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VOLUME II OF II

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM DARLINGTON COUNTY

Michael G. Nettles, Circuit Court Judge

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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

BRANNON JAISEL BRYANT, JR.,

APPELLANT

APPELLATE CASE NO. 2014-001693

RECORD ON APPEAL

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1 evidence. Let's introduce some witnesses. Let's see if we
2 can find out who was there, what they know, and see if we can
3 fit it into our plan to make sure that he did it.

4 Interestingly enough, some of the people, I think most
5 of the people that were interviewed, came from his mouth.
6 Who were the other people around earlier in the evening,
7 later in the evening? Let's see, Savoy Mack, Dominique
8 Colclough, a guy named Roscoe, Amos McRaven, and Terrance
9 Cabbagestalk was interviewed. There's five men right there.
10 Five. So let's interview them. They did. They get various
11 pieces of information.

12 There's a couple of women also. There's a real
13 interesting woman who -- this event occurred June the 8th,
14 Friday morning, 4:50ish AM. June the 9th, according to Agent
15 Anderson, a lady is at a party. A guy comes up to her and
16 he's flipping a knife. And she says, that's a nice knife. I
17 like that. He says, here, you want it? He hands her the
18 knife and she shows it to her sister and her sister says, you
19 need to take that to the police because that guy was where
20 that girl got killed yesterday. So that night she does the
21 right thing. She calls or visits the police. Agent Anderson
22 takes a statement from her and says, I've got a knife from a
23 guy named Dominique Colclough who I knew was where that girl
24 got killed. Here. And that knife was placed into evidence
25 and they say thank you very much. Thank you. Laura South,

1 who was the evidence lady, I asked her about that knife. It
2 had a Sunoco emblem on it. She said, oh, yeah. We didn't
3 send that to SLED. It's in the box. Got a knife. Well, why
4 don't we talk to Dominique Colclough? He was there. So
5 Agent Anderson and I don't recall if Lieutenant Cusack was
6 there, but Colclough comes in and they interview him. And
7 they say, did you give a knife to a lady at a party Saturday
8 night after this murder? Nope. Okay. Thanks. Gone.
9 Period. Thank you very much. Didn't use it, didn't care.
10 Didn't think about it because it was one of those square pegs
11 and it wouldn't fit in that round hole. So that knife still
12 sits in the box. Never got sent to SLED. We don't know if
13 it has any significance whatsoever, but it didn't have
14 anything to do with him who, of course, is the prime suspect.

15 So, let's get back to the scene. We're at the scene.
16 We're investigating. We've got our prime suspect. Now, the
17 Hartsville Police Department says, ah-ha. He said that he
18 heard some noise, heard some screaming, went back home, got
19 curious, came back out to find out what was going on. What
20 they really think is that he killed the young lady and then
21 ran home to get rid of the knife and clean himself up and
22 then come back out.

23 And so they say, okay, we've got him down at the
24 station. We're interviewing him for about two-and-half
25 hours and we get his address. And we get us a search

1 warrant. We go to his house and we start searching and what
2 do we find? In the trash can right outside of his door,
3 Officer Kelly Woodham looks in and he found a knife and
4 either a shirt or a pair of pants. And I don't remember
5 which one, but you heard him testify. So we got it. Chief
6 Investigator Rudick, come over here and take a picture, pick
7 it up, got it, knife one. Clothing, one. They go inside.
8 They got another pair of pants inside. A pair of blue jeans
9 this time. It's got a clip, a pocket knife on it. Ah-ha. A
10 knife, clothing. Chief Investigator Rudick, pick it up,
11 preserve it, knife two. On the way out, I don't remember
12 where this one was, you'll have to remember, but they get a
13 paring-type knife and I don't remember if it was in the sink
14 or in the -- I don't remember. A kitchen drawer. But they
15 got another knife. And I guess those are the only three
16 knives in the house. I guess because they pick them all up.
17 They preserve them and they send them to SLED. We've got him
18 now. Unfortunately, SLED doesn't find anything on any of
19 that stuff because that's another one of those square pegs
20 that doesn't fit in a round hole.

21 So, we've got our man. We all know we have our man
22 because he's somewhere around that dead body that's on that
23 stoop right there and he's telling us in the interview room
24 that he doesn't have a clue who that lady is, although he
25 just had sex with her an hour or two before that and he's

1 looking right at her and has no idea who she is.

2 Interestingly enough, her relative, Chief Hudson couldn't
3 identify her when he walked up to the body and looked and had
4 no clue who it was and had to go back and begin canvassing
5 the neighborhood to see if anybody else knew who that was.

6 Well, we're not done because we still need some more
7 evidence to make sure that he did it, because we figured that
8 out about an hour-and-a-half after we got there. We got some
9 DNA. And we've got to -- I told you the other day, you've
10 got to have DNA. You just can't make a case without DNA.
11 Where was it? Dr. Ross, six thousand something autopsies.
12 Can you imagine? She clipped the fingernails, turned them
13 over to Gloria Mack, took them to SLED and had them analyzed.
14 Also took bodily fluids, blood, ocular fluid. From the
15 ocular fluid and the blood we learned that Ms. Thomas was, if
16 I understood the way the toxicology lady and Dr. Ross
17 described it, near comatose. Somewhere between .34 and .37
18 blood alcohol level. I don't know how you stand up with that
19 level. She said tolerance might do it. Could be. So we've
20 got us some DNA. Interestingly enough, the DNA lady said
21 when I asked her, would that do it? Certainly. We're not
22 talking about chunks of tissue hanging under her fingers,
23 we're talking about cells that might be under a fingernail.
24 Cells that possibly could get there during vigorous sex with
25 a drunk party girl, okay? But we've got that DNA.

1 But we've also got a shirt and I think I'm correct
2 there's a little chunk out of the back left of that shirt
3 that was analyzed. When it was analyzed by SLED, and I don't
4 know how they found that because no officers saw any blood on
5 Mr. Bryant's shirt. Nobody did, although they were all
6 around him. Also, interestingly enough, I'm not sure if
7 anybody touched him because every one of those officers said,
8 I didn't touch him. The reason for that was they didn't want
9 me to say, Oh, you had blood on your hands and you touched
10 Mr. Bryant and got blood on his shirt. So he obviously
11 handcuffed himself, and he obviously put the ruler up to his
12 arm. Anyway, nobody touched him, all right, except -- you
13 saw Agent Anderson touch him, and pulled his shirt and
14 everything. Blood on his shirt, no idea. No idea where that
15 came from. Could it have come from sexual contact? We don't
16 know. It's an inference I think that can be drawn but don't
17 know. So the State's case, we've got -- here's the State's
18 case. It's okay. We've got DNA. We've made our case,
19 period. We're done.

20 But, and this is a big one, Mr. Holt alluded to it
21 like, he said, bless her heart old, old, Ms. Alta Mae Hicks.
22 She's sixty-three years old and obviously she can't see,
23 hear, or describe anything because the person that she told
24 the officers that morning that she saw out there, wasn't him.
25 It just wasn't him. How do we know that? Because Agent

1 Anderson showed her a photo ID and said, here. Here's a
2 bunch of pictures. You pick one of the out if you recognize
3 the man you saw that morning. She said, I can do it. And
4 she looked at every one of them. And number three was that
5 young man right there, Brannon Bryant. And she said, I don't
6 see anybody that I saw that morning. So, in the normal
7 course of investigation what would you do? I'd better go fix
8 me up some more pictures and show her some more or get
9 somebody to help her draw a picture and see if we can figure
10 out who she's talking about. Is that what happened? It is
11 not what happened. They dropped her like a hot potato.
12 Because that square peg that she just gave them didn't fit in
13 that round hole and didn't help them one bit with the guy
14 they know that did it, Mr. Brannon Bryant, period. She was
15 gone, although she's the closest thing to an eyewitness we've
16 got and that was it. Thank you. We don't need you anymore.
17 Goodbye. And Mr. Holt says, but I'm going to show you my
18 case, warts and all. If that ain't a wart, I don't know what
19 is, or you could call it something else. You could call it
20 reasonable doubt, because that's exactly what it is. All
21 right. Ms. Hicks, she described the person and she said, Oh,
22 yeah. And I don't know about you but I thought I heard one
23 of the officers say, well, she must have been looking out
24 that little peephole in that door and she couldn't see
25 anything. If you remember correctly she said, I've got two

1 big windows on either side of that door and I went to the
2 window and I looked. But what do I see but a tall, light-
3 skinned black male, slim, clean shaven. And I think this is
4 the first case that I've ever had where the State calls an
5 alibi witness for somebody who's not on trial and you know
6 who that was? The alibi witness was Mr. Gregory Colclough
7 who came up here and he said, my nephew was with me the whole
8 night after about 11:00. We watched television and we slept
9 on either couch because we've got two couches in the same
10 room and we were there all night long. He's an alibi witness
11 for somebody who's not on trial. But if you remember, the
12 last thing that I asked him is, can you describe your nephew.
13 Oh, sure. He's kind of tall, he's light-skinned. He's clean
14 shaven, and he's kind of slender. Thank you very much. I'm
15 not sure what kind of peg that is. Whether it's -- I don't
16 know what shape that is, but that really fit into the hole
17 that they wanted it to fit in to prove who did this. That's
18 somebody completely different that an eyewitness described,
19 that we don't know who he is and we'll never know, because
20 it's gone because it didn't fit where they wanted it to fit.

21 The Judge is going to charge you the law in a few
22 minutes. One of the things he's going to say is the fact
23 that somebody is at a crime scene, in and of itself, is not
24 dispositive of whether or not that person did the crime.
25 Mere presence. However, in this situation the mere presence

1 of Mr. Brannon Bryant at this crime scene has the Hartsville
2 Police Department convinced that they got their man and they
3 got him within a couple of hours. Case over. It's solved.
4 But you know what? The facts that get presented to you and
5 the beauty of our system is that the State doesn't get to say
6 whether a person is guilty or innocent. The Judge doesn't
7 get to say whether a person is guilty or innocent. That's
8 what y'all do. You've got to figure out what happened.
9 You've got to figure out what happened from what is
10 presented, or as I told you on Monday, what's not presented.
11 And what's not presented, those are the holes in Mr. Holt's
12 wall that he was talking about and he wants that wall to stay
13 up. It didn't get off the ground because the foundation
14 wasn't worth a rip. There is no wall. There is the mere
15 presence of Mr. Brannon Bryant at a crime scene and nothing
16 else backs it up. Oh, yeah, it's okay. We've got DNA.
17 Ladies and gentlemen, I've worked with the Hartsville PD for
18 twenty-five years. They are good, good people. They really
19 are and in this situation they really, I think, in their
20 hearts think that they've got this crime solved because when
21 they rolled up, there he was. We got him, take him away.
22 They got it wrong. You've seen for the last three-and-a-half
23 days what they've got. What if they got it wrong? Where
24 their opinion arrives in this Court, it runs into our
25 criminal justice system.

