

ORIGINAL

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Orangeburg County
Edgar W. Dickson, Circuit Court Judge

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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

TRESHAWN MARKEESE JENKINS

APPELLANT.

APPELLATE CASE NO. 2018-000360

RECORD ON APPEAL

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**THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:
STATE'S EXHIBIT #11 (CD/DVD) FROM THE PRE-TRIAL HEARING HELD ON FEB.
20, 2018, STATE'S EXHIBIT #12 (CD/DVD) FROM THE PRE-TRIAL HEARING HELD
ON FEB. 20, 2018, STATE'S EXHIBIT #13 (CD/DVD) FROM THE PRE-TRIAL HEARING
HELD ON FEB. 20, 2018, STATE'S EXHIBIT #89 (DVD OF INTERROGATION FROM
JULY 26, 2016) FROM THE TRIAL.**

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1 A Like, probably all the bullets out of the gun,
2 probably.

3 Q Would you say it was more than ten?

4 A Yeah.

5 Q Did you ever see Mr. High get out of the car and shoot?

6 A Yeah. He shoot last. He was the last person that
7 shot, but he shot in the air.

8 Q Okay. Did you see where he -- because you had said
9 earlier you didn't see him with a gun?

10 A Mont.

11 Q Mr. High?

12 A No, he had a gun.

13 Q Oh, he did have a gun?

14 A Yes, ma'am.

15 Q So who all in the car do you know had a gun?

16 A Everybody except me and Matt.

17 Q Okay. And who shot first from the car?

18 A Frank Smoot.

19 Q And then who shot?

20 A Trey.

21 Q And at some point you said you believe Mr. High shot
22 too?

23 A Yes, ma'am.

24 Q When they were shooting, were they shooting from inside
25 the car through the windows or were they out?

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1 A Outside the car.

2 Q And at any point did you see anybody from the cookout
3 shoot at y'all?

4 A No, ma'am.

5 Q Fire at y'all?

6 A No, ma'am.

7 Q Anybody scream and yell and threatening y'all?

8 A No, ma'am.

9 Q So after everybody shot, what did you do? What were
10 you thinking?

11 A Like, it was just so crazy like. I'm thinking like
12 Trey jumped out because of me, what I'm said. So I'm in
13 there like, dang, but it ain't really what I said, it was
14 like what they had going on, all ready.

15 Q And you -- those guys were your friends. Did you want
16 them to get shot?

17 A No. Like if I wanted them to get shot why would I get
18 out and show my face and my body like, my whole upper body
19 like.

20 Q Once y'all left, what did you do?

21 A I went by Uncle AB house. I told Uncle AB what went
22 down and he was like y'all boy might get your story
23 together, right? Because they coming. They coming for you
24 because they saw your face. I was like, story right?
25 There's no story right. I'm going to tell the truth

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1 regardless of it's right. But they had me for something I
2 didn't do. So Uncle AB, he told me to go home. I went
3 home. He called like, somebody's dead. I went home washed,
4 came back out and went to the house where police was at.

5 Q When y'all left from Craig Street, did anybody in the
6 car say anything on the way home?

7 A It was hyper about -- it was hyper about the situation
8 like, it was something funny, funny about it. Like and --
9 when Trey was like he should have been closer and -- no.
10 Smoot was like he should have been closer. And Trey said he
11 know he hit somebody.

12 Q So while y'all are on the back before you had gotten to
13 AB's house, Trey said he knew he'd shot somebody?

14 A Yes, ma'am.

15 Q What did you think about that?

16 A It was nothing I could think about. Like if you did,
17 that was on you, right.

18 Q Did you tell your uncle about that?

19 A Yes, ma'am.

20 Q And you talked about the old man --

21 A That's --

22 Q -- that was joking with you that said, don't come over
23 like that, you can get shot that way.

24 A Yeah. Yes, ma'am.

25 Q Did you tell that to the guys in the car?

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1 A No, ma'am.

2 Q Who did you tell that to?

3 A I told that when I got back to Holly Hill.

4 Q So you didn't even mention that until --

5 A Yeah.

6 Q -- after everything?

7 A Yes, ma'am.

8 Q And after you told your uncle what happened, did he
9 fuss at y'all?

10 A No.

11 Q Was he mad?

12 A He was mad. But at the same time he was like it was on
13 us. Like it was on them because they did it. He told them
14 not to do it and they did it.

15 Q And after y'all fussed, who was standing there when
16 y'all were being fussed at?

17 A Everybody.

18 Q And after that, where did you go?

19 A Home.

20 Q How did you get home?

21 A Drive there.

22 Q And you drove the Buick?

23 A Yes, ma'am.

24 Q And did anybody go with you back to your house in the
25 Buick?

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1 A Everybody.

2 Q Everybody took you back to your house?

3 A Yes, ma'am.

4 Q So you drove yourself back to your house?

5 A Yes, ma'am.

6 Q When you got out of the car, who got in the driver's
7 seat?

8 A Matthew.

9 Q And do you know what happened when they left?

10 A No, ma'am.

11 Q Do you know what happened -- and what did they do with
12 the guns?

13 A I don't know.

14 Q When did you come in contact with law enforcement?

15 A I went in the house and -- my mama, I came in the house
16 and my mama asked me what was wrong. I ain't never said
17 nothing. I went in my room, got some clothes and went in
18 the wash. The time I was doing all that, Uncle AB had
19 called and was like the police all ready there at the house.
20 You might as well go over there. So I had to look out the
21 back window and I see Danielle, next door to her sister
22 house. Once I came out, went through the back door, went
23 over there. Got in her car. I said, Uncle AB said take me
24 to his house. I'm thinking he tell me to come to his house.
25 He was like, naw, don't come here. Go to the big house. I

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1 went to the big house. The police was writing my name
2 whatever, whatever. Another truck got pulled up behind us
3 and a big dude came and asked me, like pulled me out, put me
4 in handcuffs and put me in the truck.

5 Q When you went to the big house, where are you referring
6 to?

7 A (Inaudible) house.

8 Q And so law enforcement came to that house and got you?

9 A Yes, ma'am.

10 Q And when the officer came and got you, did he ask you
11 your name?

12 A I think Ness (sp) had already told him. The police
13 that was already there had told him my name.

14 Q All right. So they knew --

15 A Yeah. They already knew who I was.

16 Q Did they give you your Miranda at that time?

17 A Yes, ma'am. I think they did -- no, they wait until I
18 got all the way back from the dirt road to do that.

19 Q So they didn't take you straight to the police station.
20 They took you to the dirt road?

21 A Yes, ma'am.

22 Q And what was at the dirt road?

23 A A bunch of police.

24 Q Did you see the Buick at the dirt road?

25 A Yes, ma'am.

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1 Q And what happened to the Buick?

2 A It looked like somebody had hit the Buick with
3 something.

4 Q Were you in the Buick when the car got hit?

5 A No, ma'am.

6 Q You didn't jump out and run?

7 A No, ma'am.

8 Q And when you met at the dirt road, after you were
9 Mirandized, did you tell law enforcement what you knew?

10 A Yes, ma'am. At first I didn't because I thought, like
11 I said like I was going to get in trouble, right. They saw
12 my face. Nobody else, they was going to blame me. Nobody
13 else was getting called. They had no face but me. So I
14 hadn't, wasn't saying nothing at first because I was scared
15 of the truth.

16 Q Okay. And so first you didn't want to tell the police
17 about the other people in the car?

18 A Yeah, like I know them.

19 Q And at that point did they take you back to the police
20 station?

21 A They kept at the car about two hours, an hour.

22 Q At some point did you go back to the police station
23 that day?

24 A Uh-huh. (Affirmative response)

25 Q And when you went back to the police station, did they

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1 interview you again?

2 A Yes, ma'am.

3 Q And did they give you your Miranda rights again?

4 A Yes, ma'am.

5 Q And you had to sign a form, a piece of paper?

6 A Yes, ma'am.

7 Q And at that point did you give them any names?

8 A At first I didn't. And then when they showed me the
9 pictures, they could see how I was looking at the pictures.
10 They was like, man, don't even sit there lying, man. Go
11 ahead man, because you're in a lot of trouble. So I did
12 what I had to do. I had to tell the truth.

13 Q And when you said pictures, were they showing you photo
14 lineups?

15 A Yes, ma'am.

16 Q And that first day, who did you identify in the photo
17 lineups?

18 A Everybody that was in that car.

19 Q Were you able to identify Mr. Jenkins?

20 A Yes, ma'am.

21 Q And how did you identify Mr. Jenkins?

22 A I seen the picture, right, of him. I just circled it.

23 Q And did you also do that for Mr. Brown?

24 A Yes, ma'am.

25 Q After that, did they take you into custody?

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1 A Yes, ma'am.

2 Q Did they meet with you a second time?

3 A Yes, ma'am.

4 Q And when they met with you the second time, did you
5 give them a little bit more information?

6 A I told the truth, period. Like, I went in the cell,
7 think about it. I was like you do what you got to do, man.
8 Own up to it. I told them what was going on. That's it.

9 Q Were you arraigned that day?

10 A Yeah.

11 Q You were taken over to bond court?

12 A Uh-huh. (Affirmative response)

13 Q And you were not given a bond that day?

14 A No, ma'am.

15 Q And then do you recall meeting with law enforcement a
16 third time?

17 A Yes, ma'am.

18 Q And when you met with law enforcement a third time, had
19 you been in touch with a lawyer at that time?

20 A I think I did, yes, ma'am.

21 Q And had you had an opportunity to speak to your lawyer
22 before speaking to law enforcement?

23 A Yes, ma'am.

24 Q And what did your lawyer advise you to do with law
25 enforcement?

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1 A Tell the truth. Like, you know, like tell the truth.
2 How he see it, you got in trouble, like tell the truth. You
3 know what you did. Just tell them what happened.

4 Q And so when you met with law enforcement the third time
5 was your lawyer or somebody from his office with you when
6 you met with him the third time?

7 A Yes, ma'am.

8 Q And did you give a full statement at that time?

9 A Yes, ma'am.

10 Q And the person that you stated had the assault rifle
11 and had the problem with Rico and that claimed that they
12 knew they shot somebody shortly after the shooting, do you
13 see him in the courtroom here today?

14 A Yes, ma'am.

15 Q Can you point him out to the jury?

16 A (Indicating)

17 Q And what's he wearing?

18 A Purple.

19 MS. CORNWELL: And again, Your Honor, let the
20 record reflect that the witness identified the Defendant.

21 THE COURT: The record will so reflect.

22 BY MS. CORNWELL:

23 Q After you met with law enforcement, did you agree to
24 meet with my office?

25 A Yes.

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1 Q Did I reach out to you to meet with you or did you
2 reach out to me?

3 A I reach out to you because it was something that I had
4 nothing to do with. Like, they told me to do, so I did
5 that.

6 Q And why is the reason you needed to reach out to me and
7 tell me since you're already told law enforcement?

8 A So you can know the truth, right. That's the truth.

9 Q And is it because ultimately I'm the one that decides
10 trial and charges?

11 A Yeah.

12 Q And let's talk about this week. Were you supposed to
13 be on trial next to Mr. Jenkins this week?

14 A Yes, ma'am.

15 Q And the State was prepared to try you for what charges?

16 A Murder and attempted murder and the gun charge.

17 Q Ultimately this week on a Tuesday, did you make a
18 decision about whether or not you wanted to go forward with
19 trial?

20 A Yes, ma'am.

21 Q And what was that decision?

22 A Go with it. Like -- I think -- tell the truth. If I
23 had to, tell the truth.

24 Q But you decided you didn't want to be on trial for
25 murder, attempted murder and possession of a weapon,

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1 correct?

2 A Huh-uh. (Negative response)

3 Q So did you ultimately end up pleading guilty to the
4 charges?

5 A Yes, ma'am.

6 Q You pled guilty under something called North Carolina
7 versus Alford; is that correct?

8 A Yes, ma'am.

9 MR. FARLEY: Your Honor, may we approach?

10 THE COURT: Sure.

11 (Off the record bench conference with counsel and the
12 Court.)

13 THE COURT: All right. Ladies and gentlemen,
14 we're getting into an area of law and when Ms. Cornwell is
15 asking about pleading under North Carolina versus Alford --
16 I'm going to give you kind of a summary.

17 North Carolina versus Alford is a US Supreme Court
18 case. What that case basically said is that a defendant is
19 allowed to plead guilty to charges without admitting,
20 directly admitting his guilt, but he can admit that there is
21 substantial evidence in the record that if he went to trial,
22 there's a substantial likelihood that he would be convicted
23 at trial for those charges. So he can plead guilty under
24 North Carolina versus Alford in return for pleading and
25 hopefully getting a lesser sentence. That sentence is up to

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1 the Judge. Kind of generally, it's where you say I know
2 you've got enough evidence to prove -- or that there is a
3 substantial likelihood that I could be proven guilty of this
4 charge, even if I don't think I'm guilty of it, because I
5 want to take advantage of a plea offer, okay? So that's
6 what we had in this situation earlier this week.

7 Any corrections either of you need to say about that?

8 MR. FARLEY: No, Your Honor.

9 THE COURT: Okay.

10 MS. CORNWELL: No, Your Honor.

11 THE COURT: Okay. All right. Now, since he
12 couldn't explain it, I'll let y'all -- you need to go ahead
13 and ask him.

14 MS. CORNWELL: Thank you, Your Honor, I'll do
15 that.

16 THE COURT: Okay. Thanks.

17 BY MS. CORNWELL:

18 Q You pled under North Carolina versus Alford. What
19 charges did you plead guilty to under North Carolina versus
20 Alford?

21 A I think it was manslaughter?

22 Q Would it have been accessory after the fact of murder?

23 A Uh-huh. (Affirmative response)

24 Q And did you plead guilty to a second charge?

25 A Yes.

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1 Q And what was that charge?

2 A I can't remember.

3 Q Would it have been assault and battery of a high and
4 aggravated nature?

5 A That's it. Yes, ma'am.

6 Q And when you pled guilty -- and when I say guilty, I
7 mean under North Carolina versus Alford. When you pled
8 guilty, how much time were you facing in prison; do you
9 know?

10 A Thirty years, thirty-five, something like that?

11 Q Thirty-five years. And when you pled guilty, do you
12 recall the Judge explaining to you what you could be
13 sentenced to?

14 A Yes, ma'am

15 Q Did the State take any position as to sentencing?

16 A No, ma'am.

17 Q Did you know what sentence you were going to get when
18 you pled guilty?

19 A Yes, ma'am.

20 Q You knew what sentence you were going to get or --

21 A No, I didn't.

22 Q So how did you feel when you were pleading guilty?

23 A Scared. Like I was going to jail for something I
24 didn't -- like, honestly I had nothing to do with it, but I
25 was there.

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1 Q And when you pled guilty, I didn't take a position
2 during sentencing, but did I tell the Judge what the
3 victim's family thought was appropriate?

4 A Yes, ma'am.

5 Q And what was that?

6 A Jail time.

7 Q And did I agree with the victim's family?

8 A I think you did.

9 Q Ultimately, after you pled guilty and your defense
10 attorney spoke on your behalf, did the Judge issue you a
11 sentence at that time?

12 A Yes. Yes, ma'am.

13 Q And what sentence did the Judge give you.

14 A Five. It was suspended from fifteen, I think it was.

15 Q And -- would the sentence have been fifteen years in
16 jail suspended to five years probation?

17 A Yes, ma'am.

18 Q And as a part of your probation were you given any
19 instruction on your cooperation with law enforcement and the
20 Court?

21 A Yes, ma'am.

22 Q And what was that instruction?

23 A Stay away from the family. I think it was, like --
24 like --

25 Q So you weren't allowed to have any contact with the

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1 victim's family?

2 A Not at all.

3 Q And did you have to come to court and testify?

4 A Yes, ma'am.

5 Q And what would happen if you did not come to court and
6 testify or you were not honest?

7 A I would have gone to jail.

8 Q All right. For fifteen years?

9 A Yes, ma'am.

10 Q In addition to pleading guilty to that, do you still
11 have pending charges with my office?

12 A Yes, I think.

13 Q And were those charges discussed during your plea
14 offers?

15 A Yes, ma'am.

16 Q And did we make any decisions on those other charges?

17 A No, ma'am.

18 Q Has the State many offers or promises to you?

19 A No, ma'am.

20 Q In fact, are you told that we were still planning on
21 going forward on all of those charges?

22 A Yes, ma'am.

23 Q So you have gotten no deals or negotiations from the
24 State, other than allowing you to plead to accessory after
25 the fact and ABHAN?

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1 A Yes, ma'am.

2 Q And we dismissed the gun charge?

3 A Yes, ma'am.

4 Q Did you ever have a gun?

5 A No, ma'am.

6 Q Your intent going over there, was it to kill anybody?

7 A No, ma'am.

8 Q Was it to harm anybody?

9 A No, ma'am.

10 Q After the shooting, did you drive to the police station
11 and tell the police what happened?

12 A Well, I told the police after, but it was not like
13 right then.

14 Q And is that why you pled guilty under Alford?

15 A Yes, ma'am.

16 Q And everything that you've testified here today, is
17 that what actually happened or is that what somebody told
18 you to say what happened?

19 A That's exactly what happened.

20 Q Have I ever told you what I want you to say on the
21 stand?

22 A No, ma'am.

23 Q Has your attorney ever told you what you're supposed to
24 say on the stand?

25 A No, ma'am.

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1 Q Has anybody threatened you, coerced you or forced you
2 to plead guilty or to testify today?

