: No other questions.

6 MR. JEPERTINGER: That's all I would have, Judge, for
7 this witness.

8 THE COURT: Sir, you may step down. Anything further?

9 (Whereupon, the witness leaves the stand at 12:40 p.m.)

10 MR. JEPERTINGER: Just one very, very quick thing. Ms.
11 -- Ms. Cain, Investigator Cain.

12 THE CLERK: If you will, ma'am, place your left hand on
13 the Bible and raise your right hand. Do you swear to tell the
14 truth, the whole truth, and nothing but the truth, so help you
15 God?

16 THE WITNESS: I do.

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

19 MR. JEPERTINGER: Okay.

20 INVESTIGATOR HELEN CAIN, being first
21 duly sworn, testifies as follows:

22 DIRECT EXAMINATION

23 BY MR. JEPERTINGER:

24 Q: Investigator Cain, during the course of your
25 investigation, did you ever set up an appointment with

INVESTIGATOR HELEN CAIN - DIRECT EXAMINATION BY MR. JEPERTINGER

1 Zolandria Brown to come in to talk to you about this incident?

2 A: To the best of my knowledge, I recall talking to her
3 briefly on the phone at one time and she was supposed to come
4 in to see me and she did not.

5 Q: All right. And did you have an occasion to drive by 306
6 Carolyn Avenue after you had been at Carolinas Hospital System
7 with the victim in this case, Brittany Singletary?

8 A: Yes. After I left the hospital, I had went by Carolyn
9 Avenue and there was no one home. There was no lights and no
10 cars in the yard.

11 Q: And in terms of the -- the door of the carport, what was
12 its physical condition?

13 A: It was intact.

14 Q: Okay. Were you there when the door was broken down?

15 A: Yes, I was.

16 Q: Okay.

17 MR. JEPERTINGER: All right. Thank you. That's all I
18 have.

19 THE COURT: Cross examination.

20 CROSS EXAMINATION

21 BY MR. WILSON:

22 Q: Now, ma'am, you gave -- again, you gave a report -- a
23 progressive report and there's nothing about your going back
24 to that house that night in that report; is there?

25 A: That's correct.

1 Q: Okay.

2 MR. WILSON: Nothing further.

3 MR. JEPERTINGER: That's it, Judge.

4 THE COURT: All right. You may step down. Thank you.

5 (Whereupon, the witness leaves the stand at 12:42 p.m.)

6 MR. JEPERTINGER: That would be all the reply testimony
7 that the State will offer.

8 THE COURT: All right. All right. Ladies and gentlemen,
9 you have heard all of the testimony and evidence that's been
10 introduced during the course of this trial. The only -- that
11 which we have remaining to do are closing arguments and a
12 charge on the law by the Court.

13 What I am going to do at this time is I am going to
14 excuse you all for lunch. I'm going to ask that you all be
15 back here at 2:15 -- at 2:15 and we will resume this case at
16 that time with closing arguments and a charge on the law to
17 you all.

18 As I have told you throughout, do not discuss this case
19 at all. Do not do any independent investigation on your own.
20 You're to decide this case based solely upon the evidence and
21 testimony that's been presented during the course of this
22 trial and nowhere else. You all are free to go. Please be
23 back at 2:15.

24 (Whereupon, the jury exits the courtroom at 12:43 p.m.)

25 THE COURT: All right. Anything from the State?

1 MR. JEPERTINGER: Judge, I think this would be an
2 appropriate time to have a charge conference, if that would be
3 okay with the Court.

4 THE COURT: Mr. Wilson?

5 MR. WILSON: That's fine. I don't have any objection to
6 it.

7 MR. JEPERTINGER: Your -- Your Honor, specifically in
8 this case, I would ask based on State v. Price and following
9 State v. Belcher that the Court would include that malice may
10 be inferred from the use of a deadly weapon. Judge, there is
11 no evidence whatsoever either from any of the State's
12 witnesses nor from the defense witnesses to show that this was
13 anything less than a premeditated shooting of Brittany
14 Singletary.

15 Obviously, from the State's perspective it was William
16 Jamell Thomas, Jr., that did the shooting. The defense is
17 going to argue that it was a guy named Joe that did the
18 shooting. There would be nothing to mitigate the crime.
19 There was no indication of any self-defense. Nothing to
20 lessen what happened. It would have been a cold-blooded
21 shooting, Judge, and I would specifically ask for that charge.

22 THE COURT: All right. Mr. Wilson?

23 MR. WILSON: Your Honor, there is testimony in the record
24 that there was a struggle between Joe and -- and -- and the
25 victim. I'm sorry. Between Joe and this Johnny person and

1 that the gun fired when that was happening and -- and that
2 that's how she was shot. Now, if the issue had been -- you
3 know, and as far as this trial is concerned, I would think
4 that that was certainly evidence that, you know, which would
5 -- which would be less than malice if -- if that were true.

6 Secondly, the victim testified, as best I remember, that
7 -- that -- that the gun was pulled out, that the first shot
8 was fired, then he -- that the person -- that the defendant
9 walked away and then turned around and the gun fired a second
10 time, and that that's when she was hit. She didn't say if --
11 as best I recall, she didn't say, well, he turned around and
12 he said some threatening words to me and then fired the second
13 shot and hit me, which would indicate that he was
14 intentionally shooting her. Even if you get -- even if you
15 listen to his story -- to her story, and if that's the only
16 story that you were going by, she doesn't say that.

17 MR. JEPERTINGER: But I do recall there's testimony there
18 from Ms. Singletary saying that a line that he said was I
19 ought to kill you and then kill myself, because apparently she
20 wasn't dead at the time of when he shot.

21 MR. WILSON: Well, this is after. That would have been
22 after ---

23 MR. JEPERTINGER: But he ---

24 MR. WILSON: --- the alleged shooting had taken place.

25 THE COURT: Well, I've already made my decision. I'm not

1 going to charge that language and this is why I'm not going to
2 charge it. In State v. Price, it goes into and it says --
3 bear with me just a second here.

4 (Whereupon, there is a pause in the proceedings.)

5 THE COURT: Well, let me look at -- do this. I've looked
6 at State v. Price. I want to look at Belcher over lunch.
7 Price dealt with an assault and battery with intent to kill.
8 Assault and battery with intent to kill, assault with intent
9 to kill, assault and battery of a high and aggravated nature,
10 all of that was changed with the enactment of the Omnibus
11 Crime Bill, which for instance, ABHAN is now codified and
12 ABHAN by statute is specifically stated within the statute
13 that it is a lesser included offense of attempted murder.
14 What we have here -- I mean the statute specifically says that
15 it is a lesser included offense of attempted murder.

16 Price says -- and Mr. Jupertinger argued to the Court
17 that it was not a self-defense type of issue. However, the
18 case says where evidence is presented that would reduce,
19 mitigate, excuse or justify. So it's not just a self-defense
20 type of situation that would warrant the charge.

21 MR. JEPERTINGER: Sure.

22 THE COURT: So ---

23 MR. JEPERTINGER: I understand that. I just didn't think
24 based on my perception of the testimony elicited both from Ms.
25 Singletary and even from the defense witnesses ---

1 THE COURT: Right.

2 MR. JEPERTINGER: --- that it did any of those things
3 that Price addresses. I just used self-defense as an example,
4 Judge.

5 THE COURT: Right. Well, it encapsulates all of that,
6 not ---

7 MR. JEPERTINGER: Sure.

8 THE COURT: --- just self-defense excusing or justifying
9 it, but reduce or mitigate.

10 MR. JEPERTINGER: That's correct.

11 THE COURT: I mean it includes that language as well and
12 we had previously had this discussion about what I felt like
13 as the testimony came out during the course of the last couple
14 of days that I felt like certainly an attempted murder charge
15 was warranted, as well as ABHAN, assault and battery high and
16 aggravated nature, based upon the testimony that's been
17 elicited, as well as the fact that the statute says that it's
18 a lesser included offense of attempted murder.

19 I will look at Belcher over lunch, but my leanings at
20 this point are not to include that language that you've
21 requested about the inference of malice ---

22 MR. JEPERTINGER: Okay.

23 THE COURT: --- by the use of deadly weapon.

24 MR. JEPERTINGER: I understand. The other thing, too,
25 Judge, I don't know if you're going to address Count II in

1 terms of how you're going to say that to the jury in terms of
2 the assault and battery high and aggravated nature that --
3 that -- I guess you would say assault and battery of a high
4 and aggravated nature would be considered a crime of violence
5 under 16-23-10 and 30, I guess both since 30 is the charging
6 statute, 50 is the penalty, and I believe 10 is the
7 definitional statute.

8 THE COURT: Well, what I would say -- and that needs to
9 be changed a little bit -- that you heard testimony that the
10 defendant has a prior conviction of a crime of violence, that
11 being assault and battery of a high and aggravated nature, and
12 you may only consider this prior conviction as a proof of an
13 element of the crime of possession of a pistol by a person
14 convicted of a crime of violence. You are not to consider the
15 defendant's prior conviction as proof or evidence of the
16 defendant's guilt of the charges that he's currently on trial
17 for. Mr. Wilson?

18 MR. WILSON: That's satisfactory.

19 MR. JEPERTINGER: As long as that, you know, fits that --
20 that was ---

21 THE COURT: The language ---

22 MR. JEPERTINGER: --- considered an element of the crime.
23 Yes, sir.

24 THE COURT: Right.

25 MR. JEPERTINGER: Mm-hmm.

1 THE COURT: Okay. I mean the -- on that the State must
2 prove beyond a reasonable doubt that the defendant knowingly
3 possessed or acquired a handgun within the state and that the
4 defendant is a person who has been convicted of a crime of
5 violence in any court in the United States. I'm going to need
6 all that stuff.

7 THE LAW CLERK: Yeah.

8 (Whereupon, there is a pause in the proceedings.)

9 THE COURT: All right. You heard testimony that the
10 defendant has a prior conviction for assault and battery of a
11 high and aggravated nature, which is a crime of violence. You
12 may only consider the defendant's prior conviction -- this
13 prior conviction -- this conviction -- all right.

14 You may only consider this testimony as proof of an
15 element of the crime of possession of a pistol by a person
16 convicted of a crime of violence. You are not to consider
17 this defendant's prior conviction as proof of the defendant's
18 guilt of the charges -- consider the defendant's prior
19 conviction as proof of the defendant's guilt. You are not --
20 let's see. I'm sorry.

21 You may only consider this testimony as proof of an
22 element of the crime of possession of a pistol by a person
23 convicted of a crime of violence. You are not to consider the
24 defendant's prior conviction as proof of the defendant's guilt
25 of the charges for which he is currently being tried.

1 All right. Any objection to that?

2 MR. JEPERTINGER: Sounds good to me.

3 MR. WILSON: I don't have any ---

4 MR. ETHERIDGE: No, that's fine.

5 MR. WILSON: I don't have any objection, Your Honor.

6 (Whereupon, there is a pause in the proceedings.)

7 THE COURT: Let me ask you this. Because of the
8 testimony I allowed in regarding the incident that occurred on
9 that Friday evening -- that Friday evening, this charge -- you
10 have also heard evidence that the defendant committed a bad
11 act not the subject of a conviction other than the ones for
12 which the defendant is now on trial. This testimony, if you
13 conclude it is true, may only be considered by you on the
14 question of motive and for no other reason and no other
15 purpose. You may give this evidence the weight and value, if
16 any, which you find it should have on the sole issue of
17 motive. You must not consider evidence of the commission of
18 the bad act not the subject of a conviction as proof of the
19 defendant's guilt of the charges we are trying today. Mr.
20 Wilson?

21 MR. WILSON: Yes, sir. I have -- I think that's
22 satisfactory, sir.

23 THE COURT: Okay. Now, I'm going to go from the top and
24 I'm going to just hit the highlights on this. If you want me
25 to read a specific portion of the charge, we'll certainly do

1 so.

2 Multiple charges. You'll be asked to write a separate
3 verdict of guilty or not guilty for each charge alleged in the
4 indictment. You must decide each charge separately on the
5 evidence.