1 And I hate to keep saying it, but I'm going to do it
2 again. We've got three things that they've got overcome.
3 The presumption that Mr. Bryant is innocent. They've got to
4 carry the ball. It's their burden of proof. And the
5 standard you've got to use is they've got to prove it to you
6 beyond a reasonable doubt. Ladies and gentlemen, you saw
7 everything this week. You were very attentive, as the Judge
8 has said. When you go back to your room after you hear the
9 law the Judge is going to give you to use, the rest of the
10 tools that you have in order to make sure that the evidence
11 presented is used by you to do whatever you're going to do in
12 your decision-making process, I don't want you think about
13 seventeen points. I don't want you think of -- reasonable
14 doubt, as the Judge describes it, is what this case is all
15 about. Again, if the Hartsville Police Department made a
16 snap decision based upon first impressions, the evidence
17 should back that up. And if it did, wouldn't have a problem
18 in the world. But you've seen what the follow-up to the
19 initial impression was and it falls terribly short of beyond
20 a reasonable doubt.

21 When you go back to your room I hope that you will come
22 back with what I think is the only verdict that you can reach
23 and that is Mr. Bryant's not guilty of this crime. Thank
24 you.

25 THE COURT: Thank you, Mr. Jones. Mr. Foreman, ladies

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1 and gentlemen of the jury, you've been sitting for a while.
2 I'm going to ask that you return to the jury room and refresh
3 yourselves but do not discuss the case. There will come a
4 time here shortly where you can do that, where you can begin
5 deliberations, but now is not the time. So do not discuss
6 the case. Everyone remain seated as the jury exits the
7 courtroom.

8 (Jury out at 2:13 PM)

9 THE COURT: We'll stand at ease for five minutes.

10 (SHORT BREAK)

11 THE COURT: Anything from the State before we proceed
12 forward with the charge?

13 MR. HOLT: No, sir, Your Honor.

14 THE COURT: Anything from Defense?

15 MR. JONES: No, sir.

16 THE COURT: All right. And both of you have had an
17 opportunity to review the verdict form. Is it in order?

18 MR. HOLT: The State agrees.

19 MR. JONES: Yes, sir.

20 THE COURT: All right. We're ready for the jury.

21 THE BAILIFF: Yes, sir.

22 (Jury in at 2:21 PM)

23 THE COURT: Mr. Foreman, ladies and gentlemen of the
24 jury, we're about to engage in what is known as the charge of
25 the law. Each of y'all have paid very close attention. I've

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1 watched you throughout the trial of this case. When a
2 witness testified, you looked at them. When the lawyer
3 talked, you looked at them. Clearly, you paid very close
4 attention to the facts. You're going to be equipped to
5 render a verdict that speaks the truth. But before you do
6 that, you're going to have to understand what the law is.
7 And you need to pay very close attention. I know it's 2:30
8 in the afternoon. You probably had a big lunch. Sometimes
9 you have tendency to lull a little bit at this time, but
10 these are important matters. So I'm going to ask that you
11 perk up, pay very close attention because you need to know
12 the law in order for you to fulfil your solemn duty to do
13 what's right in this case. So pay very close attention.

14 Ladies and gentlemen of the jury, the indictment in this
15 case alleges two different offenses against the Defendant.
16 The charges are murder and possession of a weapon during the
17 commission of a violent crime. I remind you that the fact
18 that the Defendant was arrested, charged and indicted is not
19 evidence and cannot be considered by you as evidence of
20 guilt, nor does it create any presumption or inference of
21 guilt. This document is simply the formal written instrument
22 which contains the charges made against the Defendant. It is
23 the formal document by which this case is brought into this
24 Court. Each indictment charges a separate and distinct
25 offense. You must decide each indictment separately on the

1 evidence and the law applicable to it, uninfluenced by your
2 decision as to the other indictment. The Defendant may be
3 convicted or acquitted on any or all of the offenses charged.
4 You'll be asked to write a separate verdict, guilty or not
5 guilty, for each indictment.

6 Mr. Foreman, ladies and gentlemen of the jury, I remind
7 you that during this trial you and I have certain duties to
8 perform. As the trial Judge, it is my responsibility to
9 preside over the trial and I also have the duty to rule on
10 the admissibility of evidence. You are to consider only the
11 competent evidence before you. You're to consider only the
12 testimony which has been presented from this witness stand,
13 any exhibits which have been made a part of the record in
14 this case, and any stipulations of counsel.

15 I have the additional duty to charge you the law
16 applicable to this case. As the presiding Judge, I am the
17 sole judge of the law and it is your duty as jurors to accept
18 and apply the law as I now state it to you. If you already
19 have an idea as to what the law is or what the law ought to
20 be and it does not agree with what I now tell you the law is,
21 you must abandon this idea because you are sworn to accept
22 and apply the law exactly as I state it to you.

23 In every case tried in this Court before a jury, the
24 jury becomes the sole and exclusive judge of the facts in the
25 case. The trial Judge cannot intimate, state, comment on, or

1 make any statement to a trial jury about the facts in a case.
2 Since you, the jury, are the sole judge of the facts, you are
3 not to infer from what I've said during the progress of this
4 trial, and ruling on the admissibility or otherwise, or
5 anything that I say now during the course of this instruction
6 to you, that I have any opinion about the facts. The law
7 simply does not allow me to have an opinion about the facts.
8 This is a matter solely for you, the jury, to determine. As
9 jurors, it is your duty to determine the effect, value,
10 weight and truth of the evidence presented during this trial.

11 Ladies and gentlemen of the jury, the Defendant has pled
12 not guilty to this indictment and that plea puts the burden
13 on the State to prove the Defendant guilty. A person charged
14 with committing a criminal offense in South Carolina is never
15 required to prove himself innocent. I charge you it is an
16 important rule of law that the Defendant in a criminal trial,
17 no matter what the seriousness of the charge may be, will
18 always be presumed to be innocent of the crime for which the
19 indictment was issued unless guilt has been proven by
20 evidence satisfying you of that guilt beyond a reasonable
21 doubt.

22 This presumption of innocence does not end when you
23 begin your deliberations but accompanies the Defendant
24 throughout the trial until you reach a verdict of guilt based
25 on evidence satisfying you of that guilt beyond a reasonable

1 doubt. Presumption of innocence is like a robe of
2 righteousness placed about the shoulders of the Defendant,
3 which remains with the Defendant until it has been stripped
4 from the Defendant by evidence satisfying you of the
5 Defendant's guilt beyond a reasonable doubt. Presumption of
6 innocence is not a mere legal theory. It's not just a legal
7 phrase. It's a substantial right to which every Defendant is
8 entitled unless you, the jury, are satisfied from the
9 evidence of the Defendant's guilt beyond a reasonable doubt.

10 Mr. Foreman, ladies and gentlemen of the jury, what is
11 reasonable doubt in the law? A reasonable doubt is the kind
12 of doubt that would cause a reasonable person to hesitate to
13 act. The State has the burden of proving the Defendant
14 guilty beyond a reasonable doubt. Some of you have served as
15 jurors in civil cases where you were told that it's only
16 necessary to prove that a fact is more likely true than not
17 true, such as by a greater weight or preponderance of the
18 evidence. In criminal cases, the State's proof must be more
19 powerful than that. It must be beyond a reasonable doubt.
20 It must be proof beyond a reasonable doubt that leaves you
21 firmly convinced of the Defendant's guilt. There are very
22 few things in this world that we know with absolute certainty
23 and in criminal cases, the law does not require proof that
24 overcomes every possible doubt. If, based on your
25 consideration of the evidence, you are firmly convinced the

1 Defendant is guilty of the crime charged, you must find the
2 Defendant guilty. If, on the other hand, you think there's a
3 real possibility the Defendant is not guilty, you must give
4 the Defendant the benefit of the doubt and find him not
5 guilty.

6 Ladies and gentlemen of the jury, there are two types of
7 evidence which are generally presented during a trial, direct
8 evidence and circumstantial evidence. Direct evidence is the
9 testimony of a person who claims to have actual knowledge of
10 a fact, such as an eyewitness. It is evidence which
11 immediately establishes the main fact to be proved.
12 Circumstantial evidence is proof of a chain of facts and
13 circumstances indicating the existence of the fact. It is
14 evidence which immediately establishes collateral facts from
15 which the main fact may be inferred. Circumstantial evidence
16 is based on inference and not on personal knowledge or
17 observation. Crimes may be proven by circumstantial
18 evidence. The law makes no distinction between the weight or
19 value to be given to either direct or circumstantial
20 evidence, nor is a greater degree of certainty required with
21 circumstantial evidence than of direct evidence. However, to
22 the extent that the State relies on circumstantial evidence,
23 all of the circumstances must be consistent with each other
24 and when taken together point conclusively to the guilt of
25 the accused beyond a reasonable doubt. If these

1 circumstances merely betray the Defendant's behavior as
2 suspicious, the proof has failed.

3 The State has the burden of proving the Defendant guilty
4 beyond a reasonable doubt. This burden rests with the State
5 regardless of whether the State relies on direct evidence,
6 circumstantial evidence or some combination of the two. You
7 should weigh all of the evidence in the case. After weighing
8 all of the evidence, if you're not convinced of the guilt of
9 the Defendant beyond a reasonable doubt, you must find the
10 Defendant not guilty.

11 Mr. Foreman, ladies and gentlemen of the jury,
12 necessarily, in your role as a juror, you must determine the
13 credibility of witnesses who have testified in this case.
14 Credibility simply means believability. It becomes your duty
15 as jurors to analyze, to evaluate the evidence to determine
16 which evidence convinces you of its truth. In determining
17 the believability of witnesses who have testified, you may
18 believe one witness over several witnesses or several
19 witnesses over one witness. You may believe a part of the
20 testimony of a witness and reject the remaining part of the
21 testimony of that same witness. You may believe the
22 testimony of a witness in its entirety or reject the
23 testimony of a witness in its entirety. You may consider
24 whether any witness has exhibited to you any interest, bias,
25 prejudice, or other motive in this case. You may also

1 consider the appearance and manner of a witness while on the
2 witness stand, their demeanor.