3 A No, ma'am.

4 MS. CORNWELL: That'd be all the questions I have,
5 Your Honor.

6 MR. FARLEY: May we approach, Judge.

7 THE COURT: Yeah. Could I see y'all for just one
8 second.

9 (Off the record bench conference with counsel and the
10 Court.)

11 THE COURT: All right. Ladies and gentlemen, just
12 so -- I just want to clarify, just make sure y'all
13 understand. I talked with the attorneys at the side just so
14 I could make sure that y'all understand exactly what
15 happened when I took the plea.

16 As I told you, Mr. Taste pled under North Carolina
17 versus Alford. He had to come before me and admit that
18 there was a substantial likelihood if he went to trial on
19 assault and battery of a high and aggravated nature and
20 accessory after the fact of murder, then there was a
21 substantial likelihood that if he went to trial, a jury
22 would find him guilty of those charges. And so he had every
23 right to take advantage of the plea and the plea offer which
24 was allowing him to plead to these lesser charges, okay?

25 Now, as a result of his plea and after hearing

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1 arguments from his counsel and from the State, I sentenced
2 him to -- on each one of these charges, I sentenced him to
3 fifteen years. That fifteen year sentence on each of those
4 was suspended upon the time he had already served in jail
5 plus five years probation. And additionally I required as
6 part of his probation, as part of the conditions of his
7 probation, that he could have no contact with the victim or
8 the victim's family and he had to testify truthfully at
9 trial. That was part of his conditions of his probation.
10 So if he violated any of that, he could face going back in
11 front of me or another judge for his failure to do as
12 probation required him to do.

13 Additionally, I need to let y'all know that, as I let
14 him know when he pled, is that assault and battery of a high
15 and aggravated nature is a violent and a serious offense and
16 counts as a strike. Now, where that becomes important is
17 under South Carolina law if you get convicted of -- if he
18 would get convicted of two other violent and serious
19 offenses, with the third conviction of a violent and a
20 serious offense, he is -- there is a possibility that he
21 could then go to jail for life without the possibility of
22 parole. Under South Carolina -- y'all have heard of three
23 strikes. Three strikes you could end up going to jail for
24 the rest of your life without the possibility of parole if
25 you keep doing this. So in addition to what he got as his

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1 sentence, he has a strike against him, okay? Do y'all
2 understand that?

3 JURY: (Unanimous affirmative response)

4 THE COURT: Okay. All right.

5 Anything else you believe I need to clean up or
6 explain? From the State?

7 MS. CORNWELL: Nothing from the State, Your Honor.

8 THE COURT: From the Defense?

9 MR. FARLEY: No, Your Honor.

10 THE COURT: Okay. You're okay. All right.

11 All right. Any questions of the Defendant?

12 MR. FARLEY: Yes, sir.

13 ZAQUAN TASTE - CROSS-EXAMINATION

14 BY MR. FARLEY:

15 Q Thank you for coming in today.

16 THE COURT: I started to say you're welcome.
17 Okay. Yeah. Go ahead.

18 BY MR. FARLEY:

19 Q So in the morning when you woke up, you hear the knock
20 on the window and they tell you Shy is missing, right?

21 A Uh-huh. (Affirmative response)

22 Q You also knew at that time that someone had gone to the
23 police department, the Holly Hill Police Department?

24 A (Shakes head negatively)

25 Q You didn't know about that?

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1 A Huh-uh. (Negative response)

2 Q So you knew the people at the party; is that right?

3 A Uh-huh. (Affirmative response)

4 Q And --

5 THE COURT: You need to speak up, please, sir?

6 Okay?

7 THE WITNESS: All right.

8 THE COURT: I need to hear you and I could barely
9 hear you.

10 THE WITNESS: Yes, sir.

11 THE COURT: And if you don't mind instead saying
12 uh-huh, say yes or no.

13 THE WITNESS: All right.

14 THE COURT: All right. Go ahead. I'm sorry, Mr.
15 Farley.

16 BY MR. FARLEY:

17 Q I'm skipping around. I'll try to go back and do more
18 in line. So they knocked on your window. They need a ride
19 is that they told?

20 A Yeah. We need to go get Shy. We need to go get Shy.
21 Wanted me to take them to get Shy.

22 Q And where did y'all go between Shy -- between your
23 house and them picking you up?

24 A We went -- I think we were, like he say his car. I
25 can't remember where his car was at. And went to another

State v Jenkins Zaquan Taste - Cross 2/22/18 470

1 house and they tried to get me to get a gun and --

2 Q So you went to the broke down car first?

3 A Uh-huh. (Affirmative response)

4 Q And then where?

5 A And went to another house to try to get another gun,
6 then I think Black came in and got in the car. And then we
7 left from there and went to Uncle AB house. That how we got
8 to Uncle AB house.

9 Q So if I'm -- you said that High, Smoot, and Trey picked
10 up guns?

11 A Uh-huh. (Affirmative response) Yes, sir.

12 Q So High, Trey and Smoot picked up guns so that y'all
13 could go over and get --

14 A Shy.

15 Q Is it not a red flag that three people are picking up
16 guns, one of them what's been described as an assault rifle?

17 A Not really because like people in the Holly Hill area,
18 like people walk around with guns and things like that every
19 day. So when we went and got them, it was like a normal
20 day. We was just making sure that nothing happened when we
21 went there.

22 Q So on a normal day -- so it wouldn't be -- So on a
23 normal day everybody's packing?

24 A Yeah, like that. Smoot said like the gun was his so he
25 must have had it on him when he went in the house.

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1 Q So the three of them come back armed, then y'all go
2 over to the incident location.

3 A Yeah.

4 Q You go up and say high to everybody?

5 A Yeah.

6 Q Someone says to you you're about to get shot? So
7 explain -- you were told about getting shot. Tell me what
8 that conversation was?

9 A Yeah, he was like -- you came up on me like, you can
10 get shot like that. He said that like that.

11 Q And then you drive away. Where do you go after you
12 drive away?

13 A Where, from the incident?

14 Q I'm sorry. The incident location. Where do you go?

15 A We left from there, went to Uncle AB house and I told
16 Uncle AB like what happened. He was like, all right. I
17 told him I didn't have nothing to do with it. I don't know.
18 I left from there going home.

19 Q Back at the scene all three of the people that had guns
20 shot?

21 A Yes.

22 Q And you're kind of astonished. This is coming out of
23 nowhere right?

24 A I has to.

25 Q So you couldn't tell who was shooting what, where?

State v Jenkins Zaquan Taste - Cross 2/22/18 472

1 A Not really. But I seen like Mont shooting. And then I
2 ain't really seen Poo Bear shooting, he was behind me. So
3 I'm like this right here. You know -- I'm really looking at
4 him, but really, you know, the door's open.

5 Q And this shooting happened at some point very close to
6 his foot being running over; is that correct?

7 A It was like I had done ran over it. Like yeah --

8 Q And you agree with me that a foot being run over ain't
9 going to feel too good, is it?

10 A Yeah, I know.

11 Q And then that's -- after the foot was run over, that's
12 when we hear this massive volley of fire?

13 A (No response)

14 Q So you go home, go to where you go --

15 A All right.

16 Q -- I think your mother's house?

17 A Yeah, my mama house. Yeah.

18 Q And you got word that they were throwing your name
19 around at the scene of the murder?

20 A They was saying, like, you was out there so you
21 couldn't like say you wasn't there.

22 Q Because every saw you there?

23 A Saw me there.

24 Q I mean, there's no question that you were there. You
25 eventually get taken into police custody?

State v Jenkins Zaquan Taste - Cross 2/22/18 473

1 A Uh-huh. (Affirmative response)

2 Q They told you that the name Treshawn Jenkins had been
3 floating around --

4 A Yes, sir.

5 Q -- as being at the scene of the crime?

6 A Yes, sir.

7 Q So the police bring in a photo lineup and say can you
8 show us who Treshawn Jenkins is?

9 A Yes, sir.

10 Q And you were able to identify Treshawn Jenkins?

11 A Yes, sir.

12 Q So my understanding is, is that you cooperated with law
13 enforcement because you were told if you did everything that
14 they asked, you would be given a bond?

15 A Not really. He just -- he told me like it ain't no
16 need for you to lie. Like the police office did told me
17 that, like, it ain't no need for me to lie, like they had me
18 there. They keep on telling me that. Keep on saying that.
19 So that was stuck in my head. They saying I'm there. They
20 saying I'm there. I'm like ain't nobody coming or owning up
21 or nothing.

22 Q But just to reiterate, they said if you cooperated with
23 law enforcement, they told you that if you did everything
24 they asked, they would give you a bond?

25 A Oh, no. They didn't tell me that, no.

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1 Q Do you remember -- obviously, you remember the plea
2 where you got probation. But do you remember -- do you know
3 what an affidavit is?

4 A Not really.

5 Q An affidavit is a sworn statement that you make. Just
6 like you're under oath here, that's a sworn statement. Do
7 you remember sitting down with your lawyer and preparing an
8 affidavit?

9 A A little, but I did went through my statement, like --

10 THE COURT: You want to show it to him so --

11 MR. FARLEY: Yes, Your Honor. I was about to do
12 that.

13 THE COURT: Okay. Why don't you show it to him.

14 MR. FARLEY: May we approach, Your Honor.

15 THE COURT: Sure.

16 (Off the record bench conference with counsel and the
17 Court.)

18 THE COURT: Do y'all need to take a break or are
19 we okay? We okay?

20 JURY: (Unanimous affirmative response)

21 THE COURT: Okay. All right. They're going to
22 stay with us for a little while, okay?

23 MR. FARLEY: All right. Thank you, Judge.

24 BY MR. FARLEY:

25 Q Did at some point you eventually get a bond?

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1 A Uh-huh. (Affirmative response)

2 THE COURT: Now, you need to say yes or no.

3 BY MR. FARLEY:

4 Q And so you spent, what, three or four days in jail and
5 you got out?

6 A Ten.

7 Q Ten days?

8 A Yes, sir.

9 Q And were you housed near the co-defendants?

10 A Uh-huh. (Affirmative response)

11 Q You were in here when Mr. High testified weren't you?

12 A Uh-huh. (Affirmative response) I heard him.

13 Q Did you hear him say that he didn't have a gun, didn't
14 fire a gun?

15 A Yes.

16 Q Is that the truth.

17 MS. CORNWELL: Your Honor, I'm going to object to
18 him pitting witnesses.

19 THE COURT: Yeah. I'll sustain the objection.

20 MR. FARLEY: Okay.

21 BY MR. FARLEY:

22 Q So what you're saying is he did have a gun?

23 A Yes, sir.

24 Q And he did shoot?

25 A Yes, sir.

State v Jenkins Zaquan Taste - Redirect 2/22/18 476

1 Q And there was three people shooting?

2 A Yes, sir.

3 Q And you didn't know what was going on, who was shooting
4 where or anything like that?

5 A No.

6 Q You don't know where the guns went; you don't know what
7 happened with the guns?

8 A I got drop off and that was it.

9 Q And you're on probation?

10 A Yes.

11 Q And if you hadn't testified, you would be in prison?

12 A Right now.

13 MR. FARLEY: Nothing further.

14 THE COURT: Anything on redirect?

15 MS. CORNWELL: Briefly, Your Honor.

16 ZAQUAN TASTE - REDIRECT EXAMINATION

17 BY MS. CORNWELL:

18 Q You had mentioned the shooters in the car, Mr. Jenkins,
19 Mr. Smoot and Mr. High. Did you see the direction that Mr.
20 Jenkins shot his gun?

21 A He was faced toward, wherever that bar was, faced that
22 way.

23 Q He was shooting towards the shed?

24 A Yes.

25 Q Did you see what direction Mr. Smoot shot?

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1 A Like he shot, I think in the air. Like in the air.

2 Q And did you see what direction Mr. High shot?

3 A He shot in the air too.

4 Q So the only person that actually shot towards the shed
5 was who?

6 A Trey.

7 Q You talked about your bond. You had a bond after being
8 in jail for ten days?

9 A Uh-huh. (Affirmative response)

10 Q Did I consent to that bond?

11 A No, ma'am.

12 Q Did I oppose your bond?

13 A Yes, ma'am.

14 Q And since you received that bond back in July 2016,
15 have I tried to get your bond revoked at any time?

16 A Yes, ma'am.

17 Q When was the first time you came and spoke to me?

18 A Like it was last week, two weeks ago.

19 Q And was your attorney with you at that time?

20 A Yes, ma'am.

21 Q And that was when we were preparing --

22 MR. FARLEY: Your Honor, this has already been
23 asked and answered.

24 THE COURT: Yeah. I think so.

25 BY MS. CORNWELL:

State v Jenkins W. Ketcherside - Recall - Direct 2/22/18 480

1 (WHEREUPON, William Ketcherside was
2 sworn to tell the truth.)

3 WILLIAM KETCHERSIDE - RECALL - DIRECT EXAMINATION

4 BY MS. CORNWELL:

5 Q Investigator Ketcherside, you've already testified that
6 when y'all collect evidence, you don't actually test the
7 evidence for DNA, correct?

8 A That's correct.

9 Q You send it to SLED?

10 A Correct.

11 Q And I'm going to show you what's been marked as State's
12 Exhibit 87. Can you tell the jury what that is?

13 A That's two buccal swabs for Treshawn Markeese Jenkins.

14 Q Did you collect those buccal swabs?

15 A I did.

16 Q And are those the buccal swabs you referenced yesterday
17 you took?

18 A Correct.

19 Q And then also in looking at State's 94, do you
20 recognize what that is?

21 A Yes, ma'am.

22 Q And what is that?

23 A Two swabs for DNA from brass knuckles.

24 Q Are those swabs that were taken to be tested from the
25 brass knuckles found on scene?

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1 A Yes, ma'am.

2 Q And are these the actual swabs that you took from both
3 of those?

4 A Correct.

5 MS. CORNWELL: Your Honor, at this time, the State
6 would move State's 87 and 94 into evidence.

7 THE COURT: Any objection?

8 MR. FARLEY: I have some questions from where we
9 talked --

10 THE COURT: Okay.

11 MR. FARLEY: I have no objection to it being
12 admitted.

13 THE COURT: All right.

14 State's 87 and 94 are in without objection.

15 (State's Exhibit No. 87, buccal
16 swab from Treshawn Jenkins, was marked and entered)

17 (State's Exhibit No. 94, buccal
18 swab from brass knuckles, was marked and entered)

19 MS. CORNWELL: Thank you, Your Honor. No further
20 questions.

21 THE COURT: Anything on cross?

22 MR. FARLEY: No, Your Honor.

23 THE COURT: All right. Thank you, sir. You may
24 step down.

25 Is the State ready to call its next witness?

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1 MR. GIESE: Yes, sir. The State calls Alysha
2 Breland.

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

4 THE COURT: Yeah. Hold on one second.

5 MR. GIESE: Her name has actually just been
6 changed. It was Alysha Andrews.

7 THE COURT: Well, you know, that would explain why
8 I can't find Breland.

9 MR. GIESE: And that will be my first question.

10 THE COURT: Okay. All right. Thank you.

11 (WHEREUPON, Alysha Andrews Breland
12 was sworn to tell the truth.)

13 ALYSHA BRELAND - DIRECT EXAMINATION

14 BY MR. GIESE:

15 Q So Ms. Breland, did you change your name recently?

16 A I did. I got married in October and finally got my
17 name changed to Breland.

18 Q Okay. So when you were analyzing DNA for this case and
19 you did your report for this case, your name was what?

20 A . Alysha Andrews.

21 Q Okay. And Ms. Breland, where do you work?

22 A I am currently employed by the South Carolina Law
23 Enforcement Division, commonly referred to as SLED.

24 Q And what do you do at SLED?

25 A At SLED I am assigned to the DNA casework department.

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1 Q Okay. So what are your duties at the casework
2 department?

3 A So as a forensic scientist in the DNA casework
4 department, I generate DNA profiles from items of evidence
5 of that are submitted by local law enforcement agencies
6 across the State. I then compare those DNA profiles to
7 profiles of known individuals and write a report of my
8 findings.

9 Q Okay. And did you do that in this case?

10 A I did.

11 Q What kind of training and education have you received?

12 A I received my bachelors of science from Quinnipiac
13 University in biomedical science. I then went on and earned
14 a master's of science in forensic science from Arcadia
15 University.

16 Q Okay. Do you have any certifications in this field or
17 anything like that?

18 A No special certification.

19 Q Okay. Do you participate in trainings?

20 A I do. When I was hired at SLED I went into a one year
21 and two month training program when I became familiar with
22 the labs procedures and protocols within that department and
23 was supervised by a court-qualified analyst.

24 Q Okay. Have you ever testified as an expert before?

25 A I have.

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1 Q In what field did you testify as an expert?

2 A Forensic DNA.

3 Q Okay. Approximately how many times have you been
4 qualified as an expert in that field?

5 A One.

6 MR. GIESE: Your Honor, at this time we'd like to
7 qualify Agent Breland as an expert in the field of forensic
8 DNA.

9 THE COURT: All right. Mr. Farley?

10 MR. FARLEY: No objection, Your Honor.

11 THE COURT: All right. Ladies and gentlemen, just
12 a brief statement about what an expert can testify to.
13 Ordinarily, witnesses may not testify to opinions or
14 conclusions. However, an exception under our laws applies
15 to witnesses that we call as experts, a witness who by
16 education and experience becomes expert in some area may
17 give an opinion as to the subject the witness claims to be
18 an expert in and also give the reasons for the opinion. You
19 should consider -- let me just tell you -- you should
20 consider an expert's opinion like any other evidence and
21 give it the weight that you believe it deserves. If you
22 decide that an expert's opinion is not based on sufficient
23 education or experience or if you decide that the reasons
24 give in support of the opinion are not sound, or that the
25 opinion is outweighed by other evidence, you may disregard

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1 the opinion entirely. An expert witness's testimony is to
2 be given no greater weight than that of other witnesses
3 simply because the witness is an expert. And you do not
4 have to accept an expert's opinion, even if it is
5 uncontradicted.