6 Charge, arrest, and indictment is not evidence in this
7 case. Presumption of innocence. Reasonable doubt. Proof
8 beyond a reasonable doubt is proof that leaves you firmly
9 convinced of the defendant's guilt. The kind of doubt that
10 would cause a reasonable person to hesitate to act.

11 Direct and circumstantial evidence. Duties of the judge
12 and jury. Expert witnesses. Pretty much along the same
13 charge that I've already given them that they're not to give
14 them any more weight. That they're allowed -- they're to use
15 -- not give them any greater weight than that of any other
16 witness simply because they are an expert. You're not
17 required to accept an expert's opinion even though it is not
18 contradicted. Police officer charge, which tells them that
19 they are not to give any more weight to a police officer's
20 testimony solely because they are a police officer.

21 Failure of the defendant to testify. Intent. Then go
22 into the offense of attempted murder. And then assault and
23 battery of a high and aggravated nature as a lesser included
24 offense. And then the possession of a pistol by a person
25 convicted of a crime of violence. Alibi, which says -- do

1 y'all want me to read that? I mean it's a standard alibi
2 charge. I mean it's ---

3 MR. WILSON: Yes, sir.

4 THE COURT: You want me to read it?

5 MR. WILSON: Yes, sir. No. Meaning now?

6 THE COURT: Yeah.

7 MR. WILSON: All right. No, sir.

8 THE COURT: All right. And then I mean the conclusion,
9 which is standard type conclusion, conclusory statements. And
10 certainly give each of you an opportunity to object or make
11 any exceptions to the charge after I've charged the jury.

12 The verdict form. Pretty standard verdict form. I don't
13 have it right here, but I'll certainly give you -- first, they
14 consider the attempted murder, guilty or not guilty. If they
15 find the defendant not guilty of attempted murder, then they
16 go to the lesser included assault and battery high and
17 aggravated nature. If they find him guilty of attempted
18 murder, they go down and consider Count II and don't even go
19 to the assault and battery high and aggravated nature.

20 But if he's found not guilty of attempted murder, then
21 they're instructed to go and consider the lesser included of
22 ABHAN. Once they've considered ABHAN, then they consider
23 Count II the indict -- of the indictment on the possession of
24 a pistol by a person convicted of a crime of violence. It's a
25 pretty standard verdict form, but certainly you all -- I'll

1 let you look at it before it goes back.

2 Let me ask this question. Is there any objection to me
3 sending a copy of the charge back to the jury from the State?

4 MR. JEPERTINGER: Not from the State.

5 THE COURT: Defense counsel?

6 MR. WILSON: No, sir. No objections to that. Judge, in
7 terms of the -- the form of the verdict form ---

8 THE COURT: Yes, sir.

9 MR. WILSON: I understand that you're going to have them
10 look at attempted murder and say guilty or not guilty.
11 Obviously, if they say not guilty, then they can look at ---

12 THE COURT: ABHAN.

13 MR. WILSON: --- ABHAN. Is there just going to be a not
14 guilty?

15 THE COURT: On what?

16 MR. WILSON: Just not guilty.

17 MR. ETHERIDGE: Complete not guilty.

18 THE COURT: No. They've got to answer each, -- each
19 question unless they determine not guilty on attempted murder.
20 Then they skip down to number two to consider the lesser
21 included of attempted murder, which is ABHAN.

22 MR. WILSON: Right.

23 THE COURT: Then they have not guilty or guilty on that
24 count.

25 MR. WILSON: Right.

1 THE COURT: And then they go to question three, which is
2 the pistol charge -- the weapon charge.

3 MR. WILSON: And the reason I'm asking is -- is that if
4 the jury believed the testimony of the alibi and the defendant
5 ---

6 THE COURT: Right.

7 MR. WILSON: --- then they could just find him not guilty
8 and not have to go -- if that's what they believe and if
9 that's ---

10 THE COURT: If they believe that, then they can check not
11 guilty on each one of these questions.

12 MR. WILSON: All right.

13 THE COURT: Okay?

14 MR. WILSON: Yes, sir.

15 THE COURT: All right. Anything else from the State at
16 this time?

17 MR. JEPERTINGER: No, sir.

18 THE COURT: Defense counsel?

19 MR. WILSON: Nothing further, Your Honor.

20 THE COURT: All right. Is the State going to open on the
21 law?

22 MR. JEPERTINGER: No. I will -- I will close and let Mr.
23 Wilson argue first.

24 THE COURT: All right. Mr. Wilson?

25 MR. WILSON: I decline -- no, sir. I'll do that. That's

1 okay.

2 THE COURT: How long do you all expect on closing
3 arguments?

4 MR. WILSON: I wouldn't think more than thirty minutes.

5 THE COURT: All right.

6 MR. JEPERTINGER: I might be a tad longer since I have
7 the burden of proof.

8 THE COURT: All right. Well, I don't -- I mean I'm not
9 going to sit here and say you've got fifteen minutes or twenty
10 minutes or whatever, but if you hear me kind of clear my
11 throat a few times, you know it's time to start wrapping it
12 up.

13 MR. WILSON: Yes, sir.

14 THE COURT: Okay? All right. We'll stand at ease until
15 2:15.

16 (Whereupon, there is a break in the proceedings from 1:09
17 p.m. until 2:16 p.m.)

18 THE COURT: All right. Anything from the State before I
19 bring the jury in?

20 MR. JEPERTINGER: Judge, I'm sitting here with baited
21 breath for your decision.

22 THE COURT: I am not going to include that language in
23 the charge.

24 MR. JEPERTINGER: Very good, Judge. You've satisfied a
25 yearn that I had to know what you were going to do.

1 THE COURT: Well, now you know.

2 MR. JEPERTINGER: Thank you, Judge. Nothing further,
3 Your Honor.

4 THE COURT: All right.

5 MR. JEPERTINGER: Just -- just for the record though in
6 all -- in all candor and seriousness, the State would object,
7 Your Honor, to the lack of that language in your charge.

8 THE COURT: So noted for the record. All right. I'm
9 going to bring the jury out. We're going to go into closing
10 arguments and then I'm going to go into a charge -- into the
11 charge on the law. Once closing arguments begin, you will not
12 be allowed to leave this courtroom until after I have finished
13 charging this jury on the law. Bring me the jury, please,
14 ma'am. So if you want to leave, now is your time.

15 (Whereupon, the jury enters the courtroom at 2:19 p.m.)

16 THE COURT: All right. Madam Forelady and ladies and
17 gentlemen of the jury, as I told you before lunch, the only --
18 that which we have remaining to do is closing arguments by
19 counsel and my charge on the law. At this time, I am going to
20 recognize defense counsel for closing arguments. He will be
21 followed by the prosecutor, Mr. -- or the solicitor, Mr.
22 Jepertinger. I will remind you all, ladies and gentlemen,
23 that arguments of counsel is not evidence in this case. It is
24 not evidence in this case. Mr. Wilson, you're recognized,
25 sir.

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1 of beyond a reasonable doubt.

2 This case is riddled with doubt. Riddled with
3 inaccuracies. Riddled with people not carrying out their
4 responsibilities and doing the things that they should have
5 done so that we would have the information that we need to
6 make a decision. The State did that. The defendant had no
7 part in that. The State did that. The State chose to charge
8 the defendant and once they made that decision, then they
9 accepted the responsibility to bring you evidence to prove
10 their case.

11 Think about it for a second. How difficult, how almost
12 impossible it would be or is for a defendant, any defendant,
13 to prove that he did not do something. If I'm home at three
14 a.m. in the morning and somebody -- some bank is robbed in
15 Conway and they come knock on my door at three a.m. and says,
16 Ralph Wilson, where were you? I was home. How do I prove
17 that I was home when the bank was robbed? I'm there by
18 myself. I can't prove it. I can say it. Which is why the
19 law places the burden on the State, not on the defendant,
20 because it's impossible for you to prove it sometimes.

21 It is easy to make allegations. Allegations are simply
22 statements, not necessarily factual, but statements. You did
23 this. I can go down to the Magistrate's Office and take out a
24 warrant for anybody I want to take out one for. Say you
25 slapped me or you kicked me or whatever it is that I want to

1 say. It doesn't mean it's true. It doesn't mean you did it.
2 It just means I made the allegation, which is why we have
3 courts, which is why we have jurors, because the jury stands
4 between the State of South Carolina and the defendant to make
5 sure that justice is rendered.

6 But the State has a responsibility to be fair, not just
7 to the victim, but to the defendant as well. As a defense
8 lawyer, my sole job -- my sole responsibility is to represent
9 this defendant, Mr. Thomas. That's my only job. But the
10 State's job is not that simple. They have a victim, but their
11 job is not to represent the victim. The State's job is to
12 represent justice and fairness and what's right.

13 And I submit to you when you look at what law enforcement
14 did in this case, they lose -- they lost sight of that. They
15 lost sight of what their role was and should have been. It is
16 not merely to convict somebody, and the investigation doesn't
17 end the moment you arrest somebody. The interest should be in
18 justice. The interest should be in what is right. The
19 interest should be in what's fair.

20 I'll give you one good example of what I'm talking about.
21 Investigator Kathleen -- and I can't remember her name quite
22 just now, but you will remember she was testifying and she
23 said that, well, we thought we might be able to get a federal
24 case out of it and because we might be able to get a federal
25 case, we were going to have these bullets -- we were going to

1 take them to SLED and we were going to swab them to see if we
2 could find Mr. Thomas' DNA on these bullets because then what
3 would that prove? That would prove he had possession of them
4 at some point if his DNA is on it.

5 But she said, well, once -- once we talked to the federal
6 prosecutors and they said, no, we ain't fooling with it, she
7 said, well, then we don't do that. And I asked her. You
8 heard me. I asked her, well, why not? Is this case not just
9 as important as if it was a federal case? A question for
10 which she had no answer.

11 You think it matters to a defendant whether he goes to
12 jail on a federal case or a state case? He's still in jail.
13 You see, the defendant can't investigate a case. That's why
14 we have law enforcement. And when they don't do what they're
15 supposed to do, how can justice be served?

16 Not one single person from 306 Carolyn Avenue has ever
17 been spoken to. Not one. Not one and even Renea who is there
18 the night that this happened. She's there when the police
19 arrive. They don't even take a statement from her. You know,
20 for all they knew, she could have been the person who did the
21 shooting. They didn't know. Ms. Singletary told them first
22 that it was a drive-by. Then she changed it later and said,
23 well, no, it wasn't a drive-by. Really I got shot in the
24 house and he shot me. Her brother shot me. But they didn't
25 know that at the beginning.

1 Don't you want to get that information? She was already
2 in the ambulance and gone along to the hospital. There were
3 five officers at the scene at that point. Not a one of them
4 bothered to sit down with her and say tell us what happened.
5 Give us a statement. Not one. Why? Why? If they're
6 searching for the truth, why not? Why not? But it gets
7 worse, unfortunately. It gets worse. Not only did they not
8 talk to them that night, two and a half years later they're
9 here and they still haven't talked to them two and a half
10 years later.

11 You heard the testimony. Ms. Mack has been working at
12 the same job for over eleven years. Same job. Now, I'm no
13 investigator and I'm probably not the smartest fellow in the
14 world either, but if somebody is working at the same job for
15 eleven years, I can probably find them if I really want to.

16 Let me talk to you for a minute about what we call
17 credibility. If you'll remember, at the very beginning of
18 this trial when we did our opening statements, I said to you
19 that one of the issues here is going to be the credibility.
20 There is no issue about whether or not Ms. Singletary was
21 shot. That's never been the issue in this case. That's not
22 why we're here, whether she was shot. We know she was shot.
23 Nobody is denying she was shot.

24 The question is and always has been who shot her and we
25 want to know because that is the question. That is what the

1 State of South Carolina has charged this defendant with. They
2 charged that he was the person who shot her. Then they've got
3 to prove it and they've got to prove it with evidence that
4 satisfies you beyond a reasonable doubt.

5 Credibility, as I told you at the outset, it's -- it's
6 one of those legal words that we use, but all it means is
7 believability, whether you believe somebody. And when you
8 listen to their testimony, remember we talked about -- I said
9 sometimes it's not so much what a witness says, it's what they
10 don't say, or if they do say something, it's how they say it
11 because sometimes that can be just as important as what they
12 did say. Does a witness have a reason to lie? Do they have a
13 reason to mislead you? Do they have a reason to be less than
14 honest or candid?