3 Ladies and gentlemen of the jury, you've heard testimony
4 from witnesses that we have designated as expert witnesses.
5 I want to tell you what the law says about how to evaluate
6 expert testimony. Rules of evidence ordinarily permit
7 witnesses to testify to opinions or conclusions. An
8 exception to this rule exists for witnesses we call expert
9 witnesses. A witness who, by education and experience, has
10 become expert in some art, science, profession, or calling
11 may state an opinion as to relevant and material matter in
12 which the witness claims to be an expert and may also state
13 the reasons for the opinion. You should consider any expert
14 opinion received into evidence in this case like any other
15 evidence and give it the weight you think it deserves. If
16 you decide that the opinion of an expert is not based on
17 sufficient education and experience, if you conclude that the
18 reasons given in support of the opinion are not sound, that
19 the opinion is outweighed by other evidence, you may
20 disregard the opinion entirely. An expert witness's
21 testimony is to be given no greater weight than that of other
22 witnesses, simply because the witness is an expert. Further,
23 you are not required to accept an expert's opinion, even
24 though it is not contradicted.

25 Ladies and gentlemen of the jury, in this case you've

1 heard presented into evidence the statement of the Defendant.
2 Pay very close attention as to the rule that governs the
3 statement of a Defendant. A statement alleged to have been
4 made by the Defendant has been admitted into evidence in this
5 case. While the Court has determined that the statement is
6 admissible, I instruct you that you make the ultimate
7 decision as to whether or not the Defendant made the
8 statement. If the Defendant did make the statement, you must
9 determine whether the statement was made by the Defendant
10 voluntarily and of his own free will. This means that the
11 statement was not caused by pressure, force, fear, threats,
12 coercion, or intimidation or by hope or a promise of leniency
13 or a reward of any kind. In determining whether the
14 statement is voluntary you should consider both the
15 characteristics of the Defendant and the details of the
16 questioning. Some of the factors you must consider are: the
17 age of the Defendant, the Defendant's education or lack of
18 education, the Defendant's mental ability or capacity, the
19 Defendant's IQ or intelligence, the Defendant's background
20 and evidence, place and length of detention, the nature of
21 the questioning and the advice or lack thereof to the
22 Defendant of his Constitutional Rights, included but not
23 limited to; the right to remain silent, that any statement
24 could be used against him in a court of law, the right to
25 have a lawyer present, that if he could not afford a lawyer,

1 a lawyer would be appointed to represent him without any cost
2 and that he could stop making a statement at any time. You
3 must carefully consider all of the surrounding circumstances
4 before you give any weight to an alleged statement.

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

13 Ladies and gentlemen of the jury, I instruct you and
14 emphasize that the fact that the Defendant did not testify is
15 not a factor to be considered by you in any way in your
16 deliberation and in your consideration of the question of the
17 guilt or innocence of the Defendant. It must not be
18 considered by you in any manner, whatsoever. A Defendant has
19 the Constitutional Right to remain silent and the assertion
20 of this right must not be considered by you in your
21 deliberations. I repeat, under your oath, you are to draw no
22 conclusion, whatsoever, from the fact that the Defendant in
23 this case did not testify. The fact that this Defendant did
24 not testify should not even be discussed in the jury room.
25 Mr. Foreman, I'm going to ask that you enforce that rule.

1 There will be no discussion about the fact that the Defendant
2 did not testify. It's not for your concern. The burden of
3 proof, as I have stated to you, is on the State. The
4 Defendant is not required to prove his innocence. The burden
5 of proof remains on the State to prove guilt beyond a
6 reasonable doubt.

7 I charge you the law with regard to the substantive law
8 with regard to identification evidence. Pay very close
9 attention. An issue in this case is the identification of
10 the Defendant as the person who committed the crime charged.
11 The State has the burden of proving identity beyond a
12 reasonable doubt. You must be satisfied beyond a reasonable
13 doubt of the accuracy of identification of the defendant
14 before you may convict the Defendant. Identification
15 testimony is an expression of belief or impression by a
16 witness. You must determine the accuracy of the
17 identification of the Defendant. You must consider the
18 believability of each identification witness in the same way
19 as other witness. You may consider whether the witness had
20 an adequate opportunity to observe the Defendant at the time
21 of the offense. This will be affected by things like; how
22 long or short a time was available, how far or close the
23 witness was, the lighting conditions and whether the witness
24 had the chance to see or know the person in the past. Once
25 again, I instruct you that the burden of proof is on the

1 State and extends to every element of the crime charged and
2 this specifically includes the burden of proving, beyond a
3 reasonable doubt, the identity of the Defendant as the person
4 who committed the crime. If, after examining the testimony,
5 you have a reasonable doubt as to the accuracy of
6 identification, you must find the Defendant not guilty.

7 Ladies and gentlemen of the jury, mere presence at the
8 scene is not sufficient to prove someone guilty of a crime.
9 A Defendant's presence where a crime is being committed or
10 mere association with the person who commits a crime, does
11 not make a Defendant an accomplice or an aider or an abetter
12 or the person committing the crime. The burden is on the
13 State to prove every element of the crime charged. If you
14 find, after reviewing all of the evidence that the State has
15 proved that the Defendant was only at the scene of the crime
16 and that they have not proved beyond a reasonable doubt any
17 other participation in the crime, then you must find the
18 Defendant not guilty. The law is that proof of one being at
19 the scene of the crime is not sufficient to find someone
20 guilty.

21 Ladies and gentlemen of the jury, I'm going to charge
22 you the substantive law with regard to the offense of murder.
23 Pay very close attention. The Defendant is charged with
24 murder. The State must prove beyond a reasonable doubt that
25 the Defendant killed another person with malice aforethought.

1 Malice is hatred, ill will, or hostility towards another
2 person. It is an intentional doing of a wrongful act without
3 just cause or excuse with an intent to inflict an injury or
4 under circumstances that the law will infer an evil intent.
5 Malice aforethought does not require that malice exists for
6 any particular time before the act is committed. The malice
7 must exist in the mind of the Defendant just before and at
8 the time the act is committed. Therefore, there must be a
9 combination of the previous evil intent and the act. Malice
10 aforethought may be expressed or inferred. The terms
11 expressed and inferred do not mean different kinds of malice,
12 but merely the manner in which the malice may be shown to
13 exist. This is either by direct evidence or by inference
14 from the facts and circumstances which are proved.

15 Expressed malice is shown when a person speaks words
16 which express hatred or ill will for another or when the
17 person prepared beforehand to do the act, which was later
18 accomplished. For example, lying in wait for a person or any
19 other acts of preparation going to show that the deed was
20 within the Defendant's mind, would be expressed malice.
21 Malice may be inferred from conduct, showing a total
22 disregard for human life. Inferred Malice may also arise
23 when the deed is done with a deadly weapon. A deadly weapon
24 is any article, instrument, or substance which is likely to
25 cause death or great bodily harm. Whether an instrument has

1 been used as a deadly weapon depends on the facts and
2 circumstances of each case. The following are merely
3 examples of instruments which are deadly weapons: A pistol, a
4 shotgun, rifle, dirk, dagger, knife, slingshot, metal
5 knuckles, razor, gasoline, firebomb, Molotov cocktail or
6 lighter fluid.

7 Ladies and gentlemen of the jury, I'm going to charge
8 you the substantive law with regard to the second offense,
9 possession of a weapon during the commission of a violent
10 crime. The Defendant is charged with the possession of a
11 weapon during the commission or an attempt to commit a
12 violent crime. The State must prove beyond a reasonable
13 doubt that the Defendant was in possession of a firearm or
14 visibly displayed what appeared to be a firearm or a knife
15 during the commission of a violent crime. A knife means an
16 instrument or a tool with a sharp cutting blade, whether or
17 not fastened to a handle, which can be used to inflict a cut,
18 slash, or wound. In order to find the Defendant guilty of
19 possession of a weapon during the commission of a violent
20 crime, you must first find the Defendant guilty of either
21 committing a violent crime or attempting to commit a violent
22 crime. For purposes of this statute, murder is, indeed, a
23 violent crime. The State must prove beyond a reasonable
24 doubt that the weapon furthered, advanced, or helped in
25 commission of the crime.

1 Mr. Foreman, I'm going to come forward and share with
2 you the verdict form. I ask, if you could, to stand right
3 here. Before I go any further, I'm going to make mention to
4 the alternate, you will not go back into the jury room. You
5 will stay with us and I will talk with you momentarily. Do
6 not go into the jury room.

7 All right, Mr. Rollins. State of South Carolina, County
8 of Darlington and it's got the Plaintiff, State of South
9 Carolina, Defendant, Brannon Bryant. It's got the indictment
10 numbers here and the document is entitled, Verdict Form.
11 There are two offenses. It says, We, the jury, by unanimous
12 consent, find the Defendant is not guilty or guilty. And the
13 verdict has to be unanimous. It says it right there,
14 unanimous. It can't be eleven to one, eight to four, six to
15 six. Everyone has to agree in that regard.

16 The other offense is possession of a weapon during the
17 commission of a violent crime. We, the jury, find by
18 unanimous consent, the Defendant is not guilty or guilty.
19 Once again, the verdict must be unanimous. And once you've
20 reached a verdict, I'm going to ask that you notify the
21 bailiff after you sign it and date it. I'm going to ask if
22 you can have a seat and I'll speak with you briefly in just
23 one second.

24 There will, perhaps, be an occasion where a question
25 comes up in the deliberations. I'm going to tell you from

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1 the very outset, the difficult questions, the questions of
2 fact, y'all are going to have to answer. I can't -- you've
3 heard the law and you know what your job is, but I believe
4 that y'all have the equipment. Y'all paid close attention to
5 the evidence, the testimony. You're going to have the
6 documentary evidence back there with you. You're going to
7 have all the tools that are necessary to resolve this case.
8 If there is a question that comes up and you can't determine
9 whether it's a question of law or a question of fact, write
10 it down. Give it to the bailiff and I'll -- and if it's
11 something I can help you with, I will. If it's a question
12 concerning legal matters or what the law is, certainly I can
13 help you with that. If it's a question of fact, I cannot.
14 And if you don't know whether it's a question of law or fact,
15 write it down and we'll figure it out.

16 The other thing, Mr. Foreman, is your job as the Foreman
17 is to essentially ensure that everybody's voice is heard.
18 You're to preside over the deliberation process. I'm also
19 going to admonish you if someone were to get up and use the
20 restroom, I'm going to ask that you stop deliberations
21 because everyone has to participate in all deliberations. So
22 I'm going to ask that you do that.