6 You may continue to ask questions.

7 MR. GIESE: Thank you, Your Honor.

8 THE COURT: Thank you.

9 BY MR. GIESE:

10 Q Ms. Breland, what is DNA?

11 A DNA stands for deoxyribonucleic acid. It's the
12 chemical that's found in all cells of your body with the
13 exception of red blood cells. It's the component that tells
14 your body how to function as well as look. Each individual
15 inherits half of their DNA from their mother and half of
16 their DNA from their father, with the exception of twins or
17 triplets that are identical, no two individual's DNA profile
18 is the same.

19 Q Okay. And what is DNA in your field typically used
20 for?

21 A Forensic DNA we just generate a DNA profile as evidence
22 to determine if an individual had any involvement with a
23 crime.

24 Q Okay. And how do you analyze DNA?

25 A So for forensic biology, there are locations in DNA

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1 that are highly variable among individuals. In these
2 locations, there are fragmented DNA that repeat themselves
3 over and over again. And we refer to them as short tandem
4 repeats or STRs. And with the technology that we use, we
5 can determine how many times a fragment repeats itself. And
6 when you take a bunch of locations, you basically get a
7 string of numbers which represents somebody's DNA profile.

8 Q Okay. Did you analyze some DNA in this case?

9 A I did.

10 Q Do you recall -- did you analyze DNA from a set of
11 brass knuckles?

12 A Yes, I did.

13 MR. GIESE: Your Honor, may I approach the
14 witness?

15 THE COURT: You may.

16 BY MR. GIESE:

17 Q I'm showing you what's been entered into evidence as
18 State's Exhibit 94.

19 A Okay.

20 Q And can you tell me what that is and if you recognize
21 that?

22 A I do recognize it. It is labeled as two swabs for DNA
23 from brass knuckles.

24 Q Okay. And how do you recognize that?

25 A Well, anytime that evidence is received at the SLED DNA

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1 -- or the SLED lab in general, we assign a lab number as
2 well as unique item numbers to each item that is submitted.
3 And I can tell by the barcode up here what the lab number
4 that was assigned as well as the container that this. And
5 then I also recognize my initials from when I opened the
6 pouch and would have analyzed the evidence.

7 Q Is that standard procedure?

8 A Yes.

9 Q And obviously it wasn't opened?

10 A It wasn't at that point, correct.

11 Q So kind of describe what you did in analyzing the brass
12 knuckles.

13 A So in this case it was a set of swabs that were labeled
14 as swabs from brass knuckles. I will open the evidence.
15 And before that I make sure that there's -- all the seals
16 and initials that were there are still in tact when it comes
17 to the lab before I start my analysis. So if there was any
18 indication of tampering I would have halted the analysis and
19 stopped there.

20 Q Was there any indication of tampering?

21 A There was not.

22 Q Okay.

23 A So I went ahead and took cuttings from the swabs and
24 then I started our DNA process. There's four basic steps.
25 The first step is DNA extraction where we extract the DNA

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1 off the item that was received and we isolate it. After
2 isolating it, we then have to quantify how much DNA is
3 present. Once we determine how much DNA is actually
4 present, then we go through the amplification step where we
5 target those regions that we were talking about and make
6 billions and billions of copies. And after making all those
7 copies we then go to the last step of separation where we
8 separate out all those fragments to create that DNA profile.

9 Q Okay. And you did that in this case?

10 A I did.

11 Q Did you develop any profiles in this case?

12 A I did.

13 Q Not in this case, but on the brass knuckles, how many
14 profiles did you develop?

15 A Can I refer to my report.

16 Q Absolutely.

17 THE COURT: Is it all right with you for her to
18 refer to her report?

19 MR. FARLEY: Oh, absolutely. I'm sorry. I
20 couldn't -- you're tall.

21 A What was the item you were referring to?

22 BY MR. GIESE:

23 Q The brass knuckles, which I believe is item 39 in your
24 -- the SLED numbers.

25 A Yes. So for item 39, which was swabs, brass knuckles,

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1 the DNA profile matches the DNA profile of Treshawn Jenkins.
2 The probably of randomly selecting an unrelated individual
3 having a DNA profile matching this item, is approximately 1
4 in 6.7 septillion.

5 Q And let me kind of backtrack. Where did you get the --

6 MR. GIESE: May I approach the witness again, Your
7 Honor.

8 THE COURT: You may.

9 BY MR. GIESE:

10 Q Let me show you what's been marked as State's Exhibit
11 -- or it's been entered into evidence as State's Exhibit 87.
12 Do you recognize that?

13 A Yes.

14 Q And what is that?

15 A These are two buccal swabs from Jenkins, Treshawn
16 Markeese.

17 Q Okay. And is that labeled on there?

18 A Yeah. That's labeled on the packaging.

19 Q And you did testing on those buccal swabs as well?

20 A Yes.

21 Q And you just mentioned a large number. Is that after
22 you compared the buccal swabs from Treshawn Jenkins to the
23 DNA profile on the brass knuckles?

24 A Yes. As per our protocol we typically will test items
25 of evidence first and generate a profile from that. And

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1 then afterwards, we will generate the DNA profiles from the
2 known individuals and then make the comparison.

3 Q Okay. And as far as those buccal swabs go, you
4 testified earlier in regards to the brass knuckles about
5 how, you know, there's certain protocols and procedures to
6 follow when they get to you. Did those appear to be
7 followed in regards to the buccal swabs here?

8 A Yes.

9 Q There was no evidence of tampering?

10 A That is correct.

11 Q Okay. All right. And so based on that after doing all
12 of your analysis, what are the chances that the DNA found on
13 those brass knuckles belongs to someone other than Treshawn
14 Jenkins?

15 A That would be the statistic which was the 1 in
16 approximately 6.7 septillion.

17 Q Okay. And septillion, that's a high number?

18 A Yes, it is.

19 Q Thank you, Ms. Breland. Answer any questions Mr.
20 Farley may have, please?

21 THE COURT: Mr. Farley.

22 ALYSHA BRELAND - CROSS-EXAMINATION

23 Q Hey, good morning.

24 A Good morning.

25 Q Yep, still good morning.

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1 A Yes.

2 Q Thank you for being here today. The only question I
3 really have for you is was that the only DNA standard that
4 you were given?

5 A It was not.

6 Q What was the other one you were given?

7 A The other standard that I did analysis on was a dried
8 blood standard from Jacqueline Wright.

9 Q Did you get any samples marked co-defendants?

10 A I did not.

11 Q So if I was to tell you there were four other co-
12 defendants, you would have no knowledge of that because you
13 haven't received a sample?

14 A I never received any other samples from any co-
15 defendant. That's correct.

16 MR. FARLEY: I have no further questions.

17 THE COURT: Anything on redirect?

18 ALICIA BRELAND - REDIRECT EXAMINATION

19 BY MR. GIESE:

20 Q Back to the brass --

21 MR. GIESE: Yes, one question. I apologize.

22 MR. FARLEY: This is beyond the scope of cross,
23 isn't it?

24 MR. GIESE: I haven't even asked the question yet.

25 MR. FARLEY: Okay. I heard back on the subject of

State v Jenkins Alysha Breland - Redirect 2/22/18 492

1 --

2 MR. GIESE: Well, back on the subject that you
3 just brought up.

4 BY MR. GIESE:

5 Q As far as item 39 is concerned, which is what you
6 identified the standard from the brass knuckles was; is that
7 correct? Is item 39 the DNA standard you extracted from the
8 brass knuckles? Item 39 in your report?

9 A Item 39 in my report is representing the profile from
10 the brass knuckles.

11 Q And that profile -- what did that profile match? Who
12 did that profile match?

13 A The DNA profile from the brass knuckles matched the DNA
14 profile of Treshawn Jenkins.

15 Q Were you able to extract any other DNA profiles from
16 those brass knuckles?

17 A No.

18 MR. GIESE: That's all, Your Honor. Thank you.

19 COURT REPORTER: That would be State's No. 94?

20 Q I was referring to State's No. 94; is that correct?

21 A Yes, for Treshawn Jenkins standard?

22 Q Yes, ma'am.

23 THE COURT: All right. Anything on recross?

24 MR. FARLEY: No, Your Honor.

25 THE COURT: All right. Thank you, ma'am. You may

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1 step down. I appreciate it.

2 MR. GIESE: May this witness be excused, Your
3 Honor.

4 THE COURT: Sir?

5 MR. GIESE: May this witness be excuse?

6 THE COURT: Any problem with her being excused?

7 MR. FARLEY: Yes, Your Honor.

8 THE COURT: You do? She may be excused?

9 MR. FARLEY: Oh, she may be excused.

10 THE COURT: You're excused from your subpoena.

11 THE WITNESS: Thank you.

12 THE COURT: Thank you, ma'am.

13 MR. FARLEY: Just all these numbers and
14 everything.

15 THE COURT: I know. I know. It gets confusing to
16 -- yeah.

17 Is the State ready to call its next witness?

18 MS. CORNWELL: Your Honor, I believe that we need
19 to take a break. The next witness is traveling up from
20 court in Dorchester County and left about quarter to 11. So
21 I would assume he's going to be here any minute.

22 THE COURT: How long as the next witness going to
23 take?

24 MS. CORNWELL: About as long as long as Ms.
25 Andrews took.

1 THE COURT: Okay. All right.

2 All right. Ladies and gentlemen, what we're going to
3 do, we're going to take another, hopefully short break,
4 okay? And I'm going to let you go back into your jury room.
5 Remember -- what do I tell you all the time? You cannot
6 talk about the case yet, okay? So y'all go on back there.
7 And I think after we take that witness, we'll probably break
8 for lunch?

9 MS. CORNWELL: Yes, Your Honor.

10 THE COURT: Okay. That's kind of what the plan
11 is. So start thinking about lunch, but don't plan it, okay?
12 And no talking about this. Thank you.

13 (Jury out at 11:47 a.m.)

14 (Court in recess for break at 11:47
15 a.m.)

16 (Court in session after break at
17 12:12 p.m.)

18 THE COURT: And who is this?

19 MR. GIESE: It's going to be Chad Smith.

20 THE COURT: Chad Smith?

21 MR. GIESE: From SLED.

22 THE COURT: Okay. Still got the same last name?

23 MR. GIESE: Yes.

24 THE COURT: All right. Okay. I've got seventeen.

25 (Jury in at 12:12 p.m.)

So are you ready to go?

THE COURT: Yes, sir.

THE COURT: All right.

MR. GIESE: May it please the Court, Your Honor.

(WHEREUPON, Chad Smith was sworn to tell the truth.)

BY MR. GIESE:

A: I work at the South Carolina Law Enforcement Division, commonly known as SLED. Specifically, I work at SLED's forensic services laboratory in Columbia.

A I am a firearm and tool mark examiner in the firearms department. Specifically, what I work on is examination of firearms, ammunition, ammunition components, tools and tool marks. The majority of what I do day-to-day is try to

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1 determine if a specific firearm fired a specific ammunition
2 component, such as a bullet or a cartridge case.

3 Q How long have you been doing that?

4 A A little over nine years now.

5 Q Okay. And what's your education and training in that
6 regard?

7 A I attended Clemson University where I earned a bachelor
8 of science degree in biological sciences. And when I came
9 onboard at SLED I started my training as a firearm and tool
10 mark examiner. This training program last between three to
11 five years. It is supervised by the court-qualified
12 examiners of the firearms department. It involves extensive
13 reading and studying and workbook examinations and test
14 given during this period. I also attended various classes
15 and courses. And later in the training, I helped the other
16 examiners prepare their own casework. At the end of the
17 training, I received a comprehensive multi-part examination,
18 which I successfully passed and then I began to receive my
19 own casework.

20 Q Okay. And that's what you're currently doing now?

21 A Yes, sir.

22 Q In that regard, did you analyze some evidence in this
23 case?

24 A I did.

25 Q Have you ever been qualified as an expert before?

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1 A Yes, sir.

2 Q What have you been qualified as an expert of?

3 A Firearms identification is my category.

4 Q Okay. Have you testified previously as an expert?

5 A Yes, sir.

6 Q How many times?

7 A Over forty times.

8 MR. GIESE: Your Honor, at this time the State
9 would submit Agent Chad Smith as an expert in the field of
10 firearms identification.

11 THE COURT: Any objection?

12 MR. FARLEY: No, Your Honor.

13 THE COURT: Okay. Ladies and gentlemen, Agent
14 Smith's been identified as an expert in firearms
15 identification. Remember what I told you earlier about
16 expert opinions. This applies to Agent Smith, as well,
17 okay?

18 Go ahead.

19 MR. GIESE: Thank you, Your Honor.

20 THE COURT: Yes, sir.

21 BY MR. GIESE:

22 Q And Agent Smith, if you can -- and you kind of touched
23 on earlier, if you could describe what firearms
24 identification is and what you do?

25 A Firearms identification is a field of forensic science

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1 in which an examiner tries to determine if an ammunition
2 component, usually bullets and cartridge cases, were fired
3 by a specific firearm. In the absence of a firearm, and we
4 just get, say, just a bunch of cartridge cases or bullets
5 and try to determine possibly how many guns were involved.

6 Q Did you have a firearm or cartridge casings in this
7 case or bullets?

8 A No firearm was submitted, but I've seen a number of
9 cartridge cases as well as some bullets and some other
10 fragments.

11 MR. GIESE: May I approach the witness, Your
12 Honor?

13 THE COURT: You may.

14 BY MR. GIESE:

15 Q Agent Smith, this is -- these have been entered into
16 evidence as State's Exhibit 54 through 78. Have you had the
17 opportunity to identify those?

18 A Yes, I did.

19 Q What are those?

20 A Just to give an example, these are the twenty-five
21 fired cartridge cases that I received for examination. This
22 is just one of them here. As you can see, this is the
23 cartridge case itself. It's 7.62 by 39mm caliber. All of
24 them are the same caliber. And what I did was, when it was
25 received, it was received inside this little box, inside

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1 this pouch here. So when I resealed it, I just left it
2 outside so that, you know, jurors or Solicitors or whoever
3 wanted to see the cartridges, there it is. And all of I
4 previously went through and all of them have my seal date
5 and my initials.

6 Q What is a cartridge casing?

7 A A cartridge case is a part of a cartridge. A lot of
8 people think -- or just think of a unit of ammunition is
9 called a bullet. Well, technically, that's not really
10 correct. A cartridge is an actual unit of ammunition. It
11 is made with several parts. You've got the cartridge case,
12 which is the actual container for all the other components.
13 So you've got the cartridge case. Inside of it contains the
14 gunpowder and then the projectile bullet is on top of the
15 cartridge. It kind of seals it. At the bottom of the
16 cartridge case is a -- called a primer. And so when the
17 primer is actually struck by a firing pin, it ignites the
18 gunpowder inside the cartridge case, which then pushes the
19 bullet out of the cartridge case and down the barrel of the
20 firearm.

21 Q Okay. And what was your analysis of all twenty-four of
22 those cartridge casings?

23 A Well, twenty-five.

24 Q Twenty-five, excuse me.

25 A That all of them were fired by the same firearm. It

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1 || was one firearm that fired all twenty-five cartridge cases.

2 Q And what was the caliber of bullet or --

3 A Like the cartridge case was marked 7.62 by 39mm. Is
4 the actual caliber of that specific cartridge case of all
5 the cartridge cases.

6 Q And were all twenty-five of those the same?

7 A Yes.

8 Q Okay. Agent Smith, I'm now going to show you what's
9 been marked as -- or that's been entered into evidence as
10 State's Exhibits 80, 81, 82 and 83. Did you have the
11 opportunity to identify those as well?

12 A Yes, I did.

13 Q And what are those?

14 A These are the fired bullets and -- or pieces of bullets
15 as well that I received.

16 Q If you could kind of go through each one of those, what
17 they're labeled as and what they are? What you determined
18 -- or what your analysis was on each one?

19 A State's Exhibit 80 is a fired bullet. And it's the
20 projectile portion of a cartridge as you can see here.

21 MR. FARLEY: Your Honor, could we have him state
22 the SLED's item number so that we can go through on his
23 report?

24 THE COURT: Do you mind doing that?

25 THE WITNESS: No, it's not a problem.

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1 THE COURT: Okay.

2 A So State's Exhibit 80 is my item 34. That's what
3 submitted to SLED as item 34. State's Exhibit 81, which is
4 SLED item 33 is another fired bullet. State's Exhibit 82,
5 which is SLED item 36 is a bullet jacket fragment. And when
6 I say the jacket portion, that is the outer covering of a
7 jacketed bullet. So you can have jacketed bullets or un-
8 jacketed bullets. In this case, a jacketed bullet means
9 there is a softer inside. It would be like a lead core.
10 And then the outside has a harder material, which is the
11 jacket. So this would be just the jacket portion of a fired
12 bullet. State's Exhibit 83, which is SLED item 35 is a
13 jacket, fired bullet jacket.