15 And you, in deciding credibility, you don't necessarily
16 count up the number of witnesses one against the other and
17 say, well, this guy had five witnesses, this guy had six
18 witnesses, so the side with the six witnesses wins. No.
19 Because you can believe all of what a witness tells you. You
20 can believe part of what a witness tells you and reject
21 another part of what that same witness tells you. You can
22 disbelieve everything a witness tells you, if provided you
23 have some good reason in the record to do so. You are the
24 judges of the facts.

25 Now, let's talk for a minute about Ms. Singletary. She

1 is an attractive young lady, seems very intelligent, very
2 smart. But for whatever her reasons were -- and I don't claim
3 to know them. I wasn't there. Mr. Jepertinger wasn't there
4 either. According to her, she had been in a relationship with
5 this fellow Joe, who was abusive to her. Then she got into a
6 relationship she says with Mr. Thomas, who she says was
7 abusive to her.

8 One of the things that really causes you to wonder and
9 have to question, she is an adult female who lives at home
10 with her mother and she says that -- she says that she didn't
11 want anybody to know that she was at this house or that she
12 had a relationship with this defendant. Why not? Why not?
13 Because of Joe? Because of her mom? Because of the
14 defendant's family? Why not?

15 Well, we do know because this is what she said, if we
16 believe her, that on multiple occasions she went over to his
17 house on her own, driving her own vehicle. He didn't come get
18 her. He didn't force her over there. According to her, she
19 went on her own. There's nothing wrong with that. She's an
20 adult. He's an adult. Neither of them are married. What's
21 wrong with that? Why lie about it? Why lie to your parents
22 about it? Why lie to his parents about it? Why sneak into
23 the house? Why?

24 Now, if I can think that that's a question that I would
25 ask, I'd think the police didn't think that that was a

1 question that they should have asked? Why did she tell the
2 first story that this was a drive-by? Because see, the thing
3 with the drive-by story -- let -- let me -- think about it for
4 a second. According to her version of the facts, the
5 defendant is not there. He is gone. What she says is he shot
6 me, he left.

7 So how is he a threat to her now? You've got two to five
8 police officers there. Two to five, depending on what point
9 in time you're talking about, plus the EMS people who later
10 showed up. And you heard me ask the officer when he was on
11 the stand about that. Were you ever in fear? Was EMS ever in
12 fear or in jeopardy or in danger in any way? No. No. Did
13 you have guns? Yeah. Did you have uniforms? Yeah.

14 Now, why would she be in fear? And you saw Renea when
15 she testified. Renea ain't much bigger than a gnat. What is
16 she going to do to her with five officers there? No. No. If
17 it looks like a duck and it walks like a duck and it quacks,
18 it's probably a duck. No.

19 But then it gets worse because even after she tells the
20 first officer -- well, let me back up. The 9-1-1 call. The
21 9-1-1 call. Did you hear the 9-1-1 call? No. Why didn't you
22 hear the 9-1-1 call? They didn't get it. Why? You've got a
23 victim who tells you two different stories. There is a 9-1-1
24 call to verify what her version was to 9-1-1 and you don't go
25 get the 9-1-1 tape? I guarantee you if the defendant had

1 called 9-1-1, they would have got it and they would have been
2 bringing it in here and showing you what he said. Oh, he said
3 it right here. No. They didn't do it because they didn't
4 want you to know. They didn't want you to hear it because
5 they could have gotten it. We don't have the 9-1-1 call, but
6 Brittany says that she told 9-1-1 the same thing she told the
7 officer, that it was a drive-by shooting.

8 Then Brittany gets into the ambulance. And remember that
9 first they were saying, well, she got into the ambulance and
10 as soon as she got into the ambulance, she said, oh, stop and,
11 you know, I need to tell you something happened. No. That is
12 not what happened. You heard the EMS, Mr. Holbrook. What did
13 he say? He said she got in the ambulance and she asked where
14 was that cop, and I asked her if she had something that she
15 needed to tell him. She says no. And I said to her, look, if
16 you've got something that you really need to talk about or you
17 need to tell, then you need to go ahead and do it and he
18 talked her into it and then she calls. He says, yeah, yeah,
19 yeah, her brother did it. So this was not some kind of a -- I
20 got in the door and as soon as I closed the door, I
21 immediately told them, oh look, this is what happened. No.

22 Remember the other thing. In her statement -- and I
23 remember asking her about it when she was on the stand about
24 the sentence in there where she says this whole story when
25 she's having a conversation with Investigator Cain -- this is

1 like a month or so later or several months later, whenever it
2 was, and she's having that conversation with Investigator
3 Cain. She says, well, you know, that whole story about a
4 drive-by didn't make any sense. That's in her statement to
5 Investigator Cain. No, it didn't make sense. It still
6 doesn't make sense.

7 And she would have you believe that Jamell Thomas told
8 her this is what I want you to say. Now, this is the guy who
9 just shot her. Okay? This is the guy who just shot her and
10 fled, according to her. But he tells her before I'm going to
11 flee, you just tell them that this was a drive-by and that you
12 were down there at the bowling alley or whatever, and she does
13 it. That's what she'd have you believe. Even though he's
14 gone.

15 Well, let me tell you something that seems more
16 unbelievable. Think about this for a second. Brittany says
17 that the day before he pistol-whipped her with the butt of a
18 9mm gun or some kind of big gun. That's what her story was,
19 that he pistol-whipped her in the face, on her legs, and about
20 her body with this pistol. If you recall, I asked her, well,
21 when you got home that night -- and she said he took her home
22 -- where was your mom? She said her mom wasn't home. I said
23 okay. What about the next morning? Was your mom home the
24 next morning? Yeah. I said did your mom see these bruises on
25 you from being pistol-whipped? Yeah. So what did mom do?

1 Nothing. Nothing. She asked me about it.

2 Do you honestly believe that? That her mom saw her beat
3 to a pulp with the handle of a pistol and mom does nothing?
4 If my twenty-one-year-old child comes home with bruises,
5 beaten, and I see them the next morning, somebody's going to
6 answer something for me. But this is the stuff that you got
7 to believe and you got to believe it beyond a reasonable doubt
8 if you want to find this defendant guilty.

9 Let's talk for a minute about reasonable doubt. I think
10 I said to you at the outset that it's a doubt which an honest
11 juror who's trying to find the truth would give a reason which
12 would cause you to hesitate to act. And I tried to give you
13 an example, even though I don't think I did a very good job of
14 it. I tried to give you an example of if you were wanting to
15 rely on some information to invest your life savings, would
16 you really want to do it based on the information that you
17 have in this case? If you had all your life savings, would
18 you want to, you know, invest it based on the information you
19 got in this case? Because that's what we're doing with Jamell
20 Thomas.

21 You see, a defendant doesn't have to prove that he didn't
22 do something. He doesn't have to prove that. But in spite of
23 that, we brought you the witnesses who were there. Mr.
24 Jepertinger asked them all kinds of questions, anything he
25 wanted to ask them. Not a one of them hesitated. Not a one

1 of them backed up.

2 I know that where you sit is a very difficult place. I
3 don't know that there's anybody in this courtroom that
4 necessarily wants to trade places with you. But our system of
5 justice would not work without the jury and I know that there
6 are other countries and other places where things are done a
7 little bit differently, but I don't know of any place where
8 it's done better than here, and I don't know a system that is
9 better than our system. It's not perfect, but it's the best
10 system out there.

11 And you know the thing about justice? It doesn't matter
12 what color you are. It doesn't matter how fat you are, like
13 me, or how tall you are or how skinny you might be. It
14 doesn't matter. It's the same. If you notice, when you look
15 and you see that scale of justice, there's always this
16 blindfold because it doesn't see any of that -- any of that
17 stuff. It doesn't see who you are, how much money you got or
18 where you live, what kind of car you drive. None of that.
19 None of that. That's not important. It's not important for
20 what it requires is that everybody -- everybody be treated the
21 same and that everybody be treated fairly.

22 For whatever reason -- and I don't know what the reason
23 is -- they just rushed to judgment on the part of the State.
24 Maybe they decided, look, he's here, he's available, let's
25 just get him. We don't need to do anything else. I don't

1 know what the reason is and I'm not required to find a reason.
2 What I can tell you is what they did and what they did not do.
3 They weren't willing. The State of South Carolina was not
4 willing to invest the time and the money and the effort to
5 prove this case. They weren't willing.

6 They took the Timberland boots that you heard about from
7 the house, but the thing is -- is we don't know if the shooter
8 was bleeding or not. We don't know. We don't know. Why not
9 send the boots and get them tested? See whose blood it is.
10 It might have been the defendant's blood or it might have been
11 Joe's blood. I don't know whose blood it was. We don't know
12 and now we'll never know.

13 I'm going to be through in just a minute, Your Honor.
14 Just let me cover one more thing and then I'm going to be
15 through. You know, like most lawyers, we can be a little
16 long-winded sometimes.

17 And you've heard all of the evidence in this case, just
18 like I did. You were here. I know that you paid close
19 attention as I watched you throughout the course of this
20 trial. So I know that you are in a position to render a
21 verdict that speaks the truth. And nobody, not the State of
22 South Carolina, not me, nobody can be against that because you
23 will have truly done your job when you deliver a verdict that
24 speaks the truth, and a verdict that speaks the truth in this
25 case is not guilty because the State of Carolina has not

1 proven its case beyond a reasonable doubt. It's not up to the
2 victim to prove it. It's up to the State and to the
3 investigators and the police officers, all who work for the
4 State. They have all the resources in the world to do it
5 with.

6 And I say to you that if you reach your jury room and you
7 have to speculate, if you have to guess, well, maybe it could
8 have been this or, well, maybe it could have been that or,
9 well, maybe they did this or maybe it wasn't that. Maybe.
10 Well, no. That is not proof beyond a reasonable doubt. I
11 would submit to you that merely attaching maybe in and of
12 itself is a doubt and it's their responsibility to eliminate
13 that.

14 And if they fail to eliminate that, then the defendant is
15 entitled to a verdict that speaks the truth, which would be a
16 verdict of not guilty. Thank you.

17 THE COURT: Thank you, Mr. Wilson. Mr. Jepertinger?

18 MR. JEPERTINGER: Thank you, Your Honor. Counsel.
19 Initially, when Mr. Wilson spoke to you on Monday morning,
20 ladies and gentlemen of the jury, he said that the word
21 verdict means basically a decision that speaks the truth.
22 Opinion, conjecture doesn't matter. It's the facts that are
23 going to dictate and control your deliberations in this case.

24 You know, when I was a boy, my father was a very
25 interesting man. He's been dead almost forty years. I was a

1 younger boy when he passed. However, he had very eclectic
2 taste. He was fascinated by Polynesian and Hawaiian culture
3 and maps. There were maps all over the house and I still have
4 them today and I pull them out occasionally and look at them.
5 It reminds me of my father.

6 You know, maps are an interesting thing because when we
7 use them, they help us tell us where we're going. They also
8 help us to tell us where we've been. The evidence in this
9 case is a map of where Brittany Singletary had been. The
10 actions of September 11th, 2011, but by the grace of God,
11 showed everyone here where she was going. Each of the
12 physical exhibits -- and you will have these in your jury room
13 -- tell us and corroborate where she had been.

14 Bruising on her head, the bruising the mama could have
15 seen that she didn't tell her mother about, but it's there if
16 you care to look and see it. The bruising that the mother
17 could never see on the legs where he hit her over and over
18 again with a pistol. The bruising on the knee that was there
19 that the mother could have never seen.

20 And I know when Brittany came and testified before you on
21 Monday afternoon, she told you it seemed like hours. It
22 probably wasn't hours, but it probably felt like hours. And
23 the incident that happened on Friday is so interlinked with
24 what happened on that Sunday morning because it shows motive
25 on William Jamell Thomas' part of why he did that. It was

1 jealousy. Remember how Brittany said on -- on Tuesday there
2 was some conversation about him being aware of Montrell
3 Spates. Montrell, the guy that had come down to the family
4 reunion. He didn't like it. They argued.