23 I've told you every time you've left the courtroom not
24 to begin deliberations. Once again, I'm going to ask you not
25 to do that because I'm going to have to talk with these very

1 fine lawyers to determine whether or not the manner in which
2 I've charged the law is correct, whether I've inadvertently
3 said something that I shouldn't have said or not said, or
4 there is something I should have said. We'll talk with them
5 and give them the opportunity to address that issue and we're
6 also going to get the documentary evidence that's been
7 introduced into evidence. And I'm going to ask that you not
8 begin deliberations until such time as you've received
9 notification from the bailiff telling you to begin
10 deliberations. So I'm going to ask you to retire to the jury
11 room. And once again, do not begin deliberations until
12 you're given instructions to do so. Everyone will remain
13 seated as the jury exits the courtroom and I'm going to ask
14 that you stay with us. (Speaking to the alternate)

15 (Jury out at 2:45 PM)

16 THE COURT: Any objections with regard to the jury
17 charge?

18 MR. HOLT: Judge, could you read back to us the
19 identification charge that was charged or just briefly
20 summarize it for us? The State's concerned that it might
21 sound like if Alta Mae Hicks' beliefs of who that was outside
22 weren't a hundred percent sure, then you have to find the
23 Defendant not guilty.

24 THE COURT: Well, I think ---

25 MR. HOLT: I'm confused on how it was worded.

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1 THE COURT: Well, that is the law and it's the law
2 that's been sanctioned by the South Carolina Supreme Court.
3 And I understand your problem, because the problem is, that
4 your eyewitness didn't identify him.

5 MR. HOLT: Well, I mean, it was never our allegation
6 that she was an eye -- you know, that that was the murderer,
7 the one that came after, you know ---

8 THE COURT: Right. Well, the issue -- she's been
9 referred to as the closest thing to an eyewitness. What do
10 you suggest I do? Do you have any written charge? I'll be
11 happy to entertain it.

12 MR. HOLT: I certainly don't have any other written
13 charges on it and I can't think of anything off the top of my
14 head about what we could do.

15 THE COURT: All right. You know, preliminarily when we
16 talked about it -- of course, that's the identification
17 charge that's always been charged. And I think that one of
18 the things that you've got to do in a murder case is prove
19 identity and that's the whole of this case, is he the one who
20 did it.

21 MR. HOLT: You're absolutely right, Judge.

22 THE COURT: And therein lies the problem. I'm not real
23 sure that we -- as it comes to eyewitness testimony, one
24 could conclude that that is at least circumstantial evidence
25 as to him doing it. They saw him there.

1 MR. HOLT: Well, certainly there's no denying that there
2 he was one minute later.

3 THE COURT: Right.

4 MR. HOLT: And the police -- and he's been locked up
5 since then.

6 THE COURT: And identity can -- and if you take the
7 charge in its entirety, you can prove the case by
8 circumstantial evidence.

9 MR. HOLT: In its entirety. I'm agreeing with you in
10 that. I'm just thinking -- what my concern is, is that
11 somebody who did not pay attention the entire time would hear
12 your identification charge and believe that the only piece of
13 evidence that matters in the case is the identification and
14 if it's not a hundred percent beyond a reasonable doubt, it's
15 a not guilty.

16 THE COURT: What do you have to say about that, Mr.
17 Jones?

18 MR. JONES: I don't have any problems with it,
19 obviously.

20 THE COURT: All right. What do you think about his
21 concerns though?

22 MR. JONES: I think if his concern is if that's the only
23 instruction that the jury or a juror listened to, I don't
24 think that'll wash. Because obviously, they all listened to
25 everything that they said, and that you said and I'm not sure

1 where I'm going with that.

2 MR. HOLT: Well, I understand your point of view on
3 that. But certainly, you only have to get one. I have to
4 get twelve. So if one of them does believe it, then it
5 becomes a problem for me.

6 THE COURT: Well, I think if they believe that they're
7 doing what's right because that's what the law requires with
8 regard to identification testimony.

9 MR. HOLT: But it certainly was not her identification.
10 The police officers knew from the entire time that she
11 couldn't ID him. That was not the identification, was not
12 the only, was not the evidence here. The evidence was the
13 DNA and he was at the scene. The identification was
14 irrelevant to it.

15 THE COURT: Well, identification can be proved a lot of
16 different ways, one of which is circumstantial evidence.

17 MR. HOLT: All right. You know, I guess there's no
18 fixing it.

19 THE COURT: Well, I'll be happy to entertain it as we
20 sit here. If you have a written proposal, I think that it's
21 kind of incumbent upon you to do so if you have an objection
22 to the manner in which I've charged. I'll entertain any
23 written request.

24 Another point that comes to my mind is that the police
25 officers, there were two police officers who saw the

1 Defendant there and are just as easily eyewitness testimony
2 as anybody. It doesn't necessarily mean that they saw the
3 killing, but they did see him present at the scene. So that
4 sort of obviates any of your concerns, I would think. What
5 do you think about that, Mr. Holt?

6 MR. HOLT: (No verbal response).

7 THE COURT: The problem is, you don't have anybody who
8 saw the killing. And you've got one of your witnesses who
9 did not identify him, but you've got two officers who got up
10 on the stand and said that he was indeed the one that was on
11 the scene.

12 MR. HOLT: Yes, sir. I just worry -- and this is, I
13 think, a little bit outside the question, but I worry if the
14 jury is going to make the division between witnesses and in
15 law enforcement. If they think witnesses is somebody outside
16 of law enforcement and the fact that two law enforcement
17 personnel got up there and said it and testified to it and
18 then arrested this individual, because a witness who is not
19 law enforcement could not positively ID him, that he ---

20 THE COURT: Do you want me to give a curative charge
21 that a police officer is a witness?

22 MR. HOLT: I do. I think that'll fix the whole thing
23 and I could rest easy. But for the purposes of
24 identification, a police officer can be a witness.

25 MR. JONES: I've never run into that, Judge. I don't

1 have any case law. I don't know if the Solicitor has any.

2 THE COURT: Well, your objection is noted. And I think
3 that the, you know, sometimes we don't give the jury enough
4 credit. I think they understand. They understand that your
5 -- the lady who was sitting at the house couldn't identify
6 him, but the police officers did identify him. He was right
7 there. And the classification of a police officer as a
8 witness, I think, is neither here nor there and would
9 probably confuse the jury to some extent. So, your objection
10 is noted, but overruled.

11 MR. HOLT: Thank you, Judge.

12 THE COURT: All right. Anything from -- any objections
13 from the Defense?

14 MR. JONES: No, sir.

15 THE COURT: All right. I'm going to ask each of you to
16 come forward and take a look at the evidence that's been --
17 and I assume all the evidence is in this pile?

18 CLERK OF COURT: It's right here, yes, sir.

19 THE COURT: All right. All the evidence is on this
20 table and I'm going to ask Mr. Holt to go first. And then
21 the question I'm going to pose to you is, is everything
22 that's in that pile into evidence.

23 (Whereupon, Mr. Holt and Mr. Jones review evidence and
24 exhibits.)

25 THE COURT: Madam Alternate, we will be with you in just

1 one moment.

2 MR. HOLT: Everything's in here, Judge.

3 THE COURT: All right. Is there anything in the pile
4 that's not into evidence, Mr. Holt?

5 MR. HOLT: Certainly, not. I looked through it all.

6 THE COURT: All right. Mr. Jones, is everything in the
7 pile in evidence?

8 MR. JONES: Yes, sir. The only thing, and there's not a
9 video player in the back. But we still have that issue, I
10 think, with the two videos that just portions of them are in.
11 If they should want to see them again, we would have to just
12 show them the portions.

13 THE COURT: If they ask for it, we'll address that.

14 MR. JONES: Yes, sir.

15 MR. HOLT: And that's on the backs of all of them.

16 MR. JONES: Okay.

17 THE COURT: Mr. Jones, you agree that everything in that
18 pile is into evidence? There's not anything in that pile
19 that's not in evidence. Is that correct?

20 MR. JONES: Yes, sir.

21 THE COURT: You need to speak up, Mr. Jones.

22 MR. JONES: Well, I'm looking. That's everything, Your
23 Honor.

24 THE COURT: All right. Very good. I'm going to ask the
25 bailiff if you can take all the documentary evidence back,

1 give them a pad and a piece of paper, and tell them to begin
2 deliberations.

3 THE BAILIFF: All right, sir.

4 (WHEREUPON, the verdict forms and exhibits were
5 delivered to the jury at 2:58 p.m.)

6 THE COURT: All right. Let's have quiet. Madam
7 Alternate, thank you for your time and attention in this
8 matter and you see that alternates are important. We used
9 one of them. Have you ever served on a jury before?

10 THE JUROR: No, sir.

11 THE COURT: Hopefully, this has been a learning
12 experience for you and probably not that pleasant, but
13 hopefully, you will have learned something from the process.
14 I hope it has not been too onerous on your personal time,
15 but, you know, if you were ever accused of a crime or
16 involved in civil litigation, we can all lay our head down at
17 night and know that we could have twelve jurors resolve these
18 disputes for us. I know you feel like you got invited to a
19 dance and didn't get to dance. But nonetheless, you are
20 welcome to stay. This is a public forum. I have told you
21 from the beginning that you are ordered not to discuss this
22 case. However, you are relieved from that as we speak right
23 now. You can talk to anybody you want to talk to about it.
24 But if you don't want to talk to them, you don't have to. If
25 you tell someone, someone approaches you about this matter,

1 ask you about it and you don't want to talk to them, tell
2 them that. And if they persist, identify them, report them
3 to me and I'll deal with them accordingly. And do you have
4 any questions?

5 THE JUROR: No, sir.

6 THE COURT: You have earned a handsome pay. Mr. Clerk,
7 how much is the pay?

8 CLERK OF COURT: It's Fifteen dollars a day.

9 THE COURT: Fifteen dollars a day and ---

10 CLERK OF COURT: Twenty-five cent round trip.

11 THE COURT: Twenty-five cent round trip.

12 CLERK OF COURT: Per mile.

13 THE COURT: Per mile.

14 CLERK OF COURT: Now, that is hardly enough to buy a new
15 frock or go out to dinner, but it's at least a small
16 appreciation on behalf of the State of South Carolina. We
17 know it's truly a service on your part and you have earned a
18 three-year exemption if called upon to serve in this
19 courtroom within the next three years. You can tell them that
20 you served this week with me and they will excuse you.
21 However, it does not apply to Municipal Court, Magistrate's
22 Court or Federal Court. But if you're subpoenaed to
23 participate in this room right here, you tell them you were
24 here with me this week and they'll excuse you, if you want
25 to. But you could serve if you would like. Anything

1 further?