14 BY MR. GIESE:

15 Q Was that all?

16 A Yes, sir.

17 Q Okay. I'll take those back. What other type of
18 analysis did you do in this case?

19 A I would have compared those bullets together to see if
20 possibly they were fired by the same firearm. And I was
21 able to determine that three of the bullets or jackets were
22 fired by the same firearm. One of the jacket fired bullets,
23 my item 34, which I don't remember what the State's Exhibit
24 Number was, was unsuitable for identification of a specific
25 firearm. It was just too damaged to really determine if it

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1 was fired by the same firearm as the others. So it was
2 really inconclusive with the other bullets.

3 Q Okay. And what kind of firearms did you determine or
4 did you determine any?

5 A Yes. One of the analysis that we can do with fired
6 bullets, in the absence of having a firearm, is we can take
7 the information that's on our bullet, fire it from a gun
8 that is marked by the rifling of a barrel -- so when I say
9 rifling, basically what that does is, it's made up of a
10 series of lands and grooves, the raised portions and a lower
11 portion inside the barrel. It has a twisted pattern. So
12 what that rifling does is, it grips the bullet as it's going
13 down a barrel and it causes it to spin. Well, that spin,
14 once it exits the barrel makes it more accurate towards its
15 target. Think of it like a professional football quarter,
16 when he throws a football, he wants a nice tight spiral to
17 hit his target. Well, that's the same thing with what
18 rifling does. So the rifling marking the bullet, we can use
19 the number of lands and grooves, the direction of the twists
20 of the lands and grooves. And also we can measure the width
21 of those lands and groove impressions on the bullet. And we
22 can take that information and we have a database that we can
23 put it into and it generates a list of possible
24 manufacturers or origins of firearms that could have fired
25 that gun [sic]. So that may be particular important for an

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1 investigator if they're looking for -- you know, what kind
2 of gun they may be looking for. If they don't have a gun,
3 but say they just get a BOLO or whatever, you know, to be on
4 the lookout for a specific gun. That was also generated and
5 put in the report.

6 Q Okay. And what are those? What is that list?

7 A There's a couple of manufacturers listed here. If you
8 want me to go through them?

9 Q Yeah, if you don't mind?

10 A One of them is Bee West. Another is Czechoslovakia,
11 which would I indicate a firearm that was made in
12 Czechoslovakia. Norinco, Polytech, Roman, Russia and Valmet
13 are all possible manufacturers of guns that could have fired
14 that gun [sic]. Again, this is just a broad list of
15 possible manufacturers. And it doesn't give models or
16 anything like that. And also too, that list is not all
17 inclusive. So there may be other things out there that
18 aren't on the data base that fires a specific bullet as
19 well.

20 MR. GIESE: May I have one moment, Your Honor?

21 THE COURT: You may.

22 MR. FARLEY: We're going to have an objection so
23 we probably should approach about this one.

24 (Off the record bench conference with counsel and the
25 Court.)

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1 MR. GIESE: May it please the Court, Your Honor?

2 THE COURT: Yeah. Go ahead.

3 BY MR. GIESE:

4 Q I apologize, Agent Smith. I'm going to show you what's
5 been marked as State's Exhibit 90. Can you identify that
6 for me?

7 A Yes. This is the SLED lab item number 6. It is
8 basically just some small fragments that were collected at
9 autopsy. And I really couldn't tell if they were actually
10 parts of a fired bullet or if they came from some other
11 origin. Other than that, that's really all there is to it.
12 It was unsuitable for identification of things like a
13 firearm, if it had been parts of a fired bullet.

14 Q Okay. Does that happen from time to time?

15 A Yes, sir.

16 Q Okay.

17 A A lot of times we just get like some fragments that
18 really doesn't have any kind of rifling impression on it or
19 anything. So we really can't say for sure that it is part
20 of a bullet.

21 Q But are the characteristics of that fragment consistent
22 with a bullet?

23 A Of those particular bullets, yes. Because they are
24 magnetic. It had a, what's known as a five-metal jacket,
25 again that covering. So it was kind of a hybrid between

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1 steel and copper outer layer. So it's a magnetic. And one
2 of those fragments, the copper piece and it was also
3 magnetic. And it also had two small lead fragments with it.
4 So it could have been part of a bullet.

5 Q Okay. And on that bullet fragment as well as State's
6 Exhibits --

7 MR. GIESE: I apologize, Your Honor.

8 THE COURT: Take your time.

9 BY MR. GIESE:

10 Q -- 80 through 83, which were the other bullets you
11 tested, did you do the same -- was is the same protocol of
12 getting those to you as the cartridge casings were?

13 A Yes, sir.

14 Q And could you go over that one more time for us?

15 A When evidence is submitted to SLED from a submitting
16 agency, it goes through our evidence control department
17 first. And so what that does is they submit the evidence
18 through -- there's a technician there that helps the
19 submitter submit that evidence. They go through, they log-
20 in the paperwork. They scan the paperwork, put it in our
21 computer system. They also give the case specific lab
22 number. And so they also print out a barcode with that lab
23 number and other information that's placed on packaging
24 that's submitted. So then when I'm ready to work the case,
25 I can go downstairs to the evidence control department where

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1 everything is kept secure, and I can request certain
2 evidence to be picked up. And then I can take it back to my
3 office and store it in my secure location in my office until
4 I'm ready to work the case. And so that's what happened
5 here. When I was getting the evidence from our evidence
6 control department, they scan everything to my custody, and
7 then I take it back up to my office until I'm ready to work
8 the case.

9 Q Okay. Was there any evidence of tampering?

10 A No, sir. No.

11 Q Okay.

12 MR. GIESE: Your Honor, could I have one more --
13 one moment, please?

14 THE COURT: Sure.

15 (Off the record bench conference with counsel and the
16 Court.)

17 BY MR. GIESE:

18 Q All right. I apologize. I'm showing you a picture
19 here. I'm going to mark it as State's 95.

20 (State's Exhibit No. 95, photo, was
21 marked for ID)

22 Q Can you identify that?

23 A It's a photograph of what appears to be a firearm.
24 Specifically, I don't know what type. It looks like it a
25 Roman.

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1 MR. FARLEY: Your Honor, that's going to be
2 hearsay.

3 THE COURT: Well, can you -- I'm sorry. Can you
4 show him the other picture without the -- does it show --

5 MR. GIESE: We'll withdraw it, Your Honor.

6 THE COURT: Okay. All right. Okay. All right.

7 BY MR. GIESE:

8 Q So after all that analysis you did, any other
9 involvement or investigation in this case?

10 A No, sir, other than issuing a report.

11 Q Okay. Thank you. Please answer any questions Mr.
12 Farley may have.

13 THE COURT: Mr. Farley, any questions for this
14 witness?

15 MR. FARLEY: Yes, sir.

16 CHAD SMITH - CROSS-EXAMINATION

17 BY MR. FARLEY:

18 Q The debris or the stuff that was labeled as coming from
19 the autopsy?

20 A Yes, sir?

21 Q You can't -- you're not sure that it is a bullet,
22 correct?

23 A Right. Yeah, it was so small and damaged that I really
24 can't say that it was part of a bullet or if it came from
25 some other source.

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1 Q But if it was a bullet, you couldn't tell what kind of
2 bullet it came from, what kind of gun it was fired from?

3 A No. It had no -- any kind of characteristics on it,
4 that would have indicated it had been fired from a gun.

5 There's no -- how small it was and there was no
6 characteristics on it that showed any kind of rifling
7 impressions or anything that it was fired from a firearm.

8 Q All right. Thank you.

9 MR. FARLEY: No further questions.

10 THE COURT: Anything on redirect?

11 MR. GIESE: No, sir, Your Honor.

12 THE COURT: You may step down.

13 MR. GIESE: May this witness be excused?

14 THE COURT: Any problem excusing this witness?

15 MR. FARLEY: Yes, he may be excused.

16 THE COURT: All right. Thank you, sir. I
17 appreciate your coming.

18 All right. Can I see y'all for just one quick second?

19 (Off the record bench conference with counsel and the
20 Court.)

21 THE COURT: All right. Ladies and gentlemen, what
22 I'm going to do is I'm going to give y'all until 2:00 to
23 come back from lunch. Hopefully, we'll finish up the
24 State's case this afternoon. Again, remember, you cannot
25 talk about the case. Cannot do any independent research,

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1 anything like that. Go have a good lunch and I'll see y'all
2 back at 2:00. Thank y'all so much.

3 (Jury out at 12:33 p.m.)

4 THE COURT: All right. Y'all want to come back in
5 about forty-five minutes to an hour with the case law for me
6 to look at?

7 MR. FARLEY: Yes, Your Honor.

8 THE COURT: Okay. All right. We're doing some
9 research on our own, so maybe between --

10 MS. CORNWELL: And may I email you then with what
11 I found, just so y'all can --

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

13 All right. We'll see y'all in about an hour.

14 (Court in recess for lunch at 12:34
15 p.m.)

16 (Court in session after lunch at
17 2:05 p.m.)

18 THE COURT: All right. Mr. Farley, I know you
19 aware that the State plans to introduce the -- is it July
20 27th?

21 MS. CORNWELL: Yes, Your Honor.

22 THE COURT: -- confession of Mr. Jenkins.

23 MR. FARLEY: That's correct.

24 THE COURT: And I realize there were two prior
25 video conversations where he did not confess, July 20th and

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1 22nd, I believe?

2 MR. FARLEY: That's correct.

3 THE COURT: Okay. And you had mentioned to me
4 that you believe that the State should be required to
5 present the two additional videos as part of their original
6 case, I'm assuming, based on the rule of completeness or am
7 I misstating?

8 MR. FARLEY: No, that's correct, Judge. I believe
9 that's 106, I think? Yeah, 106.

10 THE COURT: Okay. Do you want to tell me what
11 your argument is?

12 MR. FARLEY: Well, Judge, it's like taking a
13 snippet. It's like taking it out of conversation [sic]
14 because -- I mean, taking the conversation out of context.
15 It's like reading a book and you go to the first chapter and
16 the whoops, let's skip over to the third and trying to
17 figure out what's going on. That chapter two could be real
18 important. In this case, chapter two is very important
19 because they make promises to him. They say I want to help
20 you. I want to help you get back with your baby girl. All
21 you've got to do is help me. That's something, I think that
22 the jury ought to see. And I think that's something that
23 the jury ought to see put into context, that over that five-
24 day period this man has in his head that if I cooperate with
25 the police they're going to get me back to my baby girl.

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1 And the Court has seen all the other things that I showed
2 earlier. That's the most egregious one. But, you know, if
3 they're going to use -- if they're just going to bring in
4 the confession, the only right thing to do would be to make
5 them bring in the denials leading up to the question -- to
6 the confession.

7 THE COURT: Okay. Since they are -- I think the
8 State's position if I'm anticipating it correctly is that
9 they'll be glad to show all of the July 27th confession, but
10 the July 20th and 22nd confession, are things that the
11 Defendant should be required to put into evidence.

12 MR. FARLEY: I understand that argument. And the
13 argument I'm making is that first that they're one -- that
14 they should be considered as one interview, as one
15 interrogation. So that's step one. That's what I want to
16 get on record. And then Step two is because if they are
17 essentially one single -- one single interview -- they'll
18 call it interview. We know it's an interrogation. Since
19 they're one single interrogation, then they should be treated
20 as one and brought in as one. And the jury should be able
21 to see that one long interview.

22 THE COURT: Well, just since we're in here
23 talking, had he not been Mirandized for one of these
24 conversations -- I mean, each one of these conversations, he
25 should have --

1 MR. FARLEY: He was under Miranda. That's
2 correct.

3 THE COURT: On each separate time?

4 MR. FARLEY: That's correct.

5 THE COURT: And if for one of those times he had
6 not been Mirandized, it wouldn't be able to come in at all,
7 right? I mean, in other words if they Mirandized him on
8 July 20th and had to continue to Mirandize him on July 22nd
9 and again on July 27th.

10 MR. FARLEY: But we're past that point. It's
11 already in. That would have been a discussion to be made,
12 you know, back when it was a suppression hearing. And I
13 think that, yeah, at that point if that was un-Mirandized
14 then if all the factors have been met, I think that would be
15 true.

16 THE COURT: Right.

17 MR. FARLEY: But right now we're not dealing with
18 that. We're past that.

19 THE COURT: No, I understand that. But I guess
20 what I'm getting at is the State cannot rely -- your
21 argument is it's all one interview?

22 MR. FARLEY: That's correct.

23 THE COURT: On inquisition. I'll change the word,
24 okay?

25 MR. FARLEY: Detention.

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1 THE COURT: So if your argument -- if I'm going to
2 take your argument I could say once he was Mirandized on
3 July 20th that was good for as long as they talked to him,
4 right?

5 MR. FARLEY: I think that's the law unfortunately.
6 I think the Supreme Court said about three years ago that
7 you don't have to interrogate [sic] somebody every time you
8 speak to them.

9 THE COURT: You mean don't have to Mirandize them?

10 MR. FARLEY: You don't have to Mirandize every
11 time you speak to him. One Miranda, I think they said --
12 now, don't quote me on this. But I think they said that one
13 Miranda was good for like -- I think the case was two weeks.

14 THE COURT: Okay.

15 MR. FARLEY: But I'm almost certain of that. It's
16 a U.S. Supreme Court case.

17 THE COURT: Okay. Do you have any case law for me
18 to look at it that way.

19 MR. FARLEY: I don't. And I think we have the
20 opportunity here to make some new law, Judge. And, base it
21 -- you know, the case the Solicitor relies on, I just don't
22 think that it's on point with this particular issue.

23 THE COURT: Which one? I've got two cases from
24 the Solicitor's office. One is State versus Caberra Pena?

25 MR. FARLEY: Yeah. I'm referring to Caberra Pena,

1 Judge.

2 THE COURT: Okay. And then I have another one,
3 State versus Timmons. Did you see that one?

4 MR. FARLEY: Okay. All right.

5 THE COURT: Timmons seems to be the case.

6 MR. FARLEY: Yeah.

7 THE COURT: Okay.

8 MR. FARLEY: And I think what we have here -- I
9 mean, basically it's the State -- I guess the State's
10 argument is that the first two interrogations are self-
11 serving statements. Is that where the State's going with
12 that because that's an issue that arises in the case?

13 THE COURT: Yeah. I mean, if you look in the
14 Caberra argument they're talking -- referring to State
15 versus Terry. And it says we -- in State versus Terry it
16 says we held that Terry who had elected not to testify could
17 not thereafter admit the self-serving statement he made to
18 the police, which --

19 MR. FARLEY: We're not at that point yet.

20 THE COURT: Right.

21 MS. CORNWELL: Your Honor, if I may, I can let you
22 know what my argument is so we don't have guess about it.

23 THE COURT: Okay. Well, I just wanted to mention
24 -- I'm sorry. I was trying to --

25 MS. CORNWELL: The State is not going to object to

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1 --

2 THE COURT: Are you through?

3 MR. FARLEY: Yes.

4 THE COURT: I'll give you a chance to reply.

5 Okay. Yes, ma'am.

6 MS. CORNWELL: The State is not going to object to
7 self-serving hearsay or anything under 803. I think under
8 the rule of completeness, if I were trying to extract
9 certain things out of the 7/27 statement and not move the
10 entire statement in, then by saying well, that's serving
11 hearsay. The rule of completeness requires that the entire
12 conversation be put in and the Defense be allowed to cross-
13 examine on that. The rule of completeness does not require
14 me as the State to put the entire thing in. The rule of
15 completeness states that where the state elects to use a
16 witness to elicit portions of a conversation and
17 incriminating statements therein made by Defendant, the rule
18 of completeness requires that the Defendant be permitted to
19 inquire into the full substance of that conversation. If
20 the Defendant wants to cross-examine Lieutenant Shumpert on
21 any of the prior statements, I'm not going to object to that
22 at all. But the State is not forced to introduce evidence
23 that the State does not feel is relevant to their case. I
24 think that State v. Caberra Pena, which also quotes State v.
25 Jackson and State v. Taylor all emphasize that the rule of

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1 completeness isn't that the State has to move in evidence.
2 It is that the Defendant be permitted to cross-examine on
3 evidence not put in by the State. I'm not objecting to them
4 coming in. If Defense counsel wants to move those in and
5 play them, he is more than welcome to do that. I'm just not
6 putting them in in my case in chief. I think they are three
7 separate and distinct statements. I think that they are
8 done days apart. And, in fact, the Caberra Pena case even
9 states that in that case -- this is not a case where
10 defendant gave numerous written or oral statements over
11 several hours, days or weeks. That case between the written
12 and oral statement that was done during the same one-hour
13 interview, which is what this is. The State intends to
14 introduce the full interview of 7/27 in its entirety. As
15 for the two completely separate statements that are given on
16 the 20th and the 22nd, those are inextricably entwined with
17 the 7/27 statement, and I'm not even objecting to them
18 coming in. I'm just not required to put them in, in my case
19 in chief. If Defense counsel wants to move them into
20 evidence and show them through his cross-examination, the
21 State will not object to that. But the State does not
22 intend to introduce those two statements in the case in
23 chief and there is no case law -- we don't need to make new
24 case law because all case law is very clear on this, that
25 the only objection would be if I moved to object to moving

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1 it in and not allowing cross-examination of it. And that's
2 not what the State's doing. The State is more than happy to
3 have them come into evidence through Defense counsel.

4 MR. FARLEY: I understand the State's argument and
5 I understand why they want to do. I know why they're scared
6 to have the prior statements, and I know what trial tactic
7 they're using. But the question -- the question is -- let's
8 go at it a different way. Question one is if they elected
9 to just put one snippet of the video they intend to show to
10 the jury, would they be required to show the rest of it or
11 would I have to raise the -- or would I have to introduce
12 the rest of it by myself. I think that the overwhelming
13 agreement that the State argued is, yes, I would not have to
14 bring that in. The State has brought it in. The State has
15 introduced it. We can show the entire thing. Does everyone
16 agree on that?