5 Then there was the whole deal about getting text
6 messages. Then the beating. Remember when she went over to
7 his house on 306 Carolyn, they were arguing while there in the
8 bedroom. He kept bringing up the text messages. We're either
9 going to have a bad night or either going to have a good
10 night.

11 See, folks, this -- this is what boggles the mind and,
12 you know, she told you she was in an abusive relationship
13 before with this Joe guy, but Joe had moved up to either
14 Massachusetts or New York in May of that year she got shot in
15 2011. She didn't say I don't know a Joe. She says yeah, I
16 knew Joe and he's gone. And she got back slam into another
17 abusive relationship and this kills me because everything that
18 she presents to you is a girl that's getting her life
19 together. A little four-year-old boy at the time, I think
20 he's six now. Getting a master's degree. Graduate of South
21 Carolina. Had a -- was studying at McLeod when this was all
22 going on. I mean she's got it together.

23 And this relationship, which was very short, started off
24 with love and then obviously with a little more intimacy.
25 Then love was replaced by fear and control. Basically, if I

1 can't have you, nobody else is going to have you. Why can I
2 make that statement? Because you can infer that from the
3 facts because after he shot her, you remember -- do you
4 remember what she said he said? I ought to kill you and kill
5 myself. If I can't have you, nobody else can have you. The
6 motivation was there. It's the facts. It's the facts that
7 control.

8 Now, Mr. Wilson also told you in his opening statement it
9 really didn't matter. We're not contesting that she got shot.
10 She got shot. It was who shot her. Well, that -- that's
11 interesting to say. Well, why was he fighting Adam Moore
12 about the size of the entry wounds into her body? Why would
13 he do that if it didn't matter? It wouldn't have mattered if
14 this Joe guy had come in with a bazooka if his client didn't
15 shoot her.

16 You know why Mr. Wilson was raising so much sand with Mr.
17 Moore, who was testifying about the size of it? Because it
18 was either a 9mm, a .380 or a .38. What did Kathleen Streett
19 find in the room at grandma's house in Coward on Old
20 Georgetown Road? She found a .45 shotgun shell and a bunch of
21 9mm bullets. That's why you attack Mr. Moore because he knew
22 this was coming into evidence.

23 Now, let's get to the scene of the crime, 306 Carolyn.
24 Mike Jack pulls up. There are two women out there, one in the
25 street and Renea Cochran. The victim and Renea Cochran. Now,

1 Renea Cochran testifies, who is the defendant's sister. Now,
2 let me just stop here. Let's think about the defense
3 witnesses in this case: the defendant's mother, his sister,
4 and his girlfriend.

5 One question just popped up to me. Where was Johnny
6 Smith? Why didn't they put up Johnny Smith to testify about
7 Joe breaking into the house? Now, Mr. Wilson brought up the
8 point that Brittany told this story to Officer Jack, initially
9 to the ambulance EMT, Mr. Holbrook.

10 But you know who else was kind of buying into that story
11 was Renea Cochran. You know, when the ambulance had left, as
12 I asked her on cross examination, she never said wait a
13 minute, let me tell you what's going to -- let me tell you
14 what really happened while the cops are right there. She
15 never said anything about a Joe and Brittany breaking in and
16 this is what -- what -- what got me. So what is she to you?
17 These were the words out of her mouth: she's nothing to me.
18 Well, if she's nothing to her, this mother of a little four-
19 year-old at the time, as she's busting into your house, well,
20 why don't you sing like a canary right then and there?

21 And think about this, folks. Linda and Renea testified
22 that this guy went into their son's bedroom, this Joe guy.
23 Johnny had a struggle with him. Renea is down the hall.
24 That's why it wouldn't matter if they did any GSR test on her
25 hands because she says she wasn't even around. Remember that

1 the discharge would only go about six to eight feet. He knows
2 that.

3 Why wouldn't she tell the police? Because I'm telling
4 you, if a guy shot a woman in my house and then left, how do I
5 know he's not going to come back and shoot all the witnesses?
6 The first thing you're going to do is tell that officer, look,
7 this is what happened.

8 Linda Mack, working ten years as a nurse, you don't think
9 she's not going to get on the phone and call Kenney Boone and
10 say this guy broke into my house, rushed in, shot a woman. I
11 don't know if he's a danger to me or my family. Please send a
12 cop out to my house. Please send an investigator or deputy
13 sheriff to my house. She didn't do that. Oh, I've never got
14 a phone call. You know, they never contacted me. No, that
15 search warrant wasn't on the table. Oh, it had just been a
16 burglary. Oh, it's just a shooting at my house.

17 But as soon as they could, Renea says what? We beat a
18 path down to a defense lawyer's house in October of 2012 and
19 signed an affidavit and told it just like it was. And this is
20 another thing, folks. I want you to keep this in mind. Linda
21 says she didn't know anything about what went on. You know,
22 the only thing the cops knew it was a drive-by shooting. She
23 didn't know. Renea didn't know. Zolandria didn't know. If
24 all of those folks didn't know, why in the world when the
25 deputy sheriffs and the fugitive team goes over to that

1 residence in Coward is Jamell hiding from the cops? Why in
2 the world would you hide?

3 You know, it's kind of funny because when the cops went
4 in, they said they saw some relatives of his, Alvin and
5 Calvin. And what were they doing? Sitting on a couch. Why
6 are you hiding? Maybe that old adage that you -- that we
7 often hear that the guilty flee where none pursue is true.
8 Because, folks, that is consciousness of guilt. Guilt of
9 what? Of shooting this woman.

10 Now, in every criminal case the State is required to
11 prove guilt beyond a reasonable doubt. I know Mr. Wilson
12 touched on it and he's correct. The burden lies with the
13 State. But it is a doubt -- it is not -- well, let's put it
14 this way. You can have a doubt about anything and everything
15 in life, but it is a doubt which would cause a reasonable
16 person to hesitate to act, to say wait a minute, that just --
17 that just isn't -- that just isn't right. That just isn't
18 right.

19 That's not what applies here, folks. There is no
20 question where the shooting took place. It was no drive-by.
21 There was no Joe. There was no Linda. There was no Renea at
22 the time of the shooting. She came back. How do we -- how
23 can we say that? When Mike Jack went out there, there were no
24 cars out there. They're beating on the door an hour and a
25 half later after this incident happened. No one answers.

1 Helen Cain goes by at five o'clock. No one is there. They
2 bust down the door at twelve. No one is there.

3 Zolandria comes in and says, well, you know, Jamell was
4 with -- Jamell was with me. Look at the evidence once again,
5 folks. Look at the evidence. 9-G, his medicine. The bottle
6 is I would say at least a quarter full. Take one tablet by
7 mouth three times daily. If he -- if he was going to spend
8 the weekend at Zolandria's, he would have taken his medicine.
9 That's the first thing you take when you go on any sort of
10 trip because it might be necessary to help you. Why wasn't it
11 in an overnight bag? Because he wasn't at Zolandria's, his
12 girlfriend.

13 It's just that the evidence shows that the story they're
14 telling you is just that, a story. They love him. They want
15 to protect him. That is a reasonable inference. If your son
16 was facing attempted murder -- if anyone's son -- let me put
17 it that way. If anyone's son was facing attempted murder and
18 you loved him, you have motivation to stretch the truth and,
19 you know, I -- I feel sorry for Linda Mack and I feel sorry
20 for Renea, but I don't feel so sorry to overlook the
21 obligation that they owe to the truth.

22 The evidence is there, folks. The shooting took place in
23 that room just like Brittany said. It's her blood that's on
24 the mattress. Could the police have done more in terms of the
25 swabbing? Yes. Could they have sent the swabs from the

1 inside of the door? Yes. How about the boots? Yes. But you
2 know the funny thing about that, too? You have Linda Mack,
3 Renea Cochran, and like I said we didn't hear from Johnny
4 Smith, but no one said that this Joe fellow was injured during
5 the whole escapade. The only person that they said was
6 injured was Brittany.

7 You are to weigh the credibility and the demeanor of the
8 witnesses and I'm telling you, folks, the evidence shows that
9 there was only one what I call fact witness that was credible
10 in this case, that young lady right there, Brittany
11 Singletary.

12 Now, the judge is going to charge you the appropriate law
13 in the case. He is going to charge you that this individual
14 is charged with attempted murder. He's also going to present
15 to you for your consideration a lesser charge called assault
16 and battery of a high and aggravated nature. I would tend to
17 think that the major distinction between the two offenses is
18 that attempted murder requires something called malice
19 aforethought.

20 Let me explain malice aforethought to you. First of all
21 to describe malice I guess, malice means -- and I'm not going
22 to say what that scientist said because he completely confused
23 me. I just throw that out there. I didn't understand what he
24 said the first time he said it and I didn't understand it the
25 second time he said it. Okay. But malice basically means ill

1 will, intent on doing evil. That's kind of a quick
2 definition, but His Honor is going to give you a more extended
3 definition. A heart devoid of social conscience, that type
4 stuff.

5 Now, malice aforethought. Aforethought basically means
6 beforehand. Now, under the law, malice aforethought does not
7 require that malice exist for any particular time before the
8 act is committed. Malice must exist in the mind of the
9 defendant -- listen here -- just before. Just before. It can
10 be a second. A second. And at the time the act is committed.

11 Now, did he go -- when they went back to the house on
12 September 11th, Carolyn -- Carolyn Drive or Avenue, did he go
13 to that house saying I'm going to shoot her? I'm not sure,
14 but I do know this. When he made this statement it was going
15 to be a good night or it was going to be a bad night, malice
16 was forming in his heart because he was going to lay down the
17 terms of their relationship. Why would he have a gun out to
18 begin with? Why in the world would he have a gun out to begin
19 with?

20 Your Honor, I just feel that there's a lot of commotion
21 back there and I would ask ---

22 THE COURT: Correct. Yes, sir.

23 MR. JEPERTINGER: Why would he have a gun out? We're
24 going to have a good night or we're going to have a bad night.

25 Then he begins struggling, hitting her with that weapon.

1 The gun goes off. Now, you know, to her credit -- to her
2 credit -- to Brittany's credit, she could have said, yeah,
3 that guy just shot at me and he missed. She didn't say that.
4 Did you catch the language? Did you catch the language? The
5 gun went off. I felt it whipping or whizzing by my ear.

6 But that wasn't good enough because at that point -- now
7 think about this. Think about this. At that point, he had a
8 decision to make. I'm going to put this -- I'm going to put
9 this gun down just like I did this pen and put it down before
10 someone got seriously injured. But he didn't do that. He
11 didn't do that.

12 What did he do? Do you remember her words to you? He
13 went by the door. Bang. And it caught her in the abdomen and
14 once that bullet coursed its way through her abdomen, entered
15 her vagina, went out the vagina, through a leg, out a leg,
16 into the buttock, out the buttock. I should kill you and then
17 kill myself. Folks, if that ain't malice, by God, there is no
18 malice in the state of South Carolina.

19 Malice may be express or implied. What does that mean?
20 The judge is going to tell you that express malice is shown
21 when a person speaks words which express hatred or ill will
22 for another or when the person prepared beforehand to do the
23 act which was later accomplished. For example, in most type
24 cases would be lying in wait. That's a good example. That
25 didn't happen here I would say.

1 But you've got implied malice certainly. That may be
2 found to exist when circumstances demonstrate a wanton or
3 reckless disregard for human life. What's going to happen
4 when he shoots her? That is a wanton disregard for human
5 life. When a reasonably prudent person would have known that
6 according to kind experience, there was a plain and strong
7 likelihood that would follow the contemplated act. Who knows
8 what course that bullet could take? Once you pull that
9 trigger, death is always a likelihood. Any hunter knows that.
10 You don't point a gun at anything you're not willing to kill.

11 Folks, he's going to charge you on that greater offense
12 of attempted murder. There is malice aforethought. Though I
13 appreciate the Court giving you an option, that option is
14 really not a viable option. It talks about assault and
15 battery of a high and aggravated nature being one where I
16 believe great bodily injury or possibility of death results.
17 Folks, in this case -- in this case, it was malice and that
18 makes all the difference in the world.