2 THE JUROR: No, sir.

3 THE COURT: You're free to leave. Thank you.

4 (Whereupon, Court stood in recess awaiting the verdict
5 of the jury.)

6 FIRST QUESTION FROM THE JURY

7 THE COURT: We have a question from the jury. It reads:
8 Can we see the video from the police station? We need a
9 laptop so we can view it.

10 First of all, what do y'all think about that? Do you
11 want them to view it there or do you want them to come out
12 here and view it? One of the videos has extraneous stuff
13 that's not in evidence. I don't know if this is it or not.

14 MR. HOLT: Judge, the one, the Fortin video is only for
15 the minutes that are on the CD. We probably better play that
16 out here. The entirety of the interrogation, I would rather
17 just give them so they'd be able to watch what they wanted to
18 watch. I don't feel like ---

19 THE COURT: It says, we want to see from the beginning
20 through his personal phone call and the part where they
21 question him about the shoes.

22 MR. HOLT: Well, the shoes come up two times. The shoes
23 are -- Mike Anderson looks at his shoes. But if they're
24 talking about him knowing where the victim's sandals are,
25 then that was Officer Fortin's testimony on --

1 MR. NEELY: That's not in the record.

2 MR. JONES: No.

3 MR. NEELY: That's not in the record at all.

4 MR. JONES: I don't think the shoes are in there.

5 MR. HOLT: It's written down on our list of notes of
6 what Fortin testified to. I guess we'd just have to look for
7 it.

8 MR. NEELY: Fortin never testified to that. That was
9 Officer Stokes ---

10 THE COURT: Well, first of all, you don't need to be
11 talking to him and we need to talk one at a time so the court
12 reporter can get it down.

13 MR. NEELY: Yes, sir.

14 THE COURT: All right. Mr. Holt would you agree to show
15 the one that has extraneous, that has not been redacted, out
16 here?

17 MR. HOLT: I would.

18 THE COURT: And then you would agree to send the entire
19 DVD back with them and let them view whatever they want to
20 view?

21 MR. HOLT: I would and, also, Your Honor if I could
22 speak, if that is -- if they want to know about when the
23 Defendant told the officers about the shoes, they're going to
24 have to look at Officer Fortin's testimony.

25 THE COURT: They aren't asking that. They're asking to

1 see videos. We don't need to get into scrutinizing what
2 their deliberation is. This is talking about a video. And
3 my question to you is, do we need to play -- do we need to
4 give the unfettered access to the one that's been deleted?

5 MR. HOLT: We do not. We need to play that one out here
6 because I think it would hurt the record. It wouldn't do
7 anything but help me, because the Defendant mentions the
8 shoes on that one. But I think to protect the record we need
9 to watch the certain minutes on Fortin's car video out here
10 so that one of us can police what minutes are shown.

11 THE COURT: That's exactly right. That's what I'm
12 talking about, but the one that's two hours long. They're
13 saying -- I get from -- they don't say that, but I get that
14 they want to watch certain portions of that.

15 MR. HOLT: I think they should -- that entire tape has
16 been redacted through countless hours because my office --
17 just for this purpose. So when they want to look at it they
18 can take it in the back and look at it.

19 THE COURT: All right. And you have no objection to
20 them viewing that in its entirety however they want to view
21 it?

22 MR. HOLT: None.

23 THE COURT: What do you have to say in that regard?

24 MR. JONES: I have no problem with that.

25 THE COURT: All right. So that's the way we're going to

1 proceed. Let's get -- let's queue up the video that has not
2 been redacted so we can control what they see. Then we'll
3 send the other one back to them.

4 MR. HOLT: I think that video's in the back.

5 THE BAILIFF: Which one is that? What number is that?

6 THE COURT: You certainly don't need to go back.

7 THE BAILIFF: I'm going.

8 THE COURT: Okay.

9 MR. HOLT: #7 or #3. It says Fortin's I-cop video.

10 COURT REPORTER: I've got #3 up here.

11 MR. HOLT: Okay. It's #7 then.

12 THE BAILIFF: So, not #3?

13 MR. HOLT: That's their's to keep. They can watch all
14 of this back there they want. This will be the minutes that
15 are played on this video.

16 THE COURT: Do we have a clean computer that we can send
17 to the jury room that doesn't have anything on it?

18 MR. JONES: We've all got laptops. They can have mine
19 but if someone can watch them and make sure they don't get
20 into my records. I mean, I've got lots of other ---

21 THE COURT: Well, that's the problem. I think probably
22 we just need to set it up in here and let them watch it.
23 That's going to be a problem. We'll just let them watch it
24 in here, all right. And let's start with the short one.

25 MR. HOLT: Judge, and I don't want to beat a dead horse,

1 but if they want to see where the person testified and the
2 evidence is in, that the Defendant knew where the shoes were,
3 then that is -- that was verbal testimony from the stand.

4 THE COURT: Of course, I can't tell them what's in
5 evidence. I can't tell them -- they have asked to see
6 certain things on the video. And I can't point out that it's
7 not on the video. That would certainly be a comment on the
8 evidence. So what we're going to do is, we're going to play
9 the short one. We know that's not a problem. Then we're
10 going to look at the long one, until they are content and we
11 will tell them to raise their hand when they're done.

12 MR. HOLT: Yes, sir.

13 THE COURT: That's what we're going to do. Let's bring
14 the jury out.

15 (Jury in at 3:52 PM)

16 THE COURT: Ladies and gentlemen of the jury, I've
17 received a note from your Foreman that says, can we see the
18 video from the police station and we need a laptop to do
19 that. The problem with that is, that we don't have a clean
20 laptop so it's going to have to be viewed here in the
21 courtroom. It says, we want to see from the beginning
22 through the personal phone call and the part where they
23 question him about the shoes. So we're going to play the
24 videos, as you've requested. And when you've seen enough,
25 I'm going to ask that you raise your hand, okay.

1 I'm going to make this note a part of the record.

2 (Whereupon, the first question from the jury is marked
3 as Court's Exhibit #1)

4 MR. HOLT: Judge, I don't know what to say. The monitor
5 will not turn on.

6 THE COURT: Sir?

7 THE FOREMAN: I think this is not what we requested.
8 And I don't think there was any sound on this when it
9 started. It was later on when he cut it on that the sound
10 came on.

11 THE COURT: Hold on. Hold on just one second. I'm
12 going to ask if you could to return to the jury room and I
13 want you to explain in greater detail exactly what you want.
14 And do it in writing. I don't want to have a discussion
15 about the facts. I want to know, specifically, what you want
16 to hear and see. Describe it, specifically. Is it a video,
17 what portion, describe it as best you can, and we'll try to
18 accommodate you. We really don't need to have a discussion
19 about what your deliberations are. It needs to be put in
20 writing so I can go over it with the lawyers and we can
21 provide you with what you need. And so I'm going to ask you
22 to return to the jury room, write out with specificity what
23 you want to hear and see.

24 (Jury out at 4:02 PM)

25 (Break)

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1 SECOND QUESTION FROM THE JURY

2 THE COURT: I tell you what we're going to do is, we're
3 going to address this issue as best we can. We're going to
4 recess at 5:00. We're going to come back at 9:30. This is
5 the question that's been presented. It says in the State's
6 closing argument, they mentioned that Brannon saw the woman's
7 shoes in the lot. Where did that reference come from? Was
8 that in the video? That's something that we can't answer.
9 They -- my response to that is, they need to recall the
10 testimony as it came from the witness stand. If there's any
11 particular testimony they want replayed, we can replay it.
12 If they want to look at a video, they can look at that. But
13 I can't -- those are factual questions they're going to have
14 to answer.

15 MR. HOLT: Okay. Just so the State's clear, Judge,
16 because I just listened to the testimony. It's in there. It
17 come's from Officer Fortin's redirect where he says what he
18 Defendant said. The jury is going to have to ask us to
19 specifically listen to Officer Fortin's tape or his testimony
20 and then we can play his testimony back to them.

21 THE COURT: Well, I can't answer the question. I can't
22 tell them where to look. That puts me in a position of being
23 a fact finder. I can't do that.

24 MR. HOLT: That's right.

25 THE COURT: So my response is that they need to rely on

1 their recollection of the testimony. If there's some
2 specific testimony they want played back, we will play it
3 back. If there's a video that they want to watch, we can
4 play that, but we can't answer factual disputes.

5 MR. HOLT: But will we differentiate when we explain it
6 to them and say, if you want to listen to a tape, you can.
7 If you want to listen to somebody's testimony, you can. Can
8 we tell them that in the answer?

9 THE COURT: Yes.

10 MR. HOLT: Good.

11 THE COURT: I think that's what I said, wasn't it? All
12 right. Let's have the jury back in.

13 (Jury in at 4:28 PM)

14 THE COURT: All right. Mr. Foreman, I'm going to
15 publish the question. It says, In the State's closing
16 argument they mentioned that Brannon saw the woman's shoes in
17 the lot. Where did that reference come from? Is that in the
18 video? As I mentioned to you, that's a factual dispute that
19 you are going to be called upon to resolve. That's something
20 y'all are going to have to resolve. In reaching a verdict in
21 this case, you need to rely upon your recollection of the
22 testimony, the documentary evidence. If there is some
23 particular item, some particular testimony that you want
24 heard, we have the wherewithal to play that back. We also
25 have the wherewithal to replay the videos. We had some

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1 technical difficulties with regard to one of them, but at
2 some point in time, we'll be able to get those together. But
3 that is the extent of the help that I can give you. You can,
4 number one, rely on your recollection of the testimony.
5 Number two, you can look at the documentary evidence that's
6 been provided. If there is some specific testimony that you
7 want to hear again, we can make that happen. If there is a
8 video that you want to hear, we can make that happen. I'm
9 going to ask that you return to the jury room.