17 MS. CORNWELL: Yes.

18 MR. FARLEY: All right. So then the point that
19 I'm making for appellate purposes is that because these
20 interviews are about the same thing, the way that they're --
21 the way that they can be perceived and I'm proposing that
22 they should be perceived, as one string of interview.
23 Therefore, I think that that one -- the State should be
24 required to bring that entire interview in instead of
25 slicing and dicing like they intend to do. So one

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1 interview. The State has to let the jury see the whole
2 interview if they want to bring part of it in. So rather
3 than let the State chop it up as they will. One interview,
4 they've got to show the whole thing. That's what I'm
5 saying.

6 THE COURT: Okay. I'm going to come back to you
7 in a minute. Ms. Cornwell, referring to that Caberra
8 opinion, do you have your copy of that order?

9 MS. CORNWELL: Your Honor, I pulled it up on the
10 computer and just took some handwritten notes real quick.

11 THE COURT: Okay. Would you hand -- do you mind
12 letting her look at it. And would it turn to page four.
13 I'm assuming page four is the same thing that I've got a
14 copy of. And you can ignore his highlights.

15 MS. CORNWELL: Page four of eight, Your Honor?

16 THE COURT: Yes, ma'am. Yeah, I think it's eight.
17 Yeah it is eight. If you'll look at the second full
18 paragraph. In the middle of that second full paragraph, it
19 starts off with the -- what you were talking about. It says
20 this is not a case in which the Defendant gave numerous
21 written and oral statements to police over several hours,
22 days or weeks, which would be our situation?

23 MS. CORNWELL: Yes, Your Honor.

24 THE COURT: Okay. Is that correct?

25 MS. CORNWELL: Yes, Your Honor.

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1 THE COURT: What do you believe they're implying
2 about that?

3 MS. CORNWELL: Your Honor, I believe that what
4 they're implying is that -- you know, several hours. If the
5 conversation ended and several hours later law enforcement
6 brought him back over, he reached out and said he wanted to
7 talk then, that's not one continuous interview. That is a
8 conversation that is started and ended and then a new
9 conversation is started. And what case law says is that
10 that conversation has to be allowed in its entirety. I
11 believe that's why they specifically state, hours, days or
12 weeks. Because a conversation -- I don't get to bring in a
13 conversation that I had four months ago by saying well, it's
14 a continuing conversation because we started talking about
15 this four months ago, you know. I can't even bring in last
16 week. When we started talking about this last week -- so
17 we're still in the same one conversation.

18 THE COURT: Uh-huh. (Affirmative response)

19 MS. CORNWELL: There are days in between each of
20 these interviews. He's re-Mirandized on every interview.
21 His statement are all completely voluntary and it's not a
22 continuing -- I mean, just because Mr. Farley wants it to be
23 classified as one interview and one conversation, that's not
24 what case law says it is. That's not what anything I've
25 found has said that it is. And I believe that that's

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1 specifically what the court is looking to when they say
2 that, you know, this not a conversation over several hours,
3 days or weeks. To the contrary, this was a one-hour
4 conversation with police wherein Caberra Pena gave a
5 statement a written statement and vocal statements, which is
6 what we're showing here. He gives a vocal statement in
7 this. He goes through the lineups in this. The State
8 intends to show the entirety of this. That is the
9 conversation. That is the one statement that the case --
10 that the State is moving in. The two other interviews are
11 not a part of that statement. They're not a part of that
12 conversation. And so the rule of completeness, again,
13 doesn't require me to put it in.

14 THE COURT: Okay.

15 MS. CORNWELL: I mean -- and I understand that Mr.
16 Farley's trying to say the rule of completeness would
17 require all of it to come in. Under this example, if the
18 State moved in video and then only tried to show portions of
19 that video, then I believe that the Defendant gets to show
20 the whole video under what the State moved in. However, if
21 the State never moved in the video and we simply asked for
22 oral testimony and never moved the video into evidence and
23 Defense wanted to show the video to point out things, then I
24 do believe that they would have to admit the video
25 themselves.

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1 THE COURT: Okay. All right. Let me tell you
2 what bothers me about it, okay? And I don't get a direct
3 answer in any of the case law, okay? I don't. I looked at
4 Rule 106 and I figured I'd just go through and read it and
5 write it out to see if did anything, if it explained to me
6 with regard to recorded statements. And so when I read it,
7 to me it reads like this. When a recorded statement is
8 introduced by a party, an adverse party may require the
9 introduction at that time of any other recorded statements,
10 which in fairness to be considered contemporaneously with
11 it, okay, which to me would lend itself toward your
12 argument, okay? Unfortunately, I can't find any case law
13 that says that. And I don't know that State versus Caberra
14 Pena really helps me out since it says that it's a case --
15 which it is not a case where they gave separate statements.
16 So we looked at the handbook of federal evidence regarding
17 Rule 106, trying to get some guidance from there. You would
18 think that since the state rules of evidence are based on
19 federal rules evidence, perhaps we could get some guidance.
20 And I'm going to read you what it says. It says to
21 illustrate the proper application of Rule 106, while an
22 additional part of a written or recorded confession or a
23 simple admission of the criminal defendant on the same
24 subject matter that explains, qualifies or otherwise sheds
25 light upon that portion of the accused statements offered by

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1 the prosecution would satisfy Rule 106, a separate
2 statement, written or recorded, made by the criminal
3 defendant denying the events acknowledged in the statements
4 offered by the prosecution would not, under Rule 106, be a
5 part of any other writing or recording which ought, in
6 fairness be considered contemporaneously, nor, in fact, be
7 admissible at all. Nothing in Rule 106 in any manner
8 authorizes, for example, admission of an unrelated, separate
9 and distinct writing or recorded statement made under
10 separate and remote circumstances, whether in contemplation
11 of litigation such as the accused denial of wrongdoing
12 during an initial interview or interrogation.

13 And I realize your argument has to do with the fact
14 that it's certainly not unrelated and it's not remote, you
15 know. I think what I've got to do, Mr. Farley, is to rule
16 that the State can -- and you can require them to read [sic]
17 all of the July 27th video and it allows you to bring in
18 those others, but I don't think -- the way I read the law
19 right now, I don't think I can require them to put that in
20 as part of the rule of completeness. I certainly am going
21 to note your objection because I think it's an interesting
22 point that needs to be addressed. Unfortunately, I'm not
23 the one to properly address that, but I'm certain -- I think
24 we're noting the objection on the record. I think we've
25 proffered all the problems we've got with it or that the

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1 Defendant has with it so that it can be addressed hopefully
2 by someone --

3 MR. FARLEY: Hopefully, we don't need to do that.

4 THE COURT: Well, I can't -- all I have to do is
5 -- I've just got to get it preserved on the record so y'all
6 can go from there, okay?

7 MR. FARLEY: Thank you, Judge.

8 MS. CORNWELL: Thank you, Your Honor.

9 THE COURT: All right.

10 MR. FARLEY: We've got --

11 MS. CORNWELL: Dr. Ross and Lieutenant Shumpert
12 and we'll be done for the State.

13 THE COURT: What have we got?

14 MS. CORNWELL: Dr. Ross and Lieutenant Shumpert,
15 Your Honor.

16 THE COURT: Okay.

17 MS. CORNWELL: And both of them are here and ready
18 to roll.

19 THE COURT: All right. Y'all ready to go and
20 you're ready to go?

21 MR. FARLEY: Yes, sir.

22 THE COURT: Let me get a cup of coffee and then
23 I'll be ready to go, okay? Let me get a cup of coffee.

24 (Pause)

25 THE COURT: All right. Is the State ready?

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1 MS. CORNWELL: We are, Your Honor.

2 THE COURT: And the Defense ready?

3 MR. FARLEY: Yes, Your Honor.

4 THE COURT: Okay. Would you bring the jury back
5 in?

6 THE BAILIFF: Yes, Your Honor.

7 (Jury in at 2:27 p.m.)

8 THE COURT: All right. Ladies and gentlemen, we
9 will continue with the State's case this afternoon.

10 Mr. Giese, is the State ready to call it's next
11 witness?

12 MR. GIESE: Yes, sir. The State calls Dr. Janice
13 Ross.

14 THE COURT: Dr. Ross.

15 THE COURT: Thank you, Dr. Ross. You need to talk
16 loudly, please, ma'am. I'm getting deaf.

17 Okay. All right. Go ahead, Mr. Giese.

18 MR. GIESE: May it please the Court, Your Honor?

19 THE COURT: Yes, sir.

20 (WHEREUPON, Janice Ross was sworn
21 to tell the truth.)

22 JANICE ROSS - DIRECT EXAMINATION

23 BY MR. GIESE:

24 Q Dr. Ross, can you tell the jury a little bit about your
25 work experience, your education and your training?

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1 A Yes. I have a four-year degree from the University of
2 South Carolina in biology. And then I did four years of
3 medical school and got M.D., Upstate Medical Center in
4 Syracuse, New York, where I did further training in the
5 field of pathology. Pathology as opposed to surgery and
6 pediatrics trains us how to identify diseases, looking at
7 tissue and looking at tissue under the microscope and using
8 the laboratory results to help diagnose diseases. We also
9 learn how to do an autopsy, to identify cause of death. I
10 did further training in the medical examiner's office in
11 forensic pathology where we learn how to identify patterns
12 of injury in cases involving homicide, suicide, accident,
13 rapes and a lot of them end being natural deaths. To
14 identify cause of death and manner of death. I'm board
15 certified in three areas of pathology.

16 Q Is that the American Board of Pathology?

17 A Yes.

18 Q Approximately how many autopsies have you performed?

19 A Approximately twelve thousand.

20 Q And have you ever testified in court as an expert in
21 the field of pathology?

22 A Yes.

23 Q Approximately how many times?

24 A Approximately two hundred times in the State of South
25 Carolina.

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1 MR. GIESE: And, Your Honor, at this time the
2 State would move to introduce Dr. Ross as an expert in the
3 field of pathology?

4 THE COURT: Any objection?

5 MR. FARLEY: No, Your Honor.

6 THE COURT: All right. Ladies and gentlemen, Dr.
7 Ross is qualified as an expert in the field of pathology. I
8 would again remind you of my instruction about expert
9 witnesses that I gave earlier, okay?

10 All right. Go ahead. Thank you, sir.

11 MR. GIESE: Thank you, Your Honor.

12 BY MR. GIESE:

13 Q Dr. Ross, were you working as a pathologist in July of
14 2016?

15 A Yes.

16 Q Did you perform an autopsy on a Ms. Jacqueline Wright
17 during that time?

18 A Yes, I did.

19 Q Can you tell the jury what an autopsy is?

20 A Yes, we do autopsies for the coroners of the State of
21 South Carolina. The coroner calls us and authorizes it and
22 schedules it and sends us the patient to the morgue at
23 Newberry County Memorial Hospital where we review the body.
24 Open the body bag, look at the external body, identify any
25 clothing and jewelry, whatever is on the person. And then

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1 we identify -- take all the clothing off and identify any
2 external injuries, taking photographs and whatever. In this
3 case, there was an obvious gunshot wound so we did an x-ray
4 too identifying whether there were any more pieces of bullet
5 in the person.

6 Q Okay. And what did you observe?

7 A We observed what we call a perforating gunshot wound to
8 the head, meaning there was an entrance and an exit. And
9 the x-ray did show two small fragments still in the brain.

10 Q Okay. What day did you perform this autopsy?

11 A July 21, 2016.

12 Q Okay. How long does it take for a body to start
13 decomposing?

14 A It depends on temperature, temperature of the person
15 when he or she died, the environment, whether it's wet or
16 dry. There are all kinds of reasons.

17 Q So what were your findings regarding that gunshot
18 wound, was that the cause of death?

19 A Yes.

20 Q Okay. Approximately how long would it have taken for
21 the victim to die as a result of that injury?

22 A She would have been unconscious immediately and
23 permanent -- death in approximately five minutes.

24 Q Okay.

25 THE COURT: Approximately how many?

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1 THE WITNESS: Five minutes.

2 THE COURT: Five minutes?

3 THE WITNESS: Yes.

4 MR. GIESE: Your Honor, may I approach the
5 witness?

6 THE COURT: You may.

7 BY MR. GIESE:

8 Q Dr. Ross, I'm showing you what's been marked as State's
9 Exhibit 91. Do you recognize that?

10 A Yes, this is the right side of the head of Jacqueline
11 Wright, showing the ear, just above the ear, the right ear
12 is the entrance wound that just nicks the top of the ear.

13 Q Did you take that photo?

14 A Yes.

15 Q Is that a fair and accurate representation of what the
16 gunshot wound in her body looked like that day?

17 A Yes.

18 MR. GIESE: Your Honor, I'd move State's 91 into
19 evidence.

20 THE COURT: Any objection?

21 MR. FARLEY: No, Your Honor.

22 THE COURT: Okay. State's 91 is into evidence
23 without objection.

24 (State's Exhibit No. 91,
25 photo, was marked and entered)

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1 BY MR. GIESE:

2 Q Dr. Ross, when you're examining a gunshot wound
3 entrance, are you able to give an approximation of distance
4 as it relates to that wound?

5 A You can to an extent. Distance or the range of the
6 wound means how far the gun was away from the target. When
7 a bullet comes out of a gun so does soot and powder, but the
8 soot and powder will only go a certain distance, whereas the
9 bullet will obviously go a lot further. So if you have any
10 indication that there's soot or powder hitting around the
11 entrance wound, that gives it a different range. In this
12 case, there was not indication of soot or powder, which
13 means that the gun was at least two feet away from the
14 patient and -- two plus feet.

15 Q Okay. Are there categories that you typically define
16 distance for purposes of an autopsy?

17 A Yes, sir. What I'm talking about is a distant wound
18 because it's two or more feet away. There's a contact
19 wound, which means the barrel of the gun was right against
20 the skin or a near contact, where you have some soot around
21 the entrance wound. And in between contact in eighteen to
22 twenty-four inches is called an intermediate range wound.

23 Q Okay. So you mentioned a distant wound is two plus
24 feet, correct?

25 A Correct.

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1 Q Is that the only determination of approximate distance
2 you were able to come up with or was there other --

3 A That's all I could.

4 Q Okay. You testified earlier that you found some items
5 of evidentiary value meaning the bullet fragments. What did
6 you do with those when you collected?

7 A We collect them, take photographs of them, and then
8 seal them in a plastic bag, sign them, label them, and the
9 sheriff's officer that was there took that item, those
10 fragments to SLED for analysis.

11 MR. GIESE: May I approach the witness again, Your
12 Honor?

13 THE COURT: You may.

14 BY MR. GIESE:

15 Q I'm showing you what's been marked as State's Exhibit
16 90. Do you recognize that?

17 A Yes. These are the bullet fragments that we sealed in
18 a plastic bag and signed.

19 Q Is that a fair and accurate representation of the
20 fragments as you took them out of Ms. Wright?

21 A Yes.

22 Q Okay.

23 MR. GIESE: Your Honor, the State moves State's 90
24 into evidence.

25 THE COURT: Any objection?

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1 MR. FARLEY: No objection.

2 THE COURT: State's 90 is in without objection.

3 (State's Exhibit No. 90, bullet
4 fragments, was marked and entered)

5 BY MR. GIESE:

6 Q I know I asked you this earlier, but based on your
7 findings regarding the gunshot wound, were you able to form
8 an expert opinion concerning the cause of death in this
9 matter?

10 A Yes.

11 Q And what was that?

12 A A laceration to the brain due to the gunshot wound to
13 the head.

14 Q Okay.

15 MR. GIESE: I beg the Court's indulgence.

16 THE COURT: Yes, sir.

17 BY MR. GIESE:

18 Q What about the manner of death?

19 A Homicide.

20 MR. GIESE: Thank you, Your Honor. Nothing
21 further.

22 THE COURT: Any questions of this witness?

23 MR. FARLEY: No, Your Honor.

24 THE COURT: Thank you, Dr. Ross.

25 MR. GIESE: May Dr. Ross be excused, Your Honor.

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1 THE COURT: Sure. Any objection?

2 MR. FARLEY: Absolutely none.

3 THE COURT: Thank you, Dr. Ross.

4 Is the State prepared to call its next witness?

5 MS. CORNWELL: Yes, Your Honor. The State would
6 call Lieutenant James Shumpert.

7 THE COURT: Keep talking loud like that. That's
8 good.

9 THE WITNESS: Yes, Your Honor.

10 THE COURT: Thank you, sir.

11 (WHEREUPON, James Shumpert was
12 sworn to tell the truth.)

13 JAMES SHUMPERT - DIRECT EXAMINATION

14 BY MS. CORNWELL:

15 Q Lieutenant Shumpert, how long have you worked in law
16 enforcement?

17 A Close to twenty-five years.

18 Q And what is your current position with law enforcement?

19 A I'm a lieutenant over criminal investigations.

20 Q And were you working in that capacity on July 19th,
21 2016?

22 A Yes, I was.

23 Q Do you recall responding to [REDACTED] Craig Street in
24 Eutawville that day?

25 A Yes, ma'am.

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1 Q What were you doing that day prior to being called out
2 there?

3 A Me and some other investigators were, what we call,
4 down country, in the Santee area, Eutawville area. We was
5 headed down there to conduct an investigation on another
6 matter. And then we received a call across our radio about
7 a shooting incident happening in that area and then we
8 responded.