19 He's also charged, as His Honor will inform you, with
20 possession of a weapon by a person charged with a crime of
21 violence. Actually, possession of a pistol by a person
22 charged with a crime of violence. His Honor will inform you
23 that his conviction for assault and battery of a high and
24 aggravated nature in 2010 would qualify as a crime of violence
25 in the state of South Carolina. He had possession of that

1 pistol. No doubt.

2 Search for the truth. It's so very important. The road
3 map that we have in this case was where Brittany has been.
4 The trails she has traveled, good and bad. Your verdict today
5 can help her to reach a safe harbor in her life and bring
6 closure to this horrible, horrible crime she suffered at the
7 hands of William Jamell Thomas, Jr.

8 I ask you based on the evidence to find this man guilty
9 of both attempted murder and the weapons charge. Thank you.

10 CHARGE ON THE LAW

11 THE COURT: All right. Ladies and gentlemen, it is now
12 my duty as the trial judge under the constitution of this
13 state to charge and instruct you on the law applicable to this
14 case. It is your duty as jurors to accept and apply the law
15 as I will now state it to you.

16 Furthermore, it is your exclusive duty to decide all the
17 issues of fact in this case, and to determine the effect,
18 value, weight, and truth of the evidence. Now, both the State
19 and the defendant have a right to expect that you will
20 carefully consider and evaluate the evidence and apply the law
21 of this case to it, so that in the end, both the State of
22 South Carolina and the defendant will receive a fair and
23 impartial trial.

24 I want you to understand that when I use the word
25 defendant, I refer to William Jamell Thomas, Jr. Furthermore,

1 it is important to understand that the indictment in this case
2 alleges two different offenses against the defendant. The
3 charges alleged in the indictment are attempted murder and
4 possession of a pistol by a person convicted of a crime of
5 violence.

6 To these charges, the defendant has entered a plea of not
7 guilty. This plea of not guilty places the burden of proof on
8 the State to prove the guilt of the defendant to you, the
9 jury, beyond a reasonable doubt.

10 As I mentioned above, the indictment in this case alleges
11 two separate and distinct offenses against the defendant. You
12 must decide each charge separately on the evidence and the law
13 applicable to it, uninfluenced by your decision as to any
14 other charge. The defendant may be convicted or acquitted on
15 any or all of the offenses charged. You will be asked to
16 write a separate verdict of guilty or not guilty for each
17 charge alleged in the indictment.

18 I remind you that the fact the defendant was arrested,
19 charged and indicted in this case is not evidence in this case
20 and cannot be considered by you as evidence of guilt in this
21 case, nor does it create any presumption or inference of
22 guilt. The indictment is simply the formal written instrument
23 which contains the charges made against the defendant. It is
24 the formal document by which this case is brought into this
25 court.

1 It is vital to understand that the defendant is presumed
2 under the law to be innocent of these charges. The defendant
3 has no obligation to prove his innocence. It is a fundamental
4 rule of our law that a defendant, irrespective of the
5 seriousness of the charges against him, is always presumed
6 innocent of the crimes for which he is charged, unless and
7 until his guilt has been proven by evidence that satisfies
8 you, the jury, beyond a reasonable doubt.

9 The presumption of innocence is not a mere legal theory
10 or a legal phrase. The presumption of innocence is very
11 important and you need to understand that this presumption
12 accompanies the defendant from the time of his arrest and
13 appearance in this court and continues with the defendant even
14 after you retire to the jury room to deliberate. In other
15 words, the defendant receives the benefit of the presumption
16 of innocence until the very end of this trial, when you, the
17 jury, will deliberate upon the evidence and decide whether the
18 State has proven his guilt beyond a reasonable doubt.

19 Now, ladies and gentlemen, what is a reasonable doubt in
20 the law? A reasonable doubt is the kind of doubt that would
21 cause a reasonable person to hesitate to act.

22 Proof beyond a reasonable doubt is proof that leaves you
23 firmly convinced of the defendant's guilt. Now, there are
24 very few things in this world that we know with absolute
25 certainty, so even in criminal cases the law does not require

1 proof that overcomes every possible doubt. However, if based
2 on your consideration of the evidence, you are firmly
3 convinced that the defendant is guilty of the crimes charged,
4 you must find him guilty. If, on the other hand, you think
5 there is a real possibility that he is not guilty, you must
6 give him the benefit of the doubt and find him not guilty.

7 Jurors, please understand that reasonable doubt may arise
8 from evidence which has been presented in the case or from the
9 lack of evidence in the case. It is your responsibility to
10 determine whether or not reasonable doubt exists as to the
11 guilt of this defendant.

12 I charge you that the defendant is entitled to every
13 reasonable doubt arising in the whole case. Now, if, upon any
14 issues of fact essential to conviction and a verdict of
15 guilty, you have a reasonable doubt as to how that issue
16 should be resolved, it would be your duty to resolve that
17 reasonable doubt in favor of the defendant.

18 Thus, in summary, it is important to understand that a
19 defendant is not required to prove his innocence. Instead,
20 the State is required by law to prove every essential element
21 of the offenses charged against the defendant by evidence
22 which satisfies you of his guilt beyond a reasonable doubt.
23 Only then can you convict the defendant and find him guilty.

24 Now, there are two types of evidence which are generally
25 presented during a trial: direct evidence and circumstantial

1 evidence.

2 Direct evidence is the testimony of a person who claims
3 to have actual knowledge of a fact, such as an eyewitness. It
4 is evidence which immediately establishes the main fact to be
5 proved.

6 Circumstantial evidence is proof of a chain of facts and
7 circumstances indicating the existence of a fact. It is
8 evidence which immediately establishes collateral facts from
9 which the main fact may be inferred. Circumstantial evidence
10 is based on inference and not on personal knowledge or
11 observation.

12 The law makes absolutely no distinction between the
13 weight or value to be given to either direct or circumstantial
14 evidence. Nor is a greater degree of certainty required of
15 circumstantial evidence than of direct evidence. You should
16 weigh all of the evidence in the case. Now, if, after
17 weighing all the evidence, you are not convinced of the guilt
18 of the defendant beyond a reasonable doubt, you must find the
19 defendant not guilty.

20 Now, during this trial, you and I have had separate
21 duties to perform. As the trial judge, it is my
22 responsibility to preside over this trial, and I also have the
23 duty to rule upon the admissibility of the evidence offered
24 during the process of this trial. In that regard, you are to
25 consider only the competent evidence before you, and you are

1 to disregard from your mind any testimony ordered stricken
2 from the record of this case during the progress of this
3 trial, if there was any. And you are to consider only the
4 testimony which has been presented from this witness stand,
5 together with any exhibits admitted into the record of this
6 case and any stipulations of counsel made into the record, if
7 there were any.

8 Furthermore, I have the additional duty to charge you on
9 the applicable law of this case and in that regard, I am the
10 sole judge of the law in this case. It is your duty to accept
11 and apply the law as I state it to you. If you have any
12 preconceived ideas as to what the law is, or what the law
13 ought to be, and it does not agree with what I tell you the
14 law is, you are obligated under your oath to abandon these
15 preconceptions, because you are sworn to accept the law
16 precisely as I state it to you.

17 Now, in this trial you are the sole and exclusive judge
18 of the facts, and I am the judge of the law. Do not infer
19 that I have any opinion about the facts in this case from
20 anything that I have said during the course of this trial in
21 ruling upon the admissibility of evidence or otherwise, or
22 from anything that I say during the course of this charge to
23 you. In this regard, the law simply does not permit me to
24 have an opinion about the facts. As jurors, it is your duty
25 and your duty alone to determine the effect, value, weight,

1 and truth of the evidence presented during the course of this
2 trial.

3 In determining what the facts in this case are, you must
4 judge the credibility, which simply means the believability,
5 of the witnesses and the value of weight to be given to their
6 testimony. You alone must decide the force, effect and truth
7 of the testimony. In making this decision, there are many
8 things you may, and should, take into consideration, such as
9 the appearance and manner of the witness on the stand, a
10 characteristic often referred to as the demeanor of a witness.

11 Was the witness forthright or hesitant? Was the
12 witness's testimony consistent or did it contain
13 discrepancies? What was the ability of the witness to know
14 the facts about which he or she testified? Did the witness
15 have a cause or reason to be biased and prejudiced in favor of
16 the testimony he or she gave? Was the testimony of the
17 witness corroborated or made stronger by other testimony and
18 evidence or was it made weaker or impeached by such other
19 testimony and evidence?

20 As jurors, please understand you have the right to
21 believe a small portion of a witness's testimony and discard
22 the larger portion or vice versa. You may believe all of a
23 witness's testimony or none. You may believe the testimony of
24 a single witness against that of many witnesses or the other
25 way around.

1 In exercising your mental processes and attempting to
2 decide the truth, the law simply requires that you exercise
3 your good judgment, your common sense, your sense of logic and
4 reason, and your experiences in life. You then apply these
5 attributes to the evidence and apply the law as I state it to
6 you, and thus arrive at a verdict.

7 Now, during the course of this trial, you heard the
8 testimony of an individual qualified as an expert witness. As
9 I told you before and I'm going to tell you again, ladies and
10 gentlemen, the rules of evidence ordinarily do not permit
11 witnesses to testify to opinions or conclusions. An exception
12 to this rule exists for witnesses that we call expert
13 witnesses. A witness who, by education and experience, has
14 become an expert in some art, science, profession, or calling
15 may state an opinion as to a relevant and material matter in
16 which the witness claims to be an expert, and may also state
17 the reasons for the opinion.

18 You should consider any expert opinion received in
19 evidence in this case and, like any other evidence, give it
20 the weight you think it deserves. If you decide that the
21 opinion of an expert witness is not based on sufficient
22 education and experience, or if you conclude that the reasons
23 given in support of the opinion are not sound, or that the
24 opinion is outweighed by other evidence, you may disregard the
25 opinion entirely.

1 Furthermore, an expert witness's testimony is to be given
2 no greater weight than that of other witnesses simply because
3 the witness is an expert. Further, you are not required to
4 accept an expert's opinion, even though it is not
5 contradicted.

6 Now, ladies and gentlemen, you have also heard the
7 testimony of police officers during this trial. Please
8 understand that the testimony of a police officer is not
9 entitled to more weight than that of any other witness. You
10 are the sole judges of the credibility of a witness, and you
11 are not to give more weight to a police officer's testimony
12 solely because he or she is a police officer. Rather, you
13 should judge an officer's testimony by the same standards that
14 you apply to all other witnesses.

15 Now, you heard testimony or evidence that the defendant
16 committed a bad act not the subject of a conviction other than
17 the ones for which the defendant is now on trial. This
18 testimony, if you conclude that it is true, may only be
19 considered by you on the question of motive and for no other
20 reason and no other purpose. You may give this evidence the
21 weight and value, if any, which you find it should have on the
22 sole issue of motive. You must not consider evidence of the
23 commission of the bad act not the subject of a conviction as
24 proof of the defendant's guilt of the charges that we are
25 trying here this week or today.

1 Now, I instruct you and emphasize that the fact, ladies
2 and gentlemen, that the defendant did not testify is not a
3 factor to be considered by you in any way in your
4 deliberations and in your consideration on the question of the
5 guilt or the innocence of the defendant. It -- it must not be
6 considered by you in any manner whatsoever. A defendant has
7 the constitutional right to remain silent, and the assertion
8 of this right must not be considered by you in your
9 deliberations.

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

18 Now, in order, ladies and gentlemen, to establish
19 criminal liability, criminal intent is required. For example,
20 the mental state required to be proven by the State for a
21 particular crime might be purpose, intent, knowledge,
22 recklessness, or criminal negligence. Criminal intent must be
23 proven by the State beyond a reasonable doubt. Criminal
24 intent is always a matter that must be determined by the jury
25 from the facts and circumstances surrounding the situation.

1 Now, there is no way to prove intent to a mathematical
2 certainty. There is no way that medical science can dissect a
3 person's brain and determine what the person had in mind. So
4 the law says that criminal intent may be inferred from the
5 circumstances shown to have existed. This is how you make a
6 determination of whether or not the element requiring intent
7 was present. It is not necessary to establish intent by
8 direct and positive evidence, but intent may be established by
9 inference in the same way as any other fact by taking into
10 consideration the acts of the parties and all the facts and
11 circumstances of the case.