10 (Jury out at 4:32 PM)

11 THE COURT: I'm going to make this note a part of the
12 record.

13 (Whereupon, a second question from the jury is marked as
14 Court's Exhibit #2)

15 (Whereupon, court stood in recess awaiting the verdict
16 of the jury)

17 VERDICT

18 THE COURT: All right. I understand that they've
19 reached a verdict. I want everybody in the courtroom to pay
20 very close attention to me. I have an obligation to preside
21 over this trial And I also have a responsibility that I take
22 very seriously and that's to maintain order in the courtroom.
23 These are very, very trying times, very emotional times. If
24 I were associated with the Defendant and it were an adverse
25 verdict, I would be upset and I might feel as though I needed

1 to show some emotion. But that's not going to happen in this
2 courtroom. If I were with the victim and there was a verdict
3 that was adverse, there will be no showing of emotion. And
4 anybody who does is going to be going to jail. You know,
5 they've got a holding cell here. We'll go ahead and take you
6 in the holding cell and you'll be taken to the detention
7 center and brought back in the morning and we'll deal with
8 the contempt issue. You can serve up to six months with no
9 trial whatsoever, summarily if you disrupt a court. Does
10 everybody understand that? Is there anybody who feels as
11 though they can't control their emotions. And if that
12 applies to you, you need to leave the courtroom right now.
13 Because I'm issuing an order to the deputies here that if
14 anybody has an outburst of whatever kind, that you're to be
15 taken into custody with no further instructions. Does
16 everybody understand that? All right. And does anybody feel
17 as though they can't control their emotions? (No response)
18 All right. We're going to proceed. And I want peace and
19 order. We're ready for the jury.

20 (Jury in at 5:07 PM)

21 THE COURT: Mr. Foreman, have you reached a verdict?

22 MR. FOREMAN: Yes, Your Honor.

23 THE COURT: Is it unanimous?

24 MR. FOREMAN: Yes, Your Honor.

25 THE COURT: I'm going to ask that you provide the

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1 verdict form to the clerk.

2 MR. FOREMAN: (Hands verdict form to Clerk)

3 CLERK OF COURT: (Clerk hands verdict form to The Court)

4 THE COURT: The verdict form appears to be in order and
5 I'm going to ask that you publish it. I'm going to ask the
6 Defendant to stand.

7 (Whereupon, Defendant and Defense Counsel stand.)

8 CLERK OF COURT: Yes, sir, Your Honor. This is case
9 numbers: 2013-GS-16-511 and 2013-GS-16-512, the State of
10 South Carolina versus Brannon Bryant the Defendant. The
11 first charge of murder, we the jury, by unanimous consent,
12 find that the Defendant is guilty as indicted.

13 If this is your verdict, would you raise your right hand
14 for me, please.

15 (Whereupon, all juror's right hands were raised.)

16 CLERK OF COURT: Okay. All twelve jurors have raised
17 their right hand.

18 Indictment number two is possession of a weapon during a
19 violent crime. We, the jury, by unanimous consent, find that
20 the Defendant is guilty.

21 If this is your verdict would you raise your right hand
22 for me, please?

23 (Whereupon, all juror's right hands were raised.)

24 CLERK OF COURT: Okay. Thank you. The verdict is
25 unanimous and it is signed by the Foreperson, Mr. Larry

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1 Rollins, on July the 31st, 2014.

2 THE COURT: Very good. Any additional requests for
3 polling from the State?

4 MR. HOLT: None, Your Honor.

5 THE COURT: Any from Defense?

6 MR. JONES: Yes, sir.

7 THE COURT: All right. Mr. Clerk, you're recognized.

8 CLERK OF COURT: Thank you, Your Honor. Mr. Foreperson
9 and the rest of the jurors, the verdict I just published was
10 the verdict you reached in the jury room. When I call your
11 name, I'm going to ask that you stand and I'm going to ask
12 you two questions: Was it your verdict then and is it your
13 verdict now. And you'll answer both questions, please.

14 I'll start with the Foreperson, Mr. Larry Rollins. Was
15 it your verdict then?

16 THE JUROR: Yes sir.

17 CLERK OF COURT: Is it your verdict now?

18 THE JUROR: Yes, sir.

19 CLERK OF COURT: Okay. Thank you. Barbara Jenkins.
20 Was it your verdict then?

21 THE JUROR: Yes.

22 CLERK OF COURT: Is it your verdict now?

23 THE JUROR: Yes.

24 CLERK OF COURT: Thank you. Cecil Dutton. Was it your
25 verdict then?

1 THE JUROR: Yes.

2 CLERK OF COURT: Is it your verdict now?

3 THE JUROR: Yes.

4 CLERK OF COURT: Okay. Thank you. Zachary Groom. Was
5 it your verdict then?

6 THE JUROR: Yes, sir.

7 CLERK OF COURT: Is it your verdict now?

8 THE JUROR: Yes, sir.

9 CLERK OF COURT: All right. Kimberly Washington. Was
10 it your verdict then?

11 THE JUROR: Yes.

12 CLERK OF COURT: Is it your verdict now?

13 THE JUROR: Yes.

14 CLERK OF COURT: Okay. Thank you. Charles Moses. Was
15 it your verdict then?

16 THE JUROR: Yes.

17 CLERK OF COURT: Is it your verdict now?

18 THE JUROR: Yes.

19 CLERK OF COURT: Thank you. Ranelle Evans. Was it your
20 verdict then?

21 THE JUROR: Yes.

22 CLERK OF COURT: Is it your verdict now?

23 THE JUROR: Yes.

24 CLERK OF COURT: Thank you. Robin Jones. Was it your
25 verdict then?

1 THE JUROR: Yes.

2 CLERK OF COURT: Is it your verdict now?

3 THE JUROR: Yes.

4 CLERK OF COURT: Thank you. Paula Byrd. Was it your
5 verdict then?

6 THE JUROR: Yes.

7 CLERK OF COURT: Is it your verdict now?

8 THE JUROR: Yes.

9 CLERK OF COURT: Thank you. Linda Urban. Was it your
10 verdict then?

11 THE JUROR: Yes.

12 CLERK OF COURT: Is it your verdict now?

13 THE JUROR: Yes.

14 CLERK OF COURT: Thank you. David Bushman. Was it your
15 verdict then?

16 THE JUROR: Yes.

17 CLERK OF COURT: Is it your verdict now?

18 THE JUROR: Yes.

19 CLERK OF COURT: Okay. Mr. Niu. Was it your verdict
20 then?

21 THE JUROR: Yes.

22 CLERK OF COURT: Is it your verdict now?

23 THE JUROR: Yes.

24 CLERK OF COURT: My records reflect that was all twelve
25 jurors. If your name was not called during that polling

1 process, please stand up for me. (No response).

2 CLERK OF COURT: Thank you.

3 THE COURT: Mr. Foreman, ladies and gentlemen of the
4 jury, I want to thank you on behalf of the State of South
5 Carolina for your service. Y'all have worked hard this week.
6 It was a very difficult thing. You have done what nobody in
7 this courtroom has been able to do, is to bring closure to
8 this and for that we're grateful. We're grateful for your
9 time and your attention. I've got some good news for you.
10 You're going to be paid handsomely for your services. I
11 think it's fifteen dollars a day. It's a very small token of
12 our appreciation for your service. And the other good news
13 is that you've earned a three-year exemption. In the event
14 you're called to serve on a jury, tell them you served with
15 me this week and that you cannot be compelled to serve. If
16 you want to serve you can. But it does not apply to federal
17 court, municipal court or magistrate's court. If you're
18 called to serve in this courtroom, you've earned a three-year
19 exemption. I told you from the very outset that you were not
20 to talk to anybody about this case and I'm releasing you from
21 that order. You have the absolute right to talk to anybody
22 you want to about it. But if anybody approaches you about it
23 and you don't want to talk about it, get their name and
24 identify them as best you can, report them to me, and I will
25 deal with them accordingly. You have an absolute right to

1 talk to anybody you want to about this, but nobody can make
2 you do that.

3 It was a very difficult process, but it's an important
4 one. You know, I think it's important for democracy if
5 someone is accused or if you have a civil dispute, for
6 citizens to resolve these disputes. The alternative would be
7 to have somebody like myself make those decisions, just one
8 person. There are some countries where you have a
9 professional juror who, professional jurors who do that. And
10 I know y'all had places y'all would rather be and things that
11 you would rather do other places, but it's very important
12 that when we lay our head down on a pillow at night, we know
13 that if we find ourselves in a position where we're accused
14 of a crime or if we have a civil dispute, that we know that
15 citizens of Darlington County will resolve our disputes. I
16 want to thank you for your time and your service and I always
17 ask jurors, are there any questions? (No response).

18 All right. Well, your duty has been discharged. And
19 I'm going to ask that everyone remain seated as the jury
20 exits the courtroom.

21 (Jury out at 5:14 PM)

22 SENTENCING

23 THE COURT: You can bring Mr. Bryant forward.

24 MR. HOLT: Will you give me one minute?

25 THE COURT: Certainly.

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1 (Whereupon, Defendant and Defense Counsel approach
2 the bar.)

3 MR. HOLT: I apologize for the delay, Your Honor. We
4 did not have the sentencing sheet ready at the time.

5 THE COURT: Very good. I'll be glad to hear from the
6 State with regard to sentencing.

7 MR. HOLT: Judge, the victim's brother, father, I'd like
8 for them to be able to speak if they so desire. I'd like to
9 start off by telling Your Honor that the Defendant was only
10 out of prison for eight months when this happened. He had
11 been sent to prison for stabbing another individual where he
12 did ten years. And on the street for eight months, he stabs
13 this young lady to death. There was evidence, Judge, that
14 when alcohol became involved and a female was involved, he
15 liked to get violent and this was known, and these were the
16 two reasons that he was targeted by HPD as a serious
17 contender for this murder. But, of course, Your Honor, is
18 aware that neither one of those could come to light during
19 the trial.

20 It looks like in 1998 he did some time for escape.
21 Fourteen years for assault with intent to kill. That's under
22 the old AWIK. He did ten years for that, ten years and eight
23 months. Assault and battery with intent to kill that ran
24 concurrent. Malicious injury to personal property.

25 But, Judge, just to remind you, Shannon was only

1 twenty-five years old, four days away from turning
2 twenty-six, and her brother has been a part of this and he
3 wanted to speak with me every single time and I know that, I
4 believe her mother had to walk out because she was prepared
5 to be emotional and couldn't handle it and I know that the
6 father, he and the brother, one, might like to speak.

7 THE COURT: Yes, sir, your full name?

8 MR. LAWRENCE THOMAS: Lawrence Maurice Thomas.

9 THE COURT: I'll be glad to hear from you, Mr. Thomas.

10 MR. LAWRENCE THOMAS: I'd just like to thank the system
11 for getting justice and getting him off the street so nobody
12 else won't have to go through what we went through. I just
13 thank y'all for everything.

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

15 MR. RONALD THOMAS: I am the father of Shannon.

16 THE COURT: And your full name?

17 MR. RONALD THOMAS: Ronald Thomas.

18 THE COURT: Mr. Thomas, I'll be glad to hear from you.

19 MR. RONALD THOMAS: I'd like to thank everyone for
20 justice and everything that my son said. It's been tough.
21 You know, missing your daughter. Excuse me. I'm sorry.