9 Q All right. How long did it take you to get to the
10 incident location after you got caught?

11 A Oh, man. I'd say about, anywhere from about five to
12 ten minutes.

13 Q And when you arrived on scene, what did you observe?

14 A Well, when we arrived on scene no one was outside.
15 Basically the vehicle -- which, we all got out the vehicle,
16 that's when people began to come outside.

17 Q And when you drove up were y'all in a marked police
18 vehicle or unmarked vehicle?

19 A Unmarked.

20 Q Were you still wearing your sheriff's office uniforms
21 or fatigues?

22 A Yes, ma'am.

23 Q So once they realized it was law enforcement coming
24 down, they came out?

25 A Correct, yes, ma'am.

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1 Q And what other officers were with you when you
2 responded to the scene?

3 A It was myself, Investigator Craig Davis, Investigator
4 Johnny Thrower, and Sergeant Moore.

5 Q Arrived with y'all in the same car?

6 A Correct. Yes, ma'am.

7 Q Once you arrived on scene and everybody came out, what
8 did you observe?

9 A Well, I observed everybody start coming out and
10 Sergeant Moore went to this, like, makeshift shed like type
11 thing with screen. He tried to contain the area so I walked
12 over to him, and then I noticed there was a deceased young
13 lady laying inside that area.

14 Q As a lieutenant of criminal investigations when a call
15 regarding a shooting comes out, who normally responds to
16 that?

17 A All the criminal investigators.

18 Q And when you arrived on scene and everybody came out,
19 were y'all able to get any information immediately regarding
20 any suspects or any vehicles?

21 A Yes. I forgot who said it but first the name Za came
22 out, then they said something about Zaquan Taste came, then
23 they give us the description of a vehicle that fled the
24 area.

25 Q And what was that vehicle description?

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1 A It was a black Buick.

2 Q Once you had that information of the black Buick, what
3 happened?

4 A After that, we called back to our dispatch and put out
5 on the radio and I mean just shortly thereafter, the BOLO,
6 what we call be on the lookout was given, someone spotted
7 the vehicle -- not let me take that back. Sergeant Davis --
8 I mean, Investigator Davis and Investigator Thrower got back
9 into their vehicle, leaving me and Sergeant Moore at the
10 scene. And then shortly thereafter they located the
11 vehicle, Investigator Davis and Investigator Thrower.

12 Q And when they located the vehicle, were they able to
13 pull them over without incident?

14 A No, from my understanding, and according to the radio,
15 a high-speed chase ensued. They chased this vehicle like
16 several minutes.

17 Q And after you got that information, did you stay at the
18 incident scene on Craig Street?

19 A No. I waited to relief to come to show up with
20 Sergeant Moore because he was out there by himself. And
21 then once another officer showed up on scene, I don't
22 remember who it was, I got into the vehicle with
23 Investigator Bowen and then we went to the incident location
24 because Investigator Davis and Investigator Thrower ended up
25 wrecking with the vehicle.

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1 Q Okay. To your knowledge, and as lieutenant, do you
2 supervise all criminal investigations?

3 A I do.

4 Q So while Sergeant Stokes was the case agent, are you
5 over him?

6 A I am.

7 Q So you review everything that happened in the case?

8 A I do.

9 Q And through that were you able to get information
10 regarding this Defendant?

11 A Yes, ma'am.

12 Q And did this Defendant ultimately become a suspect in
13 this case?

14 A Yes, he did.

15 Q Do you know, was this Defendant apprehended on the day
16 of this incident?

17 A No, he was not.

18 Q When was he apprehended?

19 A The incident day was July 19th, 2016. He was
20 apprehended the following day, I believe on the 20th,

21 Q Okay. And do you know where he was apprehended from?

22 A At a motel in Santee.

23 Q Do you know who he was with when he was apprehended?

24 A I want to say Mr. Smoot, Frank Smoot.

25 Q And on July 20th when he was apprehended, did you meet

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1 with him that day?

2 A I did.

3 Q And did you advise him of his Miranda rights that day?

4 A I believe another investigator read him his Miranda
5 rights but I also did, as well.

6 Q Okay. And did he agree to waive his rights and speak
7 to you that day?

8 A He did.

9 Q And about how long was your interview with him that
10 day?

11 A Approximately about a hour, somewhere around in there,
12 close to it.

13 Q And during that time, did the Defendant admit his
14 involvement or give any admission of knowledge of this
15 incident?

16 A No, he did not.

17 Q And after that interview, what did you do with him?

18 A I believe he was escorted to, what we call, the
19 detention center.

20 Q And is that because warrants had already been taken out
21 on him?

22 A I believe at the time we already had gotten the
23 warrants. That's why we ended up at the hotel, correct.

24 Q And did you meet with the Defendant a second time?

25 A I did.

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1 Q And what day was that?

2 A July -- it was two days -- July the 22nd, after the
3 first time I went.

4 Q And did you again advise him of his Miranda rights?

5 A We did. And I believe Investigator Wright read him his
6 rights.

7 Q Did he again agree to waive those rights and speak to
8 you?

9 A Correct, yes, ma'am.

10 Q And during that interview -- about how long did that
11 interview last?

12 A Approximately an hour.

13 Q And during that interview, did the Defendant admit his
14 involvement or any knowledge of this incident?

15 A No, still denied it.

16 Q And during that interview did you tell him the evidence
17 that you had against him?

18 A I did.

19 Q And at the end of that interview, about the end of the
20 hour, did you advise him of anything or ask him anything
21 pertinent to what you planned on doing?

22 A Well, I told him, I'm give him some time to think about
23 it and I'll come back in several days to the detention
24 center and see if he want to talk with me again.

25 Q And did he agree to that?

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1 A He did.

2 Q And did you follow up on that?

3 A I did.

4 Q When was the next time you got to meet with the
5 Defendant?

6 A July 27th.

7 Q And did you go to the detention center at that time?

8 A Me and -- I forgot who was the other investigator, but
9 I did go with them.

10 Q Okay. And did you ask him if he wanted to speak with
11 you?

12 A Correct.

13 Q Did you advise him of his Miranda rights at that time?

14 A Verbally.

15 Q And did he waive those rights and agree to speak with
16 you?

17 A He did.

18 Q And once he said he agreed to speak with you, what did
19 you do?

20 A We was talking on the way back to the office, what we
21 call code 100, which is mainly when we do interrogation and
22 interviews.

23 Q So you took him from the detention center to the
24 interview room?

25 A Correct.

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1 Q And during that drive over, did the Defendant -- and
2 the drive was before or after you Mirandized?

3 A I'm sorry. So that again?

4 Q During that drive --

5 A Uh-huh.

6 Q -- had you Mirandized him before y'all drove to CID or
7 after?

8 A Before.

9 Q So during that drive did the Defendant make any
10 admissions or statements to you in that drive?

11 A He did.

12 Q And what were those statements?

13 A Basically as I remember he said that the guy ran over
14 his foot with the car and that he did in fact the shooting.

15 Q So he admitted in the car ride over that he was one of
16 the shooters in that car?

17 A Correct.

18 Q And once you got back to what you call CID, which is
19 y'all's headquarter, did you take to a room to be
20 interviewed formally?

21 A Yes, I did.

22 Q And during that formal interview was he given his
23 Miranda rights again?

24 A Again, correct.

25 Q And did he sign those Miranda rights and waive those

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1 rights?

2 A He did.

3 Q And the interview that you gave him at that time, was
4 that interview audio/video recorded?

5 A It was.

6 Q And after he gave a statement to you, did he do
7 anything else to help you with your investigation?

8 A Basically, at this time he told exactly the events that
9 took place on that day.

10 Q Did you show him any other evidence in getting him to
11 identify anything at the end of that interview?

12 A We showed him, I believe, I want to say, two more photo
13 lineups. And actually after I spoke to him and I told him
14 during the interview that we was going to show him some
15 photo lineups, and I believe it was Sergeant Moore and
16 Sergeant Stokes showed him those lineups to him.

17 Q Okay. And were those photo lineups also audio/video
18 recorded?

19 A It was.

20 Q At any time during this interview from the statement
21 through the photo lineups, was he ever escorted out or taken
22 out or anything like that?

23 A No. I couldn't remember. I don't think so.

24 Q And all of that was audio and video recorded?

25 A It was.

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1 Q I'm going to show you what's been marked as State's
2 Exhibit 89. Do you recognize that?

3 A It appears to be an interview of Mr. Jenkins.

4 Q Okay. And that would have been the interview on 7/27
5 of 2016?

6 A Yes, ma'am.

7 Q Have you had an opportunity to review this video?

8 A I have.

9 Q And is this a true and accurate copy of the interview
10 that was given on 7/27 of 2016?

11 A It is.

12 MS. CORNWELL: Your Honor, at this time the State
13 would move State's 89 into evidence.

14 MR. FARLEY: I'll say I renew my previous
15 objections, but I think the Court has ruled.

16 THE COURT: Yet, but we need -- and the Court has
17 ruled on it and I'll note so it can be preserved on the
18 record. Okay. All right. It's evidence over the
19 objection. Thank you.

20 (State's Exhibit No. 89, video
21 recorded interview, was marked and entered)

22 MS. CORNWELL: Your Honor, at this time I would
23 publish to the jury.

24 THE COURT: Okay. All right.

25 MS. CORNWELL: Can everybody see this?

State v Jenkins James Shumpert - Direct 2/22/18 543

1 THE COURT: Mr. Farley, you can move so you can
2 see it, if you need to see it.

3 (State's Exhibit No. 89, video
4 recorded interview, published for the jury)

5 MR. FARLEY: Judge, may we approach real quick?

6 THE COURT: Sure.

7 (Off the record bench conference with counsel and the
8 Court.)

9 BY MS. CORNWELL:

10 Q Lieutenant Shumpert, -- I'm going to stop here. Would
11 you agree that during this time while he's waiting for photo
12 lineups are being generated to give to him to identify?

13 A Correct.

14 Q And he ultimately did end up identifying the four co-
15 defendants in their photo lineups; is that correct?

16 A Yes, ma'am.

17 Q After your interview with the Defendant on July 27th,
18 2016, did you have any further involvement with this
19 Defendant, other than court hearings?

20 A No, ma'am.

21 MS. CORNWELL: That would be all from this
22 witness, Your Honor.

23 THE COURT: Okay. Any questions of this witness?

24 MR. FARLEY: I believe the witness was trying to
25 finish answering.

State v Jenkins James Shumpert - Direct 2/22/18 544

1 THE COURT: Oh, I'm sorry.

2 A I would like to clarify one thing.

3 BY MS.. CORNWELL:

4 Q Okay.

5 A I said that I went to the jail to pick him up, but I
6 got confused. I didn't go to the jail that night. We
7 talked to him outside at the back because he liked to smoke.
8 I didn't go to the jail. It was at the back of the office.
9 I went somebody on that day because I talked to him three
10 times, so I didn't go that day.

11 Q Okay. So on the 27th he was transported by somebody
12 else?

13 A Correct.

14 Q In the video you talked about where y'all talked
15 outside?

16 A Out back of the office because that's where we took him
17 to smoke.

18 Q And is that where you Mirandized him --

19 A Correct.

20 Q -- and he talked to you about what happened?

21 A Correct. Yes, ma'am.

22 Q Thank you.

23 A Uh-huh. (Affirmative response)

24 THE COURT: All right. Mr. Farley.

25 MR. FARLEY: Thank you, Judge.

State v Jenkins James Shumpert - Cross 2/22/18 545

JAMES SHUMPERT - CROSS-EXAMINATION

BY MR. FARLEY:

Q So the Defendant gave a total of three interviews; is that right?

A Yes, sir.

Q There were three interrogations; is that correct?

A Correct. Yes, sir.

Q And in the first interrogation he didn't really tell you anything? He just wasn't involved? Wasn't involved?

A Yes, sir. Correct.

Q And how would you characterize the second one. Is that the one where you told him all the evidence you had against him and his co-defendants?

A Correct.

Q Put it all out there on the table?

A I did.

Q And then told him that you would help him if he helped you?

A No.

Q You never told him that you were just trying to help him out?

A What I was telling him it would be best for him to tell the truth and that would help him. You know, I don't have the power to give any, you know, promises or anything as such.

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1 Q How would someone in chains being questioned know that
2 you don't have the power to give them a bond or to change
3 the charges or anything?

4 A I don't give bond, judges do that. That ain't left up
5 to me.

6 Q So you can't help a defendant out? If you arrest
7 someone, you can't help him out with a bond?

8 A I can speak in his behalf, but that ultimately left up
9 to the judge, the solicitor, or whoever try the case.

10 Q How often would you say you tell defendants that you
11 can help them out?

12 A I can't recall. I might say I'll see what I can do,
13 but I'll never say I could help you out.

14 Q In this instance you didn't talk to him about the bond
15 or anything?

16 A I can't remember.

17 MR. FARLEY: With the audio video system in this
18 courtroom, Im going to try to get this to work. Bear with
19 me. We don't need the full speakers and everything. I
20 think he can narrate for us and if, you know, you need to
21 follow up, you can do that.

22 MS. CORNWELL: Are you going to move something
23 into evidence.

24 MR. FARLEY: This is already in.

25 THE COURT: Do you want them to go ahead and refer

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1 incident -- the second interrogation is when you showed him
2 all of the evidence.

3 A I told him.

4 Q You told him all the evidence, right. I've got all the
5 evidence --

6 A Right.

7 Q But you told him of the evidence. You told him
8 everything you had against him, everything you had against
9 the co-defendants, what the co-defendants had told you at
10 that point, if they had told you anything, right?

11 A I wouldn't say I told him everything, but I just told
12 him enough to let him known that he -- that it wasn't
13 looking good.

14 Q Did you tell him that you wanted to help him?

15 A I can't remember that.

16 Q Did you tell him anything about you know he has a baby
17 girl?

18 A I remember that conversation because I remember talking
19 about my daughter as well, correct.

20 Q And want to help him get back to his baby girl?

21 A Once again, I can't remember that. I can't remember
22 that. Could have. I don't know.

23 MR. FARLEY: May I have a moment?

24 THE COURT: You may.

25 MR. FARLEY: Judge, I don't have any questions at

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1 this point.

2 THE COURT: All right. Anything on redirect?

3 MS. CORNWELL: No, Your Honor.

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

6 THE WITNESS: Thank you, Your Honor..

7 THE COURT: Is the State ready to call it's next
8 witness?

9 MS. CORNWELL: Your Honor, at this time the State
10 rests.

11 THE COURT: All right.

12 All right. Ladies and gentlemen, the State has rested
13 their case, which means at this time you've heard all the
14 testimony and evidence that the State is going to put into
15 the record. Now, that doesn't mean the case is over. It
16 doesn't mean you can start talking about this, okay? I've
17 got to take up some matters with the attorneys right now.
18 I'm going to let y'all go back into the jury room. I don't
19 think it's going to take a whole lot of time. But, you
20 know, as y'all get back there, remember you just cannot talk
21 about anything you've heard so far, okay? Thank y'all.

22 (Jury out at 3:21 p.m.)

23 THE COURT: All right. Y'all want to take a brief
24 break before you start making any motions and we do the
25 other things, Mr. Farley?

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1 MS. CORNWELL: I'm ready to roll, Your Honor.

2 MR. FARLEY: I think I'm ready to roll too.

3 THE COURT: Okay. All right.

4 Mr. Farley.

5 MR. FARLEY: Thank you, Judge. Obviously, the
6 Defendant is charged with murder. And the State has to put
7 up at least some showing of evidence and every element of
8 the crime. With regards to murder, the State has not proven
9 malice aforethought. They haven't even put anything on the
10 record that a rational juror could interpret as malice
11 aforethought. So for that reason we move to have the murder
12 charge dismissed.

13 THE COURT: All right. Well, I think some
14 testimony has come in that he has -- that he fired into --
15 towards the shed and like that. And I think you are aware
16 that the law -- part of my charge is that he can have evil
17 intent up to right before the time that he does any kind of
18 act. And so I think that there is enough into evidence for
19 it to go to a jury.

20 MR. FARLEY: I understand, Judge. As far as the
21 attempted murder charges, our motion is similar. On the
22 attempted murder charge, though, there is no direct evidence
23 -- and there is circumstantial evidence that the court has
24 presented, but it's not substantial circumstantial evidence
25 and the Court, you know, it is a low burden but it is -- and

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1 it is in the light most favorable to the State. But there's
2 not the direct evidence. There's circumstantial evidence
3 out there is not substantial enough to meet the State's
4 burden.

5 THE COURT: Well, you know, I think the attempted
6 -- the gentleman that got hit in the left shoulder, he came
7 in. He testified he was hit by a bullet. I don't think
8 that's either circumstantial or not substantial. So I'm
9 going to deny your request for a directed verdict on that.

10 MR. FARLEY: I'm sure the Court understands my --

11 THE COURT: No, I understand exactly where you're
12 coming from. Were I in your shoes, I would be doing exactly
13 the same thing that you're doing.

14 MR. FARLEY: And then finally, the weapons charge.
15 The State has not met their burden on that as well and we'd
16 ask this Court to dismiss those charges.

17 THE COURT: Okay. And, again, the testimony I've
18 heard is that the Defendant was in possession of a weapon
19 and fired it toward the shed. And according to the
20 testimony that I've heard, it is arguable that he could have
21 hit both the -- I can't remember the gentleman's name, that
22 was with the left shoulder and the lady who passed away. So
23 I'm going to deny your request for directed verdict on that
24 as well.