12 Criminal intent is a mental state, a conscious
13 wrongdoing. It is up to you to determine what the defendant
14 intended to do based on the circumstances shown to have
15 existed.

16 Criminal intent can arise from action or a failure to
17 act. It may arise from negligence, recklessness, or an
18 indifference to duty or to consequences that is considered by
19 the law to be the equivalent of criminal intent.

20 Now, the defendant, ladies and gentlemen, is charged with
21 attempted murder. In order to prove this crime, the State
22 must prove the defendant attempted to kill another person or
23 persons with malice aforethought, either express or implied.

24 Malice is hatred, ill will, or hostility towards another
25 person or persons. It is the intentional doing of a wrongful

1 act without just cause or excuse and with an intent to inflict
2 an injury or it is, under the law, circumstances that the law
3 will infer an evil intent.

4 Malice aforethought does not require that malice exists
5 for any particular time before the act is committed, but
6 malice must exist in the mind of the defendant just before and
7 at the time the act is committed. Therefore, there must be a
8 combination of the previous evil intent and the act.

9 Malice aforethought may be express or inferred. Inferred
10 also means implied. These terms, express and inferred or
11 implied, do not mean different kinds of malice but merely the
12 manner in which malice may be shown to exist. That is either
13 by direct evidence or by inference from the facts and
14 circumstances which are proved.

15 Express malice is shown when a person speaks words which
16 express hatred or ill will for another or when the person
17 prepared beforehand to do the -- to do the act which was later
18 accomplished; for example, lying in wait for a person or any
19 other act of preparation going to show that the deed was
20 within the defendant's mind would be express malice. Malice
21 may be inferred from conduct showing a total disregard for
22 human life.

23 If facts are proved beyond a reasonable doubt sufficient
24 to raise an inference of malice to your satisfaction, this
25 inference would be simply an evidentiary fact to be considered

1 by you, the jury, along with the other evidence in the case,
2 and you may give it the weight you decide it should receive.

3 A specific intent to kill is not an element of attempted
4 murder, but there must be a general intent to commit a serious
5 bodily injury. Intent means intending the result which
6 actually occurs; not accidentally or involuntarily. Intent
7 may be shown by acts and conduct of the defendant and other
8 circumstances from which you may naturally and reasonably
9 infer intent. Evidence of the character of the act or crime,
10 the character of the instrument used, the manner in which it
11 was used, the purpose to be accomplished, and the resulting
12 wounds or injuries may be considered in determining the intent
13 with which the criminal act or crime was committed. Intent
14 may also be inferred when it is demonstrated that the
15 defendant voluntarily and willfully commits an act, the
16 natural tendency of which is to destroy another's life.

17 Once again, ladies and gentlemen, to prove attempted
18 murder, the State must prove beyond a reasonable doubt that
19 the defendant attempted to kill another person with malice
20 aforethought.

21 Now, if you find that the State has failed to prove
22 beyond a reasonable doubt that the defendant committed
23 attempted murder, you must then determine whether the State
24 has proved beyond a reasonable doubt that the defendant
25 committed the lesser included offense of assault and battery

1 of a high and aggravated nature. To prove assault and battery
2 of a high and aggravated nature, the State must first prove
3 beyond a reasonable doubt that the defendant unlawfully
4 injured another person.

5 Next, the State must prove beyond a reasonable doubt that
6 either great bodily injuries -- injury resulted or that the
7 act was accomplished by means likely to produce death or great
8 bodily injury.

9 Great bodily injury is defined as bodily injury which
10 causes a substantial risk of death or which causes serious,
11 permanent disfigurement or protracted loss or impairment of
12 the function of a bodily member or organ.

13 The defendant, ladies and gentlemen, is also charged with
14 possession of a pistol by a person convicted of a crime of
15 violence. The State must prove beyond a reasonable doubt that
16 the defendant knowingly possessed or acquired a handgun within
17 this state and that the defendant is a person who has been
18 convicted of a crime of violence in any court of the United
19 States.

20 You heard testimony that the defendant has a prior
21 conviction for assault and battery of a high and aggravated
22 nature which is a crime of violence. You may only consider
23 this testimony as proof of an element of the crime of
24 possession of a pistol by a person convicted of a crime of
25 violence. You are not to consider the defendant's prior

1 conviction as proof of the defendant's guilt of the charges
2 for which he is currently being tried.

3 Now, the defendant has raised the defense, ladies and
4 gentlemen, of alibi. In order to establish an alibi, it must
5 be shown that the defendant was at another specified place at
6 the time the crimes were committed, and that it was,
7 therefore, impossible for the defendant to have been at the
8 scene of the crime. Mere denial of presence at the scene of
9 the crime does not constitute an alibi.

10 Now, there is no burden on the defendant to prove an
11 alibi. The burden is on the State to prove beyond a
12 reasonable doubt that the defendant was actually present at
13 the scene of the crime, actually participated in the crime,
14 and was not somewhere else. In other words, the State has the
15 burden of disproving the defendant's alibi defense.

16 Now, ladies and gentlemen, I am now drawing near the end
17 of my charge and I want you to clearly understand that you are
18 not partisans or advocates for the State of South Carolina or
19 the defendant. It is your duty by your joint deliberations
20 to determine the truth in this case, giving to the defendant
21 the benefit of every reasonable doubt on each and every issue.
22 Then, to the facts which you determine to be true, you should
23 take and apply the law which has been given to you by this
24 Court and thus arrive at a verdict which speaks the truth in
25 this case. In fact, the word verdict, which has a Latin

1 derivative, means a true saying. Thus, when you have
2 accomplished these responsibilities, you will have satisfied
3 your oath as jurors and you will have discharged your duty to
4 this Court.

5 Now, once you retire to the jury room, the bailiff will
6 give you -- or give the forelady the verdict form. When you,
7 the jury, arrive at a verdict as to the offenses charged in
8 this case, the forelady will select the verdict as to each
9 charge on the verdict form. If the State has failed to prove
10 the guilt of the defendant beyond a reasonable doubt, your
11 verdict will be not guilty. Likewise, if the State has proven
12 the guilt of the defendant beyond a reasonable doubt, your
13 verdict will be guilty. Once a decision has been made, the
14 forelady will check whichever choice is the verdict of the
15 jury as to each charge.

16 The verdict that you render in this case, ladies and
17 gentlemen, must be the verdict of each and every juror. It
18 must be your unanimous verdict. All twelve jurors must agree
19 on the verdict which you authorize the forelady to write for
20 the jury.

21 Now, ladies and gentlemen, I want you to further
22 understand that the order in which the choices of verdict
23 appear on the verdict form are not suggestive of any verdict
24 on the part of this Court. The verdict in this case is to be
25 determined by you, the jury, not the Court. Furthermore,

1 ladies and gentlemen, please understand that even though I
2 will give the verdict form to the forelady, it is not her
3 verdict alone. It is the verdict of all twelve of you and I
4 emphasize again it must be unanimous.

5 Now, I am also going to give you all a copy of these
6 instructions in written form. During your deliberations, you
7 may refer to the instructions to guide your decision-making.
8 You must consider the instructions as a whole and not follow
9 some and ignore others. Please return these instructions to
10 the Court at the time that your verdict is rendered.

11 Now, I'm getting ready to ask you all to retire to the
12 jury room, but before I do so, let me ask a couple things.
13 Does everybody on the jury feel okay? Anybody not feel well?
14 All right.

15 On the verdict form, the first question, Madam Forelady
16 and ladies and gentlemen of the jury, question number one, as
17 to the charge of attempted murder, we, the jury, unanimously
18 find the defendant William Jamell Thomas, Jr., not guilty or
19 guilty. If your answer -- and there are instructions below
20 here. If your answer as to question number one is not guilty,
21 then you proceed to answer question number two. If your
22 verdict as to the first question is guilty, then you proceed
23 to answer question number three. You do not have to answer
24 question two. If your verdict as to attempted murder is not
25 guilty, it instructs you to proceed to question two, which

1 includes the lesser included offense for you to consider.

2 Now, at this time, ladies and gentlemen, I am going to
3 ask you to step to the jury room. Retire to the jury room,
4 but do not -- do not begin your deliberations until you are
5 told to do so. The law requires that I consult with the
6 attorneys to make sure that I have not left anything out of
7 these instructions. After I have checked with the attorneys,
8 the bailiff will bring in a copy -- in a copy of these
9 instructions to you, along with the items of evidence, along
10 with paper and pencil.

11 Now, during your deliberations, should you have any
12 questions, Madam Forelady, it will be your responsibility to
13 reduce that question to writing. Knock on the door, let the
14 bailiff know that you have a question, and the bailiff will
15 get that question to me and I will answer it accordingly.
16 Once you have reached a verdict, knock on -- fill out the
17 verdict form, sign and date it, Madam Forelady, and again I
18 emphasize it must be your unanimous verdict. It must be the
19 verdict of each and every juror. Knock on the door, let the
20 bailiff know that you have reached a verdict -- that you all
21 have reached a verdict and we will get you back into the
22 courtroom as quickly as possible.

23 At this time, if you all will step to the jury room. Do
24 not begin your deliberations until you are instructed to do
25 so.

1 (Whereupon, the jury exits the courtroom at 3:53 p.m.)

2 THE COURT: All right. Any exception or objection to the
3 charge by the State?

4 MR. JEPERTINGER: No, sir.

5 THE COURT: Defense counsel?

6 MR. WILSON: Judge, I don't. I think it's more of a
7 question than an objection. I don't have any objection I
8 don't think. One of the questions I have is in -- if the jury
9 comes back and they find the defendant say not guilty of -- of
10 attempted murder and ABHAN, but they find him guilty of the
11 gun, is that a possible verdict? Because then my concern
12 would be that that's inconsistent with -- that would in my
13 mind be an inconsistent verdict.

14 THE COURT: Mr. Jepertinger?

15 MR. JEPERTINGER: Judge, I can tell you from experience I
16 had a gentleman right in this court when I sat where Mr.
17 Wilson sat by the name of Jackie Robinson, not the same
18 individual, that was being charged with armed robbery and
19 possession of a weapon during the commission of a violent
20 crime. They found him guilty of the armed robbery and not
21 guilty of the possession of a weapon during the commission of
22 a violent crime. That issue went up. Your Honor, it was an
23 unpublished opinion, but it -- there was a published opinion,
24 which case I can't remember, but basically allowing
25 inconsistent verdicts.

1 And, you know, of course, my argument was -- was an
2 illogically inconsistent verdict. However, it would not be a
3 logically inconsistent verdict in this case because they could
4 very well say he had a gun in his possession on -- during that
5 time and did nothing and somehow someone else shot her.

6 THE COURT: Mr. Wilson, anything else?

7 MR. WILSON: No, sir. There's just no evidence in the
8 record to support that theory.

9 THE COURT: Well, I mean they can believe all or part of
10 a witness's -- all of a witness's testimony, part of it or
11 none of it.

12 MR. WILSON: Yes, sir.

13 THE COURT: So there you go. I mean that's kind of my
14 conclusion on it.

15 MR. WILSON: All right. I just ---

16 THE COURT: But I'll -- I'll -- I'll take -- certainly
17 take that under consideration and be thinking about it. Do
18 you want to look at the verdict form? I don't think y'all
19 looked at the verdict form, but if y'all come forward and make
20 sure that the items of evidence ---

21 (Whereupon, there is a pause in the proceedings as the
22 evidence is checked by counsel.)

23 THE COURT: Mr. Wilson, under State v. Alexander, the
24 Court has abolished the rule prohibiting inconsistent
25 verdicts.

1 MR. JEPERTINGER: That's the case they cited in State v.
2 Jackie Robinson in an unpublished opinion.

3 THE COURT: He can be convicted by a jury on one count
4 and not conviction because it was inconsistent.

5 MR. WILSON: A man can hope, Judge.

6 MR. JEPERTINGER: Where is the verdict form?

7 THE COURT: She's got the verdict form.

8 MR. JEPERTINGER: Thanks. Thank you, Judge. For the
9 record, I have along with defense counsel looked at all the
10 exhibits. Everything that is going to the jury is in
11 evidence, Your Honor. I have also looked at the verdict form,
12 Your Honor, and everything seems to be proper and I noticed
13 and I have no objection to the jury charge going back because
14 I believe you read it verbatim.