22 THE COURT: That's all right. Take your time.

23 MR. THOMAS: You know, I just thank God first, you know,
24 for a day like this where justice has been served. And I
25 speak for her mother as well that, it's been a tough time

1 these last two years. And for your daughter, you know, her
2 birthday is a day before mine and it's been tough. And to
3 bury your daughter the day before her birthday is more tough.
4 But I don't know this young man and why he took my daughter's
5 life away like he did. I don't know, but, you know, I just
6 thank God that he, you know, these last two years, been going
7 through what we been through, the whole family, the support
8 of the family, it's just a hurting feeling to lose someone
9 that close to you, you know, and being your child. You know,
10 you always think that you will pass first or parents will
11 always think they'll pass before their children will, but
12 that wasn't the case here and I just felt like whatever the
13 reason was, it wasn't a reason enough to take my daughter
14 away from me. But, again, justice has been served and I just
15 thank God again for what happened today. And I just thank
16 y'all just for these couple days, how the system, you can see
17 how the system can work and it worked justfully this week and
18 I'll just say again, thank you all.

19 THE COURT: Very good. Thank you. Anything further
20 from the State?

21 MR. HOLT: No, sir.

22 THE COURT: I'll be glad to hear from the Defense.

23 MR. JONES: Judge, very briefly. To say the least, I
24 think we're very disappointed in the jury's verdict; however,
25 they have spoken. Brannon, himself, is a young man. He just

1 celebrated his thirty-fourth birthday at the detention center
2 where he's been for the last seven hundred and eighty-three
3 days. He has a daughter, who, I believe now is thirteen,
4 right at thirteen. His aunt, Ms. Bryant, who testified, has
5 custody of that child. He has been in the system for quite
6 some time. He has been nothing but forthright with me the
7 whole time that I have spoken with him. He's never in any
8 way given any indication, other than what you've heard today
9 from him and yesterday, as far as his statement is concerned.
10 Again, very disappointed. We'd ask that you consider the
11 minimal sentence under the law.

12 THE COURT: Mr. Bryant, would you like to say anything?

13 MR. BRYANT: I'm not guilty.

14 THE COURT: Anything further?

15 MR. BRYANT: (Shakes head negatively)

16 THE COURT: All right. Mr. Neely, would you like to say
17 anything?

18 MR. NEELY: No, sir.

19 THE COURT: Anybody else who would like to speak on Mr.
20 Bryant's behalf?

21 MS. BRYANT: May I speak?

22 THE COURT: Yes, you may.

23 MS. BRYANT: I'm his aunt.

24 THE COURT: And your full name?

25 MS. BRYANT: My name is Veronica Bryant.

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1 THE COURT: Very good.

2 MS. BRYANT: I was subpoenaed. I live in Durham, North
3 Carolina. I was subpoenaed to be here. I have legal custody
4 of his child. I'm the one. I have a lot of questions, you
5 know. I just pray for justice. I mean, I don't know how to
6 say it. And the sentencing, whatever you do, I just ask that
7 you think of his child and be lenient.

8 THE COURT: All right. Very good.

9 MS. BRYANT: I just thank God for everything that has
10 happened and also sympathize with the Thomas family. I knew
11 Shannon very well.

12 THE COURT: Thank you so much. Anything further?

13 MR. JONES: No, sir.

14 THE COURT: All right. I'm going to render sentence and
15 we're going to be in session tomorrow and be prepared to hear
16 any motions at that time. And if you need additional time to
17 prepare your motions, be happy to afford you that
18 opportunity. But otherwise, I think we're familiar with the
19 issues involved in the case and I anticipate that you'd be in
20 a position to make whatever motions you want. We'll do that
21 at 9:30 in the morning.

22 MR. JONES: Yes, sir.

23 THE COURT: Unless I hear differently from you. But I'm
24 going to sentence Mr. Bryant and we'll ask that he be held in
25 the detention center and he can be brought over for any

1 motions.

2 MR. JONES: Yes, sir.

3 THE COURT: All right. Mr. Bryant, on indictment
4 2013-GS-16-0511, murder, the sentence of the Court is you be
5 committed to the State Department of Corrections for a period
6 of forty years. The sentences to run concurrent. Credit for
7 seven hundred and eighty-three days.

8 With regard to indictment 2013-GS-16-0512, possession of
9 a weapon during the commission of a violent crime, the
10 sentence of the Court is you be committed to the State
11 Department of Corrections for a period of five years.
12 Sentence to run concurrent. Credit for seven hundred and
13 eighty-three days. Good luck to you.

14 THE COURT: We'll stand at ease until 9:30 in the
15 morning.

16 MORNING - AUGUST 1, 2014

17 THE COURT: Mr. Neely, you're recognized.

18 MR. NEELY: Thank you, Judge. A couple of motions for
19 the Defense.

20 THE COURT: All right. Let's put the caption on the
21 record. This is the State of South Carolina versus Brannon
22 Bryant, 2013-GS-16-0511. You're recognized.

23 MR. NEELY: Thank you, Judge. I think the first motion
24 that we wish to make is, we want to renew our motion for a
25 directed verdict. I honestly don't believe that Solicitor

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1 Holt and the State barely made it past directed verdict the
2 first time. I think they had barely more than a scintilla of
3 evidence, let alone enough to meet the burden of, beyond a
4 reasonable doubt. You gave a mere presence charge and
5 Brannon Bryant was merely at the scene. The DNA wasn't
6 visible to the naked eye. The testimony was from both
7 Investigator Anderson and Investigator Cusack, that the blood
8 stain on the back of that shirt was not visible to them when
9 he was in the interrogation room. It wasn't until a black
10 light was used by a SLED agent that her DNA was found on the
11 back of his shirt. There's three knives that were presented
12 by the State. None of them had his DNA or her DNA on them.
13 I believe Investigator Anderson testified that Brannon Bryant
14 was wearing white tennis shoes and white socks on the night,
15 on the night the incident occurred and there was no blood
16 found on them.

17 Your Honor, I think there's plenty of room for
18 reasonable doubt in this case, and so, at this time we would
19 renew our motion for a directed verdict.

20 THE COURT: All of those things sort of ring as factual
21 questions, wouldn't you agree?

22 MR. NEELY: Yes, sir.

23 THE COURT: And I think in your motion you said that
24 what Mr. Holt and the State was able to produce was barely
25 more than a scintilla. Actually, that's the standard you

1 have to meet for a directed verdict, isn't it? Just a
2 scintilla, not even more than a scintilla.

3 MR. NEELY: And speaking of Mr. Jones yesterday, Mr.
4 Jones' understanding of the law is that he has to present
5 credible evidence. And while he has a scintilla, I don't
6 know if it's credible enough to convict Mr. Bryant of these
7 charges.

8 THE COURT: Okay. Let me hear what Mr. Holt has to say
9 about that.

10 MR. HOLT: Certainly, Your Honor. We have enough
11 evidence. I don't know if Mr. Neely is aware of what kind of
12 evidence it takes to make twelve people agree and so he wants
13 to say the evidence isn't credible. And I say that that
14 conviction yesterday is more than enough to say that and
15 barely a scintilla passes a scintilla and that is what I have
16 to meet to get over a directed verdict motion and I think
17 everything he raised is a factual question.

18 THE COURT: All right. Mr. Neely, you're protected on
19 the record in that regard. Would you like to say something
20 else about that?

21 MR. NEELY: Not on that, Your Honor.

22 THE COURT: Okay. You're protected on the record with
23 regard to your renewal of the directed verdict motion;
24 however, it's denied.

25 MR. NEELY: Okay. I understand that, Your Honor. I

1 think in light of that and that he does have a scintilla, I
2 would move for a thirteenth juror motion. I would make a
3 thirteenth juror motion and ask that you take it away from
4 the jury and make a ruling yourself in light of the evidence.

5 THE COURT: Okay. All right. What do you have to say
6 about that, Mr. Holt.

7 MR. HOLT: I'm not aware of any thirteenth juror rule.

8 THE COURT: Well, there is. There is such a thing.

9 MR. HOLT: That applies -- I think that applies in civil
10 court.

11 THE COURT: I think that if there is a manifest, if I
12 perceive that there is a manifest miscarriage of justice, I
13 can grant a new trial. It's almost like a blank check, carte
14 blanche, for me to do that.

15 MR. HOLT: Judge, then what I would say is looking at
16 the evidence in the totality, I don't see where there was any
17 manifest miscarriage of justice. I think he was found over a
18 dead body with her blood on him.

19 THE COURT: DNA under her fingernails.

20 MR. HOLT: DNA under her fingernails. I think he mis-
21 characterized his relationship with her to the police and I
22 think, number one, he wasn't a suspect to the people that got
23 there first, but he was there, so they held him up for
24 questioning. He wasn't a suspect to the investigators until
25 they noticed the scratches, so they took him for an

1 interview. He wasn't a suspect to the people in the
2 interview until he started repeatedly lying and mis-
3 characterizing his relationship with the woman and where he
4 was when it happened, then they found her cell phone at his
5 house. So I would think that there was no manifest
6 miscarriage of justice.

7 THE COURT: All right. I'm not inclined to take it out
8 of the hands of the jury. The jury has ruled on it, but
9 you're protected on the record. And, of course, the record
10 is very clear and the appellate entity will have an
11 opportunity to take a look at it and see whether or not there
12 is enough evidence to substantiate the verdict. I think
13 there is.

14 MR. NEELY: Yes, sir. At this time, I understand that
15 it's standard practice here in Darlington County to ask for a
16 new trial and so I would ask for that.

17 THE COURT: Okay. He's asked for a new trial. What's
18 your position on that, Mr. Holt?

19 MR. HOLT: I don't think he has any grounds for it,
20 Judge.

21 THE COURT: All right. To be quite honest with you, I
22 don't think that they made a motion that I really denied. I
23 think -- I don't think they actually -- they didn't make any
24 additional requests for charges to the jury, they didn't
25 object to my charge to the jury, and there's actually very

1 few legal rulings, other than a few on the testimony,
2 testimonial matters that were made. So based on that, your
3 motion for a new trial is denied.