25 MR. FARLEY: Thank you, Judge. All right.

1 THE COURT: I'm going to note your objection to my
2 ruling so again they'll be preserved. Do you want me to
3 question your client about testifying or do you need to talk
4 to him for a while before I question him.

5 MR. FARLEY: We've got to talk about those videos
6 that we were talking about before. And --

7 THE COURT: Okay. How much time do you want?

8 MR. FARLEY: I'm thinking I can talk to him about
9 it right here. We may need to go back.

10 THE COURT: If you need to step into an office and
11 talk, that's fine too. You just let me know.

12 MR. FARLEY: Okay.

13 THE COURT: Okay. What I'm going to do, Mr.
14 Farley, I'm not trying to --

15 MR. FARLEY: Can we do that?

16 THE COURT: Yeah. I'm going to let y'all go back
17 there because I don't like y'all having to try and whisper.
18 I'd rather you go back there and talk.

19 MR. FARLEY: Thank you, Judge.

20 THE COURT: And that way you can be more direct.

21 MR. FARLEY: Yes, sir.

22 THE COURT: While you're doing that we're going to
23 take a break until what they want me to do, okay? Thank
24 you.

25 (Court in recess for a short break)

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1 (Court in session after short
2 break)

3 THE COURT: All right. Mr. Farley, you have
4 talked to Mr. Jenkins about him testifying and putting up
5 any evidence in this case?

6 MR. FARLEY: I have, Judge.

7 THE COURT: And you've also talked to him about
8 the effect of testifying to as to trial strategy and closing
9 and things like that?

10 MR. FARLEY: Yes, Your Honor.

11 THE COURT: Is he ready for me to question at this
12 time about that?

13 MR. FARLEY: He is, Judge.

14 THE COURT: Okay. All right. Mr. Jenkins, I need
15 for you to stand, please sir?

16 DEFENDANT JENKINS: (Complies)

17 THE COURT: The clerk is going to swear you in,
18 okay.

19 (Treshawn Markeese Jenkins was duly
20 sworn)

21 THE COURT: All right. And Mr. Jenkins, you can
22 sit down if you're more comfortable sitting down.

23 DEFENDANT JENKINS: This --

24 THE COURT: You're fine?

25 DEFENDANT JENKINS: -- huh-uh. (Affirmative

1 response)

2 THE COURT: Okay. And Treshawn Jenkins, at this
3 time I'm going to explain to you certain of your rights. If
4 you do not understand anything I say or something I say,
5 please let me know. If you want me to explain anything in
6 more detail, I'll be happy to do so, but you need tell me.
7 Do you understand that?

8 DEFENDANT JENKINS: Yes, sir.

9 THE COURT: All right. We've now reached the
10 stage in the trial where you may present your defense. You
11 have the right to claim the protections given you by the
12 Fifth Amendment to the Constitution of the United States,
13 which states in part that no person shall be compelled in
14 any criminal case to be a witness against himself. This
15 means that you cannot be required to testify in this case.
16 You have the right to testify on your own behalf. However,
17 no one can make you testify. This is a personal right and
18 no one can waive this right, except you.

19 If you decide to testify, you will be subject to the
20 same rules that govern other witnesses and you may be
21 examined and cross-examined on any relevant issue in this
22 case. In addition, if you have any convictions involving
23 dishonesty or false statement or for crimes punishable by
24 imprisonment for more than one year and this court
25 determines that the probative value of admitting this

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1 evidence outweighs its prejudicial effect to you, the
2 Solicitor will be able to introduce your record to attack
3 your credibility. Do you understand that?

4 DEFENDANT JENKINS: Yes, sir.

5 THE COURT: If you decide to testify, this
6 decision on your part must be freely, voluntarily and
7 intelligently made with knowledge of the protections given
8 to you by the Fifth Amendment and the consequences of your
9 decision to testify.

10 If you decide not to testify, I will instruct the
11 jurors that they cannot give the fact that you did not
12 testify any consideration whatsoever and that there is to be
13 absolutely no prejudice to you because you did not testify.
14 It is left entirely up to you whether or not you testify.
15 You may talk with your attorney, your family, your friends
16 or anyone else, but the final decision is left entirely up
17 to you. You understand that?

18 DEFENDANT JENKINS: Yes, sir.

19 THE COURT: Okay. Do you understand what I've
20 explained to you?

21 DEFENDANT JENKINS: Yes, sir.

22 THE COURT: Do you have any questions about what I
23 said to you?

24 DEFENDANT JENKINS: No, sir.

25 THE COURT: Have you discussed with your lawyer

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1 whether you should or should not testify?

2 DEFENDANT JENKINS: Yes, sir.

3 THE COURT: During those discussions with your
4 lawyer, did he answer all your questions?

5 DEFENDANT JENKINS: Yes, sir.

6 THE COURT: Did you understand everything he told
7 you?

8 DEFENDANT JENKINS: Yes, sir.

9 THE COURT: Do you wish to talk to your lawyer any
10 more?

11 DEFENDANT JENKINS: No, sir.

12 THE COURT: Now, this is this question, do you
13 wish to testify on your own behalf?

14 DEFENDANT JENKINS: No, sir.

15 THE COURT: You do not?

16 DEFENDANT JENKINS: No, sir.

17 THE COURT: Okay. Is anybody forcing you to make
18 that decision?

19 DEFENDANT JENKINS: No, sir.

20 THE COURT: You're doing this freely and
21 voluntarily?

22 DEFENDANT JENKINS: Yes, sir.

23 THE COURT: And you understand what you're doing?

24 DEFENDANT JENKINS: Yes, sir.

25 THE COURT: Okay. And I'll note on the record

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1 that the Defendant has indicated that he does not wish to
2 testify in this matter and I will charge the jury regarding
3 that.

4 MR. FARLEY: Thank you very much.

5 THE COURT: Now, does the Defendant wish to put up
6 any witnesses or evidence on his own behalf?

7 MR. FARLEY: We do not. We intend to rest when
8 the jury comes back out.

9 THE COURT: Okay. All right. It is almost 4:00.
10 Y'all can sit down. Let me just talk for a minute.

11 MR. FARLEY: Do you mind if I stand? I've been
12 sitting all day.

13 THE COURT: No, that's okay. I might end up
14 standing myself.

15 Have y'all talked at all about -- I mean, since you are
16 resting do you want to just come back in the morning and
17 open and close. That's what y'all want to do?

18 MS. CORNWELL: Yes, Your Honor. I think we've
19 agreed that if we do close and charge in the morning and
20 then this afternoon see if Your Honor on the jury charge,
21 have a jury charge conference this afternoon.

22 THE COURT: Okay.

23 MS. CORNWELL: That way we can roll on into it
24 tomorrow morning.

25 THE COURT: Okay. Well, I'm glad y'all agreed

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1 without getting me involved in --

2 MR. FARLEY: Well, we're ---

3 THE COURT: No, no, no, I appreciate. No, no.

4 Thanks. That's good. Do y'all mind if we start at 9:30? I
5 know we've been starting at 9:00, but do y'all mind if we
6 start at 9:30?

7 MS. CORNWELL: No, sir.

8 MR. FARLEY: No, sir.

9 THE COURT: Okay. That way I can go to cardiac
10 rehab.

11 Okay. What I will do is if y'all are ready, I will go
12 ahead -- I'll bring the jury back and then if you'd stand up
13 and rest and then I'll tell them that we're going to take a
14 break and ask them to be back at 9:30 and tell them that we
15 will -- we will do your closing arguments and my charge on
16 the law in the morning, then they can begin deliberation.
17 Hopefully, it'll be before lunch when they start.

18 MR. FARLEY: Sounds good. I totally agree.

19 THE COURT: All right. Okay. Would you bring the
20 jury back out?

21 THE BAILIFF: Yes, Your Honor.

22 THE COURT: Thank you, ma'am.

23 (Jury in at 3:40 p.m.)

24 THE COURT: All right. Ladies and gentlemen, you
25 have heard all of the State's case. Now is the time we can

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1 begin with the Defendant's case.

2 Mr. Farley.

3 MR. FARLEY: Thank you, Judge. If it please the
4 Court, the Defense would rest at this time.

5 THE COURT: All right. Ladies and gentlemen of
6 the jury, you have now heard the Defendant say that they are
7 not calling any witnesses in this case, which means you have
8 now heard all of the testimony in this case.

9 I'm going to remind you right now and also remind you
10 tomorrow when I do my charge that the fact that the
11 Defendant did not testify cannot be used against him or
12 considered by you in any way whatsoever. Because as I told
13 you before, it is up to the State to prove the Defendant
14 guilty beyond a reasonable doubt. The State has the burden
15 in this, not the Defendant. You understand?

16 FOREMAN: (Nods affirmatively)

17 THE COURT: Now, it is seventeen minutes to 4:00.
18 What my plan is that we're going to take the rest of the day
19 off, okay? But y'all need to be back at 9:30 tomorrow
20 morning. At 9:30 tomorrow morning we'll start the -- with
21 the closing arguments and then the closing arguments of the
22 Defendant. Then I will tell y'all what the law is. And
23 then I'll go over the verdict form with you, Mr. Foreman,
24 and then assuming that the attorneys have no objection to my
25 charge, my charge on the law to you, you will begin your

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1 deliberations. And hopefully we can get y'all to begin your
2 deliberations in this case even before lunchtime tomorrow,
3 okay?

4 Now, again, you've heard all the testimony that you're
5 going to hear in this case, but you have not heard the
6 closing arguments. You have not heard me tell you what the
7 law is. Again, you cannot talk among yourselves about this
8 case. You cannot talk with anyone else about this case.
9 You cannot do any investigation about this case. Every
10 thing you need to know to make your decision in this case
11 you have now already heard in this courtroom, with the
12 exception of the closing arguments and my charge on the law,
13 okay?

14 I need for y'all to be back here tomorrow morning at --
15 a little before 9:30 so we'll be ready to go at 9:30. And
16 thank y'all. Y'all have been attentive. I've been very
17 pleased. I need to see y'all tomorrow morning so we can
18 finalize everything. Okay. Thank y'all very much.

19 FOREMAN: 9:30, right?

20 THE COURT: 9:30. That's correct. You get
21 another thirty minutes to sleep. Okay. Thank you.

22 (Jury out at 3:44 p.m.)

23 THE COURT: What Brian has been doing and I don't
24 know if he's done it yet is emailing the verdict forms and
25 my charge to y'all what we've done so far so that y'all can

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1 look at it. And if y'all have got anything else that y'all
2 want to add or anything that y'all think we shouldn't be
3 going over or something like that, if y'all will look over
4 that. Because we're going to go ahead and talk about that
5 today, right? So y'all -- okay. That'd be great. I'll
6 make sure he's done that.

7 MR. FARLEY: Judge, maybe we can just go over what
8 we want and then that way you'll have time to mull over it.

9 THE COURT: Okay.

10 MS. CORNWELL: The standards, the only thing that
11 the State would ask for --

12 THE COURT: Can y'all wait and let me get him
13 back. I don't know where he wandered off to.

14 (Law clerk enters courtroom)

15 THE COURT: Well, I think what they wanted to do,
16 they were going to tell you what they wanted and you can
17 tell us whether we've already got it in there or not.

18 Okay. Ms. Cornwell, you want to tell me what you
19 wanted?

20 MS. CORNWELL: The only thing the State would ask
21 for is we would like an instruction on transferred intent.

22 THE COURT: Okay. Do you have --

23 MS. CORNWELL: We'd also --

24 THE COURT: Okay. We've got one. If you have one
25 that you particular like?

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1 MS. CORNWELL: I'm fine with whatever the standard
2 for Your Honor is.

3 THE COURT: All right.

4 MS. CORNWELL: I also wanted to make sure. I
5 understand under Belcher, use of a deadly weapon is not
6 allowed in -- if there's evidence of reduction, mitigation,
7 excuse or justification. It's the State's position there's
8 no evidence of any of that. Based on Belcher there is a
9 presumptive inference charge that remains correct where the
10 only issue presented to the jury is whether or not the
11 defendant has committed a murder or ABWIK and that is still
12 good law. So we would ask for under malice that there be
13 instruction that the jury has transferred interest to infer
14 malice by use of a deadly weapon.

15 THE COURT: Okay.

16 MS. CORNWELL: And that's State v. Belcher 385 SC
17 597. And then finally, Your Honor, just out of an abundance
18 of caution we would ask for the hand of one the hand of all.

19 MR. FARLEY: And we will argue these later.

20 THE COURT: Okay.

21 MR. FARLEY: There's typically a principal when
22 you charge someone as a principal and also guilty as an
23 accomplice, but --

24 THE COURT: Yeah, I -- and we can talk about --
25 let's think about that. I don't understand why I would

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1 charge hand of one hand of all.

2 MS. CORNWELL: Your Honor, Mr. Giese and I
3 discussed it and I wasn't going to ask for it and then it
4 kind of hit me, you know, there is testimony that Mr. Smoot
5 or Mr. High may have shot their firearms as well. Firearms,
6 couldn't --

7 MR. FARLEY: I've got a resolution to that one.
8 It's wholly --

9 MS. CORNWELL: Because of the firearms could not
10 say definitively whether or not the bullet that killed her,
11 what type of bullet it was. And that was my only reason for
12 thinking about it. I didn't want any jury member to get
13 hung up on well, what if it was this guy's bullet that
14 killed her.

15 MR. FARLEY: Well, that's transferred intent.

16 THE COURT: Well, that's what -- exactly that's
17 the transferred --

18 MS. CORNWELL: Okay. That was just out of an
19 abundance of caution me --

20 THE COURT: To me, hand of one hand of all
21 confuses. Not that I want -- and the only testimony about
22 anybody else shooting, everything was in the air as far as I
23 recall the testimony.

24 MS. CORNWELL: That's okay not to put it in. That
25 was just kind of a last minute.

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1 THE COURT: No, no. That's fine. All right.
2 Anything else?

3 MS. CORNWELL: No, Your Honor. Just the
4 transferred intent and the presumptive inference deadly
5 weapon.

6 THE COURT: All right. Mr. Farley.

7 MR. FARLEY: So to solve all these people with
8 guns shooting all over the place, I say we do a charge of a
9 third-party guilt. Also, I'm thinking -- well, I mean,
10 there's evidence to support both a voluntary and a
11 involuntary manslaughter charge so we're going to be asking
12 for those. I know this isn't the right forum to do that
13 right now, but I'm putting those out there. Maybe we, you
14 know, we can come back for a little minute and take a look.

15 THE COURT: Yeah. Let me look at those charges on
16 that and see.

17 MR. FARLEY: I have a third-party guilty charge.

18 THE COURT: You do?

19 MR. FARLEY: I believe there's one --

20 THE COURT: Do you have it where you can send it
21 to me or have you got it? Okay. You got a cop for her?

22 MR. FARLEY: I'll make a copy.

23 THE COURT: Okay. If you'll --

24 MR. FARLEY: This is from another case. Don't hold
25 it against me.

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1 THE COURT: Okay.

2 MS. CORNWELL: Just for funsies, I'm going to
3 object to all of those.

4 THE COURT: Oh, yeah. Okay. All right.

5 MR. FARLEY: I don't know what to say.

6 THE COURT: Let me look at -- I'll look at what
7 the law is or what the charges are and see how it goes with
8 the testimony and I'll get back with y'all, okay?

9 MS. CORNWELL: Thank you, Your Honor.

10 THE COURT: All right. We'll stand down for a
11 while, okay? Thank you.

12 (Court in recess February 22, 2018
13 at 4:30 p.m.)
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(Court in session February 23, 2018

at 9:15 a.m.)

THE COURT: All right. We need to go back on the record in the State of South Carolina versus Treshawn Markeese Jenkins. Before we go forward we're going to put some stuff about the charge --

Mr. Farley, do you need to renew your directed motions?

MR. FARLEY: That's correct, Judge. I think you heard my eloquent presentation of the directed verdict.

THE COURT: It was particularly good.

MR. FARLEY: Thank you, Judge. I really appreciate that.

THE COURT: Unfortunately, I'm going to stay with my ruling. We're just on the record, you're renewing your directed verdict motion, I'm renewing my decision, since there's been -- there was no testimony which basically changing my decision. And we are going to preserve your objection to my ruling those.

MR. FARLEY: Thank you, Judge.

THE COURT: All right. Additionally, just while we've got it, there was some request regarding the charges. We had initially talked about -- had talked about hand of one hand of all and that's not going to be in the charge. And then Mr. Farley, you had asked me about charging third-party, voluntary manslaughter and involuntary manslaughter

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1 and I indicated to you that I did not believe based on the
2 evidence that I have heard during this trial that there was
3 a basis for any of those three charges, but I wanted to
4 preserve your objection to my ruling on that on the record.

5 MR. FARLEY: And may I briefly argue those, Judge.

6 THE COURT: Yes, sir.

7 MR. FARLEY: Thank you. If it pleases the Court.

8 We have asked for voluntary manslaughter and involuntary
9 manslaughter. We're not going to make any request as to the
10 gun charge.

11 THE COURT: Okay.

12 MR. FARLEY: Basically -- and third-party guilty
13 for that matter. It's our contention that there was --
14 there was four other parties that could have possibly
15 committed this crime and without the jury being able to take
16 that into account in the charges, I think, would deprive my
17 client of a right that I think he has a right to. So we
18 would ask the Court to charge third-party guilt.

19 THE COURT: Okay. And, again, based on the
20 evidence that I heard, I didn't think there was any
21 testimony indicating that anyone other than Mr. Jenkins had
22 fired any shots in the direction of the shed and like that.
23 So I think -- I understand and I appreciate your argument
24 and I'm going to stay with my decision not to charge that
25 because I think it'd be confusing to the jury, just like I

1 thought the hand of one the hand of all would be confusing
2 to the jury at this stage. But I am going to note on the
3 record and preserve your objection.