15 MR. WILSON: And I concur with his statement.

16 THE COURT: All right. If you will, take the items of
17 evidence along with the instructions and verdict form to the
18 -- to the jury room. Pull Mr. David Brown out and Ms. April
19 Amerson. Those are my two alternates.

20 THE BAILIFF: All right, sir.

21 MR. JEPERTINGER: I do not know the instructions for the
22 alternates. Are they picking a jury tomorrow or what?

23 THE COURT: I've heard they were. Can we find that out?

24 THE CLERK: I was told that they were supposed to call
25 after six.

1 THE COURT: All right. I'll tell them to call.
2 MR. JEPERTINGER: Call after six.
3 THE BAILIFF: Ready?
4 THE COURT: Mr. Brown and Ms. Amerson.
5 THE BAILIFF: All right, sir.
6 (Whereupon, the alternates are removed from the jury room
7 and deliberations begin at 4:00 p.m.)
8 THE BAILIFF: Okay. Here's the alternates, Judge. Wait
9 a minute. Stand right there.
10 THE COURT: No. Come up here.
11 THE BAILIFF: Oh. I thought he was going to run.
12 (Whereupon, laughter.)
13 THE COURT: Mr. Brown, I want to thank you for your
14 service.
15 THE ALTERNATE JUROR: Yes, sir.
16 THE COURT: Ms. Amerson, I want to thank you as well.
17 The law does not allow alternates to remain in the jury room
18 once the case goes to the jury. That's why I asked to make
19 sure everybody is feeling okay. The instructions to you
20 forbidding you from talking about the case are over now. You
21 can talk about it. However, you cannot be made to talk about
22 it. If you don't want to talk about it, then you don't have
23 to. If anybody tries to talk to you about it and you tell
24 them that you don't want to talk about it and they don't leave

1 you alone, you let the Court know and we will handle it.

2 Okay?

3 But you all are free to go for the balance of today. You
4 do have to call back tonight after six o'clock. You may have
5 to come back tomorrow.

6 THE ALTERNATE JUROR: That number they all gave us?

7 THE COURT: My deputy clerk over here can give you the
8 number to call. Please call that number after six tonight.

9 Okay?

10 THE ALTERNATE JUROR: Yes, sir.

11 THE COURT: Thank you very much for being here. Thank
12 you for your time.

13 (Whereupon, the alternate jurors exit the courtroom.)

14 THE COURT: All right. We will stand at ease unless
15 there is further work that needs to be done from the
16 Solicitor's Office.

17 (Whereupon, there is a break in the proceedings from 4:04
18 p.m. until 4:24 p.m.)

19 THE COURT: Can the lawyers approach, please?

20 (Whereupon, a bench conference is held as follows.)

21 (Whereupon, a note from the jury is read by counsel.)

22 MR. JEPERTINGER: The answer to that is no.

23 MR. WILSON: No. They -- I think -- I think the only
24 thing we can tell them is that the case is closed and no more
25 evidence.

1 THE COURT: The answer is no. All you can consider ---
2 MR. JEPERTINGER: Is the evidence in this case.
3 THE COURT: --- is the evidence that's been introduced
4 during the course of this trial.
5 MR. ETHERIDGE: Are we going to keep that?
6 THE COURT: Sir?
7 MR. ETHERIDGE: Are we going to preserve that?
8 THE COURT: Oh, yeah.
9 MR. ETHERIDGE: Okay.
10 THE COURT: I mean what ---
11 MR. ETHERIDGE: What are your thoughts?
12 MR. WILSON: Well, what -- what my position is -- is that
13 if we tell them ---
14 MR. ETHERIDGE: It sounds like we're not doing something
15 right.
16 MR. WILSON: And that's what I wanted ---
17 THE COURT: What they're trying to do is consider
18 something that ain't in the record.
19 MR. WILSON: Right.
20 THE COURT: It's not ---
21 MR. WILSON: That's correct.
22 THE COURT: --- part of the evidence.
23 MR. WILSON: Right.
24 THE COURT: If I've already told them once, I've told
25 them a hundred times that's all they can consider.

1 MR. ETHERIDGE: I understand.

2 MR. WILSON: And my -- my position is that if -- if you
3 ask -- if they're asking could we get it at this time -- and I
4 think that's what they're asking. If we answer that by saying
5 that the case is closed, no more evidence can be introduced, I
6 don't know how else we can say it. Anything else is going to
7 be a comment on the evidence and he's saying if we say that,
8 well, no, we can't get it now, then ---

9 MR. ETHERIDGE: Something that I think that applies to if
10 they expect us to do something and I don't know how you handle
11 that.

12 MR. WILSON: That's what I'm -- that's what I'm ---

13 THE COURT: Let me see the thing. All it asks for is a
14 9-1-1 --- can defense obtain 9-1-1 tape at this time?

15 MR. ETHERIDGE: How about -- how about neither the
16 defense nor the State can get it? Something like that.

17 MR. JEPERTINGER: The thing is I will tell you as an
18 officer of the court that tape is no longer extant.

19 THE COURT: I know.

20 MR. JEPERTINGER: They only keep them for thirty days.

21 MR. WILSON: It's gone.

22 MR. JEPERTINGER: It's gone.

23 THE COURT: Okay.

24 MR. JEPERTINGER: I mean the State can't get it. The
25 defense can't get it.

1 MR. WILSON: But I don't -- but you can't -- my point is
2 we can't tell them that because that's not in evidence that
3 it's been destroyed.

4 THE COURT: Well, I can say -- I understand what you are
5 saying that can defense obtain 9-1-1 tape at this time.

6 MR. JEPERTINGER: I focused on that last phrase at this
7 time, you know, and I don't know. You know, that's kind of
8 pregnant with a lot of ---

9 MR. WILSON: Yeah.

10 MR. JEPERTINGER: You know.

11 MR. WILSON: Ambiguity.

12 MR. JEPERTINGER: Ambiguity. I -- I would say no. They
13 must consider the evidence only presented in this case.

14 THE COURT: You must make your decision based upon --
15 based solely upon the evidence that's been presented and
16 introduced during the course of this trial.

17 MR. WILSON: Yes, sir.

18 MR. JEPERTINGER: And the charge -- I suppose and the
19 charge of the law as I gave it to you.

20 MR. WILSON: Yeah. That's fine.

21 MR. ETHERIDGE: Yeah.

22 MR. WILSON: Yeah. That's fine.

23 MR. ETHERIDGE: Thank you, Judge.

24 THE COURT: All right.

25 (Whereupon, the bench conference ends.)

1 THE COURT: All right. Bring me the jury, please, ma'am.

2 (Whereupon, the jury enters the courtroom at 4:28 p.m.)

3 THE COURT: All right. Madam Forelady and ladies and
4 gentlemen of the jury, I received your question. I will tell
5 you this. That your decision in this case must be based
6 solely upon the evidence and testimony that's been presented
7 during the course of this trial and nowhere else.

8 Anything from the State other than -- than the
9 instructions I've given the jury?

10 MR. JEPERTINGER: No, sir.

11 THE COURT: Defense counsel?

12 MR. WILSON: No, sir.

13 THE COURT: That is how I'm answering your question.
14 Now, I will ask that you all return to the jury room and
15 continue your deliberations.

16 (Whereupon, the jury exits the courtroom at 4:29 p.m.)

17 THE COURT: All right. Any exception or objection to
18 what I told the jury by the State?

19 MR. JEPERTINGER: No, sir.

20 THE COURT: Defense counsel?

21 MR. WILSON: No, sir.

22 THE COURT: All right. We've got a couple pleas to my
23 understanding. Let's do them.

24 (Whereupon, the jury note is marked as Court's Exhibit
25 Number 10.)

1 (Whereupon, there is a break in the proceedings from 4:30
2 p.m. until 6:05 p.m.)
3 THE BAILIFF: All rise. Order in the court.
4 THE COURT: Thank you. Be seated, please.
5 MR. JEPERTINGER: Do we -- do we need the defendant, Your
6 Honor.
7 THE COURT: Are y'all getting the defendant?
8 THE DEPUTY: We're getting him, Judge..
9 THE COURT: Thank you. I assumed they were, but I
10 appreciate you bringing that to my attention.
11 MR. JEPERTINGER: Your Honor, it's my understanding that
12 they may have a verdict.
13 THE COURT: That's my understanding. Yes, sir.
14 MR. JEPERTINGER: Okay. And I will -- I will tell ---
15 THE COURT: I don't want you to say anything until the
16 defendant gets in here. Just hold on a minute. If it relates
17 to the case.
18 (Whereupon, there is a pause in the proceedings until the
19 defendant enters the courtroom.)
20 MR. JEPERTINGER: Your Honor?
21 THE COURT: Yes, sir.
22 MR. JEPERTINGER: I have -- I have informed my victim and
23 her family not to express any emotion, good, bad or
24 indifferent, and I don't know what the verdict is going to be
25 and I told them they can express whatever emotion they have or

1 any burst of feelings they have out in the parking lot later
2 amongst themselves.

3 THE COURT: All right. Well, it is my policy to always
4 in any case, whether it be civil or criminal, to remind the
5 litigants, family, et cetera, regardless of what the verdict
6 is, you are to keep your emotions in check -- in check. If
7 you fail to do so, this Court can and has in the past held
8 individuals in contempt of court and sentenced them to a
9 period of incarceration. I will remind you to keep your
10 emotions in check. If you do not believe that you can keep
11 your emotions in check, now is your time to leave. Now is
12 your time to leave.

13 All right. Bring me a jury, please, ma'am. Anything
14 else from the State before I bring the jury in?

15 MR. JEPERTINGER: No, sir.

16 THE COURT: Defense counsel?

17 MR. WILSON: Nothing, Your Honor.

18 THE COURT: All right. Please, ma'am.

19 (Whereupon, the jury enters the courtroom at 6:08 p.m.)

20 THE CLERK: Members of the jury, have you agreed upon a
21 verdict?

22 THE FORELADY: Yes, we have.

23 (Whereupon, the clerk retrieves the verdict form and
24 delivers it to the Court.)

25 THE COURT: Madam Clerk, you may publish the verdict.

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As to the charge of possession of a pistol by a person convicted of a crime of violence, we, the jury, unanimously find the defendant, William Jamell Thomas, Jr., guilty.

Members of the jury, if this is your verdict, please raise your right hand.

THE CLERK: That's everyone, Judge.

MR. WILSON: Nothing.

MR. JEPERTINGER: No, sir.

THE COURT: All right. Ladies and gentlemen, I want to thank you for your service. I appreciate your attentiveness throughout the course of this trial. You all have fulfilled your responsibilities as jurors in this case. It is now the Court's responsibility to move forward with sentencing -- with sentencing. You all may remain in the courtroom for sentencing. However, if it is your desire, you may leave the

1 court at this time as well.

2 I will tell you that you are -- you need to be back here
3 tomorrow morning at nine thirty. We're going to pick another
4 jury in another case and we do not have enough jurors to
5 select another jury without you all being in the panel. So I
6 need you to report back tomorrow morning at nine thirty -- at
7 nine thirty, but if you want to leave right now, now is your
8 time to leave or you can remain seated, however you so desire.

9 THE BAILIFF: On the eleventh floor; right?

10 THE COURT: On the eleventh floor. That's right. Thank
11 you, Ms. Olivia.

12 (Whereupon, the jury exits the courtroom at 6:10 p.m. and
13 several jurors re-enter the back of the courtroom.)

14 THE COURT: All right. Mr. Jepertinger?

15 MR. JEPERTINGER: I have presented sentencing sheets,
16 Your Honor. Let the record reflect as well, Your Honor, that
17 previously in this case when this individual was attempting to
18 plead guilty earlier today that I stated his criminal record,
19 but I will repeat it, Your Honor. The Court is aware that he
20 had two previous convictions for assault and battery ---

21 THE COURT: Hold on a minute. I'm sorry, Mr.
22 Jepertinger. Hold on just a second.

23 (Whereupon, there is a pause in the proceedings.)