4 MR. NEELY: Judge, one more. At this time, the Defense
5 moves for a mistrial.

6 THE COURT: Okay.

7 MR. NEELY: Your Honor, my grounds for that, I believe
8 that in Solicitor Holt's closing he mis-characterized the
9 record, what was in testimony. He stated that Brannon Bryant
10 saw the victim's shoes in the lot beside the house where she
11 was found. That's actually not what's in evidence. That's
12 not what Officer Fortin testified to. Officer Fortin stated
13 that Brannon told him when he was coming back to the scene he
14 saw a trail of blood and shoes on the sidewalk. That's what
15 Brannon said and that's all that Detective Fortin testified
16 to. But in Solicitor Holt's closing argument he completely
17 mis-stated that to the jury. The jury had a question about
18 that, came back out here and was unable to watch any video
19 due to a malfunction of the equipment. So they rendered
20 their verdict not in light of all of the evidence, but in
21 light of some of the evidence. They had to take Solicitor
22 Holt at his word and believe him. And I understand that, you
23 know, that's their job as the jurors to weigh the
24 credibility, but they have to weigh the credibility of the
25 witnesses, not of the attorneys. Closing argument is not

1 testimony. It's just argument from the attorneys. So the
2 fact that they had to rely on Solicitor Holt instead of the
3 evidence, I believe gives grounds for a mistrial.

4 THE COURT: All right.

5 MR. HOLT: And, Judge, if I can be heard briefly on
6 that. To begin with, they should have objected at the time.
7 Secondly, he says he saw from the sidewalk some shoes. I
8 don't see how that's mis-characterized the evidence if he saw
9 the shoes. He was standing on the sidewalk and said he saw
10 some shoes. He saw some shoes. He also said that it was so
11 dark he couldn't see anything or anybody else and to ID them,
12 but somehow he saw black shoes behind some bushes. And I
13 also put in the picture of where the shoes were located. And
14 through my last witness, Mr. Cusack, when he was recalled, I
15 put in a picture of that yard as it related to the murder
16 scene. So I think that the jury can clearly see that behind
17 a fence, under a magnolia tree, near some bushes were some
18 shoes. And I think Officer Fortin's testimony, you know,
19 however you want to characterize it, the Defendant alerted
20 him to the shoes. So the Defendant logically had to have
21 seen the shoes to know that they were there. I don't see
22 where I've mis-characterized the evidence at all, but I don't
23 see where it's relevant because they didn't object at the
24 time.

25 THE COURT: One of the things that probably needs to be

1 cleared up is that the jury did make a very vague request and
2 they had a question and that question has been made a part of
3 the record. It was kind of hard to ascertain from what they
4 put on the note -- we took it to mean one thing, but when
5 they came out they said, that isn't what we want to see at
6 all. And they re-stated that particular point. And we told
7 -- as I recall, we told them they need to make those factual
8 determinations. You know, they had the ability to look at
9 any video and hear any testimony to refresh their memory in
10 that regard. So the record's very clear on that and would
11 you like, you appear -- do you want to say something?

12 MR. NEELY: Yes, sir, I would. I understand the jury
13 instruction that you gave yesterday when they came back out,
14 stating that they had the ability to watch it, but they
15 didn't have the ability to watch it, Your Honor. The
16 equipment wasn't working. They couldn't go back and watch
17 that video. They didn't have the ability to do that. We
18 never found a working DVD player for them to watch.

19 THE COURT: Well, the only reason why -- well, it
20 malfunctioned, briefly. We all acknowledge that. But we did
21 not -- we wouldn't have given up if they had wanted to watch
22 it. They stopped us from trying, attempting to do that.
23 Because we brought them out, we hit the go button and it
24 didn't go and we sat there for a period of time while they
25 fumbled with it, but I anticipate that if we were to pull it

1 over here, we could get it cranked up and if that wouldn't
2 have worked, I would have gotten a laptop and put it on for
3 the jury if they would have wanted to see it. I would have
4 made sure that they got to see it and a piece of equipment
5 would not have prevented that from happening.

6 MR. HOLT: I think the record should also reflect that
7 what they wanted to see did not contain the evidence of
8 Officer Fortin testifying about the shoes. That would have
9 been on, that would have had to have come from the court
10 reporter.

11 THE COURT: And of course, one of the things I took a
12 position on is, I couldn't tell them where to find the answer
13 to that question because that would be commenting on the
14 evidence.

15 MR. NEELY: I agree with that. I don't think Solicitor
16 Holt's in a position to put anything about their deliberation
17 on the record.

18 THE COURT: Say that again, now?

19 MR. NEELY: I don't think Solicitor Holt's in a position
20 to put anything about the jury's deliberation and what they
21 wanted to see on the record right now.

22 THE COURT: Well, I think they did. They told us they
23 didn't want to see that.

24 MR. NEELY: Right.

25 THE COURT: Didn't want to see the video.

1 MR. NEELY: Okay.

2 THE COURT: That's what made us stop. Anything you want
3 to add to that, Mr. Holt?

4 MR. HOLT: No, sir.

5 THE COURT: All right. Can you think of anything else?

6 MR. NEELY: Judge, those are the four things I had.

7 THE COURT: All right. Well, you're protected on the
8 record and you have done a very fine job in arguing those.
9 And I anticipate it will be revisited by an entity higher
10 than me.

11 MR. NEELY: Thank you, Judge.

12 THE COURT: Good luck to you, Mr. Bryant.

13 MR. BRYANT: Yes, sir.

STATE OF SOUTH CAROLINA)
) CERTIFICATE
COUNTY OF ANDERSON)

BE IT KNOWN THAT I, THE UNDERSIGNED JO RICE,
OFFICIAL COURT REPORTER FOR THE TWELFTH JUDICIAL CIRCUIT OF
THE STATE OF SOUTH CAROLINA, DO HEREBY CERTIFY THAT THE
FOREGOING TRANSCRIPT REPRESENTS A TRUE, ACCURATE AND COMPLETE
TRANSCRIPT OF RECORD OF ALL THE PROCEEDINGS HAD AND EVIDENCE
INTRODUCED IN THE TRIAL OF THE CAPTIONED CASE, RELATIVE TO
APPEAL, BEFORE THE CIRCUIT COURT FOR DARLINGTON COUNTY, SOUTH
STATE OF SOUTH CAROLINA VERSUS BRANNON J BRYANT

CAROLINA, SO GIVEN ON JULY 28-31, 2014, TO THE BEST OF MY SKILL AND ABILITY;

THAT I AM NOT RELATED TO NOR AN EMPLOYEE OF ANY OF THE PARTIES HERETO, NOR A RELATIVE OR EMPLOYEE OF ANY ATTORNEY OR COUNSEL EMPLOYED BY THE PARTIES HERETO, NOR INTERESTED IN THE OUTCOME OF THIS ACTION.

IN WITNESS WHEREOF I HAVE HERE UNTO SET MY HAND AND SEAL THIS 1ST DAY OF NOVEMBER, 2014.

s/ Jo Rice
JO RICE
OFFICIAL COURT REPORTER

WITNESSES

Brian Rudick

Hartsville Police Department

Law Enforcement Case #: 2012-06-092

Cheryl B. McCall

495

WAIVER OF PRESENTMENT

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to:

Defendant

ARREST WARRANT NUMBER
J089402

ARRESTED ON: 2012-06-09

ACTION OF GRAND JURY

TRUE DILL

Grand Jury Foreperson

S. Bullock
Date FEB 21 2013

VERDICT

Petit Jury Foreperson

Date

DOCKET NUMBER:
2013-GS-16-0511

The State of South Carolina

County of Darlington

COURT OF GENERAL SESSIONS

Term:
February 2013

THE STATE

vs.

Brannon Bryant

INDICTMENT FOR

Murder / Murder

§16-03-0010; 16-03-0020

CDR Code: 0116

TRUE CERTIFIED COPY,

Scott B. Suggs
CLERK OF COURT/REC
DARLINGTON COUNTY, SC

William B. Rogers, Jr., Solicitor

STATE OF SOUTH CAROLINA)
)
COUNTY OF DARLINGTON)

INDICTMENT FOR

Murder / Murder

§16-03-0010; 16-03-0020

At a Court of General Sessions, convened on February 21, 2013, the Grand Jurors of Darlington County present upon their oath:

MURDER

CDR: 0116 16-03-0010,0020

That Brannon Bryant did in Darlington County, on or about June 8, 2012, willfully, feloniously, and intentionally kill the victim, Shannon Thomas, with malice aforethought, either express or implied, by means of stabbing, and the victim did die as a proximate result thereof on or about June 8, 2012 in Darlington County, in violation of Section 16-03-0010, S. C. Code of Laws, 1976, as amended.

TRUE CERTIFIED COPY,

Scott B. Suggs
CLERK OF COURT/M/C
DARLINGTON COUNTY, SC

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

William B. Rogers, Jr.
WILLIAM B. ROGERS, JR.
SOLICITOR

WITNESSES

Brian Rudick

Hartsville Police Department

Law Enforcement Case #: 2012-06-092

Cheryl B. McCall
WAWIVER OF PRESENTMENT

495

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to:

Defendant

ARREST WARRANT NUMBER
J089403

ARRESTED ON: 2012-06-09

ACTION OF GRAND JURY

TRUE BILL

Grand Jury Foreperson

S. Bullock

Date

FEB 21 2013

VERDICT

Petit Jury Foreperson

Date

DOCKET NUMBER:
2013-GS-16-0512

The State of South Carolina

County of Darlington

COURT OF GENERAL SESSIONS

Term:
February 2013

THE STATE

vs.

Brannon Bryant

INDICTMENT FOR

Weapons / Poss. weapon during violent crime

§16-23-0490

CDR Code: 0549

TRUE CERTIFIED COPY,

Scott B. Suggs
CLERK OF COURT/RMC
DARLINGTON COUNTY, SC

William B. Rogers, Jr., Solicitor

STATE OF SOUTH CAROLINA)
)
 COUNTY OF DARLINGTON)

INDICTMENT FOR

Weapons / Poss. weapon during violent crime

§16-23-0490

At a Court of General Sessions, convened on February 21, 2013, the Grand Jurors of Darlington County present upon their oath:

POSSESSION OF A WEAPON DURING THE COMMISSION
 OF A VIOLENT CRIME

CDR: 0549 16-23-0490

That Brannon Bryant did in Darlington County, on or about June 8, 2012, possess a firearm, or visibly display what appeared to be a firearm, or visibly displayed a knife, during the commission or attempted commission of a violent crime, to wit: Murder, in violation of Section 16-23-0490, S. C. Code of Laws, 1976, as amended.

TRUE CERTIFIED COPY,

Scott B. Suggs
 CLERK OF COURT/REC
 DARLINGTON COUNTY, SC

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

William B. Rogers, Jr.
 WILLIAM B. ROGERS, JR.
 SOLICITOR

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

This 2nd day of February 2015.

Robert M. Pachak

Robert M. Pachak
Appellate Defender

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

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FEB 02 2015

SC Court of Appeals

ATTORNEY FOR APPELLANT