24 THE COURT: All right. If you will, give me his record
25 again, please.

1 MR. JEPERTINGER: Yes, sir. Well, let me just do it this
2 way, Judge. He had a criminal domestic violence first for --
3 in 2002 for which he received \$825 fine or thirty days. Also
4 in 2002, he had a violation of a protective order. It said
5 court disposition convicted, unknown, and I guess in terms of
6 sentence. He had a breaking and entering into an auto or
7 tanks where fuel is stored, also in 2002. Received a one year
8 suspended to one year's probation.

9 Then, Your Honor, he had these two assault and battery of
10 a high and aggravated nature convictions. One from June the
11 14th, 2006, it looks like he received three years provided upon
12 the service of 273 days and he was on probation for three
13 years, Your Honor. Then in March of 2010, to that assault and
14 battery of a high and aggravated nature, it was two years with
15 credit for 261 days, Your Honor. And I'll show you those
16 sentencing sheets.

17 There was also, Your Honor -- and this is where it -- I
18 don't know if it's -- it said concurrent and I notice on the
19 NCIC -- and I brought this up. It said stalking, court
20 disposition convicted, two years, but I didn't see anything in
21 the file per se from that case, Your Honor. I didn't know if
22 it was from some other place or some other conviction, Your
23 Honor.

24 THE COURT: All right.

25 MR. JEPERTINGER: Your Honor, one more thing. At the

1 appropriate time, you've heard from Brittany and what she's
2 been through. You've not met Abraham Singletary and Sandra
3 Singletary, her parents, and if they want to say anything or
4 Brittany wants to say anything on her own behalf. She also
5 has a grandmother and I'm sorry I don't know the lady in
6 green.

7 UNKNOWN FEMALE: Aunt.

8 MR. JEPERTINGER: An aunt, as well.

9 THE COURT: Okay.

10 MR. JEPERTINGER: If they want to say anything, I'd ask
11 them that you give them an opportunity before sentence is
12 imposed.

13 THE COURT: All right. I will be happy to hear from
14 anybody else at this time prior to sentencing. Mr.
15 Singletary, Ms. Singletary, or any other family member, if you
16 so desire to speak, please stand and state your full name for
17 the record.

18 MR. JEPERTINGER: Okay. You can come up here.

19 THE COURT: Please direct any comments to the Court -- to
20 me.

21 THE VICTIM: My name is Brittany Natasha Singletary. I
22 was the victim in this crime. I have been through so much
23 ever since this crime happened to me. I have been devastated.
24 I can't sleep. My family has been through a lot. And, sir,
25 there's not a day that goes by that I don't think about what

1 happened to me. There's not a day that I don't remember
2 everything that happened because I see my scars. I see the
3 marks on my body and I remember everything. Everything. And
4 I ask you -- I ask for the maximum for this.

5 THE COURT: All right.

6 MR. JEPERTINGER: Mr. Singletary or Ms. Singletary or
7 anyone else, now is your time. Please come forward and then
8 when you do, please state your name for the record and only
9 address your comments to the Court.

10 MS. SANDRA SINGLETARY: My name is Sandra Singletary and
11 I want to thank you for the court and your decision that you
12 will bring justice today.

13 MR. JEPERTINGER: Anyone else? Law enforcement? Ms.
14 Cain? You -- do you need to say anything? All right. That's
15 it, Judge.

16 THE COURT: All right. At this time, I will recognize
17 you, Mr. Wilson, and/or Mr. Etheridge. I'd be happy to hear
18 from you all and any family members that wish to speak.

19 MR. WILSON: Your Honor, before I do that, I need to
20 renew the motions that I made at the end of the State and the
21 defense's case for a directed verdict on the ground that I
22 stated at that time. And I'd also like to renew my motion for
23 a mistrial that I made at the end of the State's case and I do
24 that again on the same grounds that I stated earlier in the
25 trial of the case.

1 THE COURT: All right. Your objections and your previous
2 motions are so noted for the record and my rulings remain the
3 same on those, but they are so noted for the record, Mr.
4 Wilson.

5 MR. WILSON: And, Your Honor, on that basis, we would ask
6 for a judgment of acquittal notwithstanding the verdict and/or
7 in the alternative for a new trial in this matter.

8 THE COURT: All right. I'm going to respectfully deny
9 those motions. I believe that the evidence in this case was
10 certainly a factual issue for this jury. The jury -- and
11 there was conflicting evidence in this case and the jury made
12 a decision and entered a verdict different from that which
13 certainly that your client would have wanted in this case, but
14 it was certainly a factual issue for this jury to make a
15 determination on. It would be inappropriate for this Court to
16 intrude upon the jury's verdict in this case. Therefore, I am
17 going to respectfully deny your motion on that.

18 MR. WILSON: Thank you very much, Your Honor.

19 THE COURT: All right. I'd be happy to hear from either
20 one of you all.

21 MR. ETHERIDGE: Your Honor, he is on total disability.
22 He has been in jail since March -- May the 24th of 2012. We
23 figured the days at 399 days.

24 THE COURT: Okay.

25 MR. ETHERIDGE: During that time, he developed a fairly

1 severe spider bite, which is going to require some extensive
2 surgery of some sort. I'm not sure what the nature of the
3 surgery is, Your Honor. We would ask that the -- and I know
4 this Court well enough to know that anything that's gone on
5 over this way would not interfere with what you will or what
6 you intend to do in terms of sentencing. We would ask if you
7 would be as lenient as possible under these conditions.

8 THE COURT: All right. Mr. Wilson?

9 MR. WILSON: Your Honor, I don't know that there's much
10 that I can add to what's already been said and certainly His
11 Honor has heard the evidence and the testimony in this case
12 and -- and -- and obviously the testimony was conflicting.
13 The defendant had pleaded not guilty and the jury found him
14 guilty, and whether I agree or disagree with the jury's
15 verdict is immaterial. That was their responsibility and
16 that's what they decided. And I've learned over the years
17 that when a jury speaks, then I listen and try to learn from
18 whatever it is that they said.

19 And in this case, we're simply asking the Court to take
20 into consideration that -- that the defendant has been in jail
21 for a substantial period of time. He does suffer from an
22 injury that he received while he has been incarcerated, and we
23 just ask the Court to be as lenient as you can under the
24 circumstances, understanding you have a responsibility as
25 well.

1 THE COURT: All right. All right. Thank you, Mr.
2 Wilson. Does anybody wish to say anything?
3 MR. WILSON: Your Honor, yes, sir. Your Honor, would you
4 hear from his mother?
5 THE COURT: Yes, sir.
6 MR. JEPERTINGER: Yes, ma'am.
7 THE COURT: Yes, sir, to him.
8 MR. JEPERTINGER: Oh, okay.
9 MR. ETHERIDGE: Give him your name and just talk to the
10 judge.
11 THE COURT: Ma'am, I'll be happy to hear from you.
12 Please state your name again for the record.
13 MS. LINDA MACK: My name is Linda Mack.
14 THE COURT: Yes, ma'am.
15 MS. LINDA MACK: I am Jamell Thomas' mother.
16 THE COURT: Yes, ma'am.
17 MS. LINDA MACK: My son -- I was reading through his
18 medical records. He has a chronic illness and he's going to
19 need more than one surgery from what I was told and I'm really
20 just asking that you could be as lenient and -- and he -- he
21 got a lot more to go through. They're telling me he's also
22 going to need therapy after the surgeries to help. I'm very
23 concerned about that.
24 THE COURT: Okay.
25 MS. LINDA MACK: I would like, you know, any help that

1 you will give him and be lenient. I would appreciate that.

2 THE COURT: All right. Thank you, ma'am. Mr. Thomas,
3 you're not required to say anything and I certainly don't want
4 you to say anything that could affect any appellate issues
5 that you may have, but I will give you an opportunity to say
6 anything if you want to tell me anything.

7 (Whereupon, there is no verbal response from the
8 defendant.)

9 THE COURT: All right. All right. Anybody else, Mr.
10 Wilson, wish to say anything?

11 MR. WILSON: No, sir.

12 MR. ETHERIDGE: No, sir.

13 (Whereupon, there is a pause in the proceedings.)

14 SENTENCE OF THE COURT

15 THE COURT: Mr. Thomas, you've been before this Court on
16 more than one occasion, not specifically me, for very serious
17 charges in the past. Previously, a kidnapping charge, assault
18 and battery with intent to kill, possession of a weapon during
19 a violent crime, of which were subsequently reduced to the
20 ABHAN. You have a history of engaging in conduct of violence.

21 On Indictment 2012-GS-21-1483 as it relates to the
22 possession of a pistol by a person with a prior conviction for
23 a crime of violence, the defendant is committed to the State
24 Department of Corrections for a period of five years.

25 On the charge of attempted murder, the defendant is

1 committed to the State Department of Corrections for a period
2 of twenty-five years.

3 They are to run concurrent. He is given credit for 399
4 days. Good luck to you, sir.

5 MR. WILSON: Thank you very much, Your Honor.

6 MR. JEPERTINGER: Thank you.

7 (Whereupon, the proceedings end at 6:29 p.m.)

8

9 --- END REQUESTED TRANSCRIPT ---

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1 STATE OF SOUTH CAROLINA)
2) CERTIFICATE
3 COUNTY OF FLORENCE)
4

5 I, the undersigned, Krystal J. Smith, Official Court
6 Reporter for the Twelfth Judicial Circuit of the State of
7 South Carolina, do hereby certify that the foregoing is a
8 true, accurate, and complete Transcript of Record of all the
9 proceedings had and evidence introduced in the hearing of the
10 above captioned case, relative to appeal, in the Court of
11 General Sessions for Florence County, South Carolina, on the
12 24th through 26th days of June, 2013.

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

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Court Reporter

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19 Florence, South Carolina

20 November 19, 2013

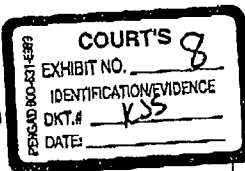
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5/29/201

A couple of months before, this incident happen, this is what happen to me. I was in front of Sugar Hill and Joe approached me with a gun. First he pointed it at me then shot in my direction. Then drove off fast. All that was because off brittany singletary. She asked me to defend her because he was beatin her. And this isn't the first time we had problems. We came in contact with each other many times but it was ntn but words. I believe it all was a set up because after she told me to defend her and I got in the middle of it by trying to defend her he shot at me (Joe) and they were still together. I believe she set Jamell Thomas up. Just like she did me.

Rachel Thomas
My Commission Expires August 8, 2018

Coty R. Harghan

Styllz YA Digg

Select messages to forward.

Forward Cancel

Select messages to delete.

Delete All Delete Selected Cancel



March 8, 2011

Styllz YA Digg

Next time my peoples gonna do u worse iam not a little kid yall not ready for grown man shit next time u gonna get put in a box



September 12, 2011

Styllz YA Digg

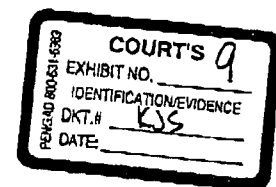
Let all them bitches in tht house and u know wtf iam talking about ITS GONNA BE A BODY COUNT BANG BANG BITCHES SEE Y'ALL SOON



September 13, 2011

Coty Henneghan

hold up playal talk to me!!!!...





September 13, 2011

Coty Henneghan

YOU TALKING BOUT MY HOUSE???



September 14, 2011

Styllz YA Digg

U know wht the fuck iam talkin dnt care about u and ya brother I gave ya a pass iam talkin about ya little crew u always be with iam already here and iam sure u know u cuz got shot tell them fags they better be strap coz we comin yea we y'all wanted to see how I get down. Good thing ya mom got u out cuz u would be dead. BODY COUNT BITCHES



September 14, 2011

Styllz YA Digg

Na u good coty with me unless ya want beef but I am talkin about them fags u be hangin with



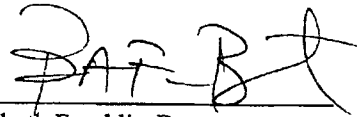
September 14, 2011

Coty Henneghan

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.

December 4, 2014



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