4 MR. FARLEY: Thank you, Judge.

5 THE COURT: All right. Thank you, sir. That's
6 all. Go ahead.

7 MR. FARLEY: Yes, sir. Then we'll move on to
8 voluntary manslaughter. The elements of voluntary are the
9 unlawful killing of a human being in a sudden heat of
10 passion of mind, soon after a legally sufficient provocation
11 and without malice. Judge, the State has laid down the
12 basic elements of the killing. Obviously, they're human.
13 In the sudden heat of passion, I think that that's the key
14 element that gives us those charges. There's been testimony
15 that there was fire coming from the house. There's been
16 testimony that the Defendant's foot was run over. There has
17 been testimony that people were shooting up in the air, not
18 shooting direct at people and I think that those and
19 whatever other reasons the Court may find are reasons to
20 charge voluntary manslaughter.

21 THE COURT: Okay. I think you could possibly make
22 an argument for the heat of passion. But unfortunately it
23 also requires a sufficient legal provocation and I don't
24 think there's been any testimony that would provide
25 sufficient legal provocation for that.

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1 MR. FARLEY: Judge, I do -- as far as the legal
2 provocation, I do think that there is -- you look at the
3 mind of the people in the car, what they were thinking at
4 the time, what they perceived. There's been testimony that
5 Old Boy had a gun. There's been, you know, the testimony of
6 the other witnesses leaves it kind of out there in the dark
7 whether or not there was incoming fire. I understand the
8 court's ruling. I just would like to preserve that.

9 THE COURT: Yeah, that is certainly -- hopefully,
10 as I would like to say, hopefully for the record your
11 objection is preserved and noted in the record. And I guess
12 you also want to make a comment about the involuntary?

13 MR. FARLEY: That's correct, Judge. The elements
14 of involuntary are the unlawful killing of another without
15 malice. And I think that the thing that the Court is
16 concerned about criminal negligence. Those are three
17 elements as I see them. I don't think that they've proven
18 -- I think that they've put evidence on the record that
19 malice may exist, but I think that we also have the ability
20 to argue that there was no malice, that this was possibly
21 an accidental shooting. No one intended for anyone to die
22 that day. But, in fact, someone did.

23 THE COURT: I know we've had this discussion off
24 the record. We're having it on the record now.

25 MR. FARLEY: Yes, sir.

1 THE COURT: Just to protect everything. That the
2 involuntary manslaughter requires the unintentional killing
3 of another without malice, which I think arguably, you could
4 have here. But it says while engaged in an unlawful
5 activity not amount to a felony and not naturally intending
6 to cause death or great bodily harm. And firing of the
7 weapon to me would naturally tend to cause death or great
8 bodily harm. So I don't think you can meet that
9 requirement, that part of it. And then the other one is the
10 unintentional killing of another without malice while
11 engaged in a lawful activity. And he was not engaged in a
12 lawful activity.

13 MR. FARLEY: Well, Judge, our position on
14 lawfulness or unlawfulness is the State has presented no
15 evidence that it is unlawful to discharge a firearm in the
16 location they were. Now, if we were in Richland County in
17 the City of Columbia, I'm pretty sure that you can't just
18 shoot a gun up in the air. But when you're out in the
19 middle of nowhere that is lawful. So however, you know, it
20 may make muster in civil suit, but as far as here, I don't
21 see it being unlawful.

22 THE COURT: Well, had they been out in the middle
23 of Santee swamp and nobody else was around, I could possibly
24 see your argument for a lawful activity. But being in a
25 neighborhood where there are a number of houses around and

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1 people are gathered in a shed, I cannot see where that is
2 lawful activity by any definition. But I will note, again,
3 your objection to my ruling. I think you've made your
4 points. But if there's any other points you need to put on
5 the record, I'll be glad to hear them.

6 MR. FARLEY: No, Judge. I think that that -- I
7 we've done what we needed to do.

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

9 MR. FARLEY: Yes, sir.

10 THE COURT: And so is the State ready to proceed?

11 MS. CORNWELL: We are, Your Honor.

12 THE COURT: And is Defense ready to proceed?

13 MR. FARLEY: Yes, sir.

14 THE COURT: Have y'all reviewed the verdict form?

15 MS. CORNWELL: Yes, Your Honor.

16 MR. FARLEY: I have not, no.

17 THE COURT: Here. We should have emailed it to
18 you.

19 MR. FARLEY: I'm sorry.

20 THE COURT: That's okay.

21 (Off record discussion)

22 THE COURT: Is it okay?

23 MR. FARLEY: Yeah. You know, I always prefer not
24 guilty first.

25 THE COURT: Well, I understand that. All right.

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1 All right. Now anything else we need to go over?

2 MR. FARLEY: Okay. No, Your Honor.

3 THE COURT: Okay. All right. If you'd bring the
4 jury on in, please, ma'am.

5 THE BAILIFF: Yes, Your Honor.

6 (Jury in at 9:44 a.m.)

7 THE COURT: All right. Ladies and gentlemen, as
8 y'all found out yesterday, y'all have heard all the
9 testimony.

10 Let me give you -- just again remind you to what's
11 going to happen today. Today you're going to hear the
12 closing arguments of the attorneys. The Solicitor is going
13 to go first and then the Defendant's attorney is going to go
14 second, then I'm going to charge you with the law in this
15 case. After I charge you with the law, I'm going to come
16 down there and go over the verdict form with you, Mr.
17 Foreman. You don't need to get up or anything. I'm going
18 to come down and just kind of walk you through it. After we
19 have done that, I will excuse you to go back into the jury
20 room, but you -- again, you cannot begin your deliberations
21 at that point. The reason for that is my charge on the law,
22 I have to be very specific in what I essentially read to
23 you, tell you about what the law is. Sometimes I make a
24 mistake. Sometimes I leave something out that one of the
25 parties wants me to address that is necessary for you to

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1 hear as a charge in the law. So after you go back into the
2 jury room, we will go over my charge with the attorneys,
3 make sure that everything is okay. If everything is okay, I
4 will send the verdict form and the exhibits that have been
5 made a part of this record back into the jury room and y'all
6 will know you can begin your deliberations at that time,
7 okay? Now, if there's something I need to correct, we'll
8 bring you back out here. I will correct it, then we'll
9 complete the process that way, okay? Until you get the
10 verdict form with the exhibits back into your jury room you
11 cannot begin talking about this case. Everybody understand?

12 JURY: (Unanimous affirmative response)

13 THE COURT: Okay. All right. Ms. Cornwell, are
14 you ready?

15 MS. CORNWELL: Yes, Your Honor.

16 THE COURT: All right.

17 MS. CORNWELL: May it please the Court?

18 THE COURT: Yes, ma'am.

19 MS. CORNWELL: Counsel.

20 STATE'S CLOSING

21 BY MS. CORNWELL:

22 July 19th of 2016 started off as a good day. The
23 residents of Craig Street were having a cookout. They were
24 enjoying time with their family and friends, listening to
25 music. The older generation was trying to pass on some life

1 lessons to a younger generation when it came to women and
2 their role in society. What nobody knew was that that was
3 going to be the last day that Jacqueline Wright walked on
4 this earth. They didn't know when Jacqueline Wright was
5 preaching to her son, Denard Reeves about women and life
6 lessons, that that would be the last conversation Denard
7 Reeves would ever have with his mother, because on July 19th
8 of 2016, that Defendant committed heinous act, a cowardly
9 act of jumping out of a car twenty yards away and firing not
10 one, not two, not three, but twenty-five bullets at the shed
11 that they were in in an attempt to kill. And he succeeded
12 in that attempt. He killed Jacqueline Wright, an innocent
13 mother, grandmother, wife and friend. He also injured
14 Damian Shuler and traumatized the lives of every single
15 person at that cookout that day.

16 You heard at the beginning of this trial this Defendant
17 is charged with murder, attempted murder and possession of a
18 firearm during the commission of a violent crime. There
19 were also four other co-defendants that you've heard who
20 were also charged with those offenses. And they've already
21 had their day in court or will soon have their day in court.
22 But this week, this trial is only about the crimes that that
23 Defendant committed. No, it's the State's burden of proving
24 its case beyond a reasonable doubt and that is a burden that
25 we accept and that we will meet. But before I go too much

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1 farther into the facts of the case and the law of this case,
2 I want to address some things that Mr. Farley said in his
3 opening that weren't accurate. The first thing he talked
4 about was your role as jurors and his concept of what
5 justice is. And he told you here that you aren't here to
6 seek justice for the victims --

7 MR. FARLEY: Objection, Your Honor. This is
8 clearly against the law.

9 THE COURT: Well, I --

10 MR. FARLEY: The Solicitor is defining justice and
11 it's --

12 THE COURT: Well, I think she -- unfortunately,
13 she is responding to a comment that was made in opening.
14 And I would caution her in how she addresses that issue,
15 okay?

16 MS. CORNWELL: Yes, Your Honor.

17 THE COURT: I'll note your objection.

18 MR. FARLEY: Thank you, Judge.

19 THE COURT: Thank you.

20 STATE'S CLOSING CONTINUED

21 BY MS. CORNWELL:

22 He indicated your role was to seek justice for the
23 Defendant. That's an inaccurate misrepresentation of what
24 justice is. Justice isn't partial to any one person.
25 Justice is seeking a fair and just resolution for an action,

1 for a circumstance or a situation in considering the
2 totality of the circumstances of that action. And your role
3 as jurors is to listen to the testimony that was presented
4 to you, examine the evidence and to render a verdict that
5 speaks the truth. And by doing that, you will have done
6 justice for the both the victims' family and the Defendant,
7 because by doing that you've ensured that he has received as
8 well as the victims' family has received a fair trial on
9 these charges.

10 The second thing that I want to address is this notion
11 that the State is afraid that we can't meet our burden of
12 proof so we're going to shape the facts of this case so we
13 can get a conviction because all we care about are
14 convictions. That is absolutely untrue. My job isn't to
15 get conviction. First of all, I would never put forth a
16 case, a trial if I didn't one hundred percent believe that I
17 could prove that case beyond a reasonable doubt. That would
18 be unethical of me. Secondly, my job is not to get
19 convictions. My job as a representative of the State of
20 South Carolina is to also seek justice for victims in the
21 State of South Carolina and for also people who are charged
22 with crimes in the State of South Carolina. And the way
23 that I do that is by bringing forth the evidence, the facts
24 of the case, and the testimony to you, presenting that case
25 as the law allows and having you seek and render a fair and

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1 just verdict based on the evidence that you have seen and
2 the testimony that you have heard.

3 If my sole job was to get convictions, I'd have charged
4 that Defendant with over ten counts of attempted murder for
5 every single person at that cookout that he fired bullets
6 at, for every single person that had to hit the ground as
7 bullets whizzed by their head, for every single person that
8 thought that the breath that they were taking could have
9 been their last. He committed attempted murder against all
10 of them. But charging him with ten, twelve or fourteen
11 counts --

12 MR. FARLEY: Judge, I've let it go but she's
13 talking about crimes that have not been charged. Clearly
14 objectionable.

15 THE COURT: And it is, if you would just kind of
16 move on from that now. You've got -- thank you.

17 STATE'S CLOSING CONTINUED

18 BY MS. CORNWELL:

19 My job isn't getting convictions. My job is to present
20 facts to you so that justice can be served on both sides of
21 the case.

22 Now, we talked about burden of proof and reasonable
23 doubt. And it is the State's burden to prove each and every
24 element of each and every crime beyond a reasonable doubt.
25 So how do we do that? We do that by presenting testimony

1 from that witness stand and from bringing forth evidence to
2 show you exactly what happened on July 19th of 2016.

3 And what I'd like to do now is go through some of the
4 testimony and I'm not going to harp on it too long because
5 it just happened within the last two days. I don't think
6 that y'all don't remember, but I would like to go over it
7 just briefly with you.

8 We first heard from Barbara Lingard. She told you that
9 her mother was murdered. That she was in her house on Craig
10 Street when she heard gunshots fired. She was able to look
11 out her window and see men in a black Buick firing shots
12 towards her uncle's house where you saw his little shed was.
13 That after the bullets stopped firing and the black car
14 drove away, her fiancé Tromel Benjamin, Sr., came and got
15 her to check and see if she was okay. And when they went to
16 check on everybody else, that's when she entered the shed
17 and saw her mother laying on the floor dead.

18 You heard from Damian Shuler and he was sitting by the
19 shack when the black Buick pulled up and he told you he saw
20 Zaquan Taste get out. He said as the Buick was leaving the
21 back doors all of a sudden opened. He was able to see a big
22 gun with a woodgrain barrel and that person with the gun
23 started shooting. He and his cousin Rico ran towards the
24 woods. And as he was running towards the woods, he was shot
25 in the shoulder. And he showed you that day the injuries

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1 and the scars that he has from where that bullet went in his
2 shoulder and came out of his arm.

3 You heard from Denard Reeves. And Denard Reeves had a
4 hard time testifying. This is difficult for him, because
5 Denard was in the shack with his mother moments before she
6 was murdered. He was frustrated. She was talking to him
7 and he didn't want to listen to what she was saying at the
8 time, so he walked away from her. And that was the last
9 conversation, that was the last thing he did with his
10 mother. And as he got into the house he saw the Buick stop
11 in the middle of the road and the back doors opened and the
12 gunshots started firing. And he told you I tried to open
13 the door, but there were so many gunshots and then he said
14 there was a pause and he described to you the best way that
15 I could describe it. It was long enough to take a breath.
16 He thought it was over and everybody was okay. And then the
17 bullets came again and that's when his mother was killed.
18 And after all the bullets had been fired and the Buick had
19 drive away, he ran to the shack to check on everybody and
20 saw his mother. He told you he was distraught.

21 When law enforcement came, he cooperated. He talked to
22 them and told them exactly what he saw and he was able to
23 get a look at who was shooting. He saw the Defendant who he
24 told you he recognized. He was able to tell officers what
25 he was wearing, how he looked. He was bald, had facial

1 hair, and he knew him. Didn't really, didn't know him.
2 Didn't know him very well, but knew of him. He knew the
3 name Trey and gave that to law enforcement. And based on
4 that, he was able to pick this Defendant out of a photo
5 lineup as the person shooting an assault rifle. He also
6 gave a written statement. And I'm sure this is what Defense
7 counsel is going to say.

8 Well, what was in his written isn't what he allegedly
9 told law enforcement. The name Trey is not in here. The
10 Treshawn is not in here. But what is in his written
11 statement. He said it was those boys that got in a fight in
12 winter of 2016. He identified them. He had just seen his
13 mother gunned down mercilessly. He told officers what he
14 saw and when he's writing a statement, he's not going to
15 write verbatim everything that he said to every person that
16 he spoke to on that scene that day. Don't let that distract
17 you. The fact that he identified Treshawn Jenkins as the
18 person with the assault weapon, who gunned down his mother
19 and shot Damian Shuler.

20 We heard from Johnny Elmore, Tromel Benjamin, Sr., and
21 Tromel Benjamin, Jr., as well as George Jenkins. And they
22 all told you very similar things. They all told you they
23 knew Zaquan Taste because he had been over there before. He
24 had made music with them. He had played basketball. There
25 was no ill will towards him. There was no beef with him.

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1 They all told you that nobody ever threatened anybody,
2 nobody ever pulled a gun, and nobody ever shot at the car,
3 at anybody in the car or at Mr. Taste. They all saw the
4 Buick stop halfway up the drive, the back doors opened and
5 they heard gunshots. They told you it was two sets of
6 gunshots and that it was a lot of shots.

7 Johnny Elmore was so shocked when the gunshots started
8 firing that George Jenkins told you he had to push him down
9 in the door so he wouldn't get shot.

10 And then both Mr. Elmore and Mr. Benjamin, Jr., both
11 identified Zaquan Taste driver and Treshawn Jenkins was one
12 of the shooters. Where was

13 into law enforcement? Law enforcement told you they
14 arrived on scene. As soon as they arrived on scene they
15 were given the name of Zaquan Taste and a description of the
16 black Buick. Two of the officers left to look for the Buick
17 while other officers stayed on scene to gather information.
18 They told you that the Buick was located and got into a
19 chase with law enforcement and ultimately crashed and the
20 suspects ran from the vehicle. Some of the officers went to
21 go assist in the search while other officers stayed on scene
22 and continued to gather evidence. They told you that they
23 were able to come up with three suspect names. Not only
24 Zaquan Taste, but while they were at the incident location,
25 other people there gave them the name of Treshawn Jenkins

1 and Matthew Brown and they got a photo lineup of those
2 people and they were identified.

3 Crime scene investigators photographed the scene and
4 collected evidence. And you heard that they confirmed that
5 all of the bullets that they found were shot in the
6 direction of the shed. And they were able to do that by
7 showing you the trajectory rods that they put into the shed,
8 showing exactly what path the bullets took. And they also
9 showed you exactly where all of the shell casings from those
10 bullets were found, in addition to a pair of brass knuckles
11 that we later heard had the DNA of Treshawn Jenkins, once
12 again proving that he was there that day. All of those
13 shell casings as well as those brass knuckles are all in
14 the same group and location.

15 You heard that warrants -- that Zaquan Taste was taken
16 into custody that day. He was interviewed. He identified
17 Treshawn Jenkins in a photo lineup as one of the shooters
18 who had an assault rifle who shot at the shed twenty-five
19 times. And then you heard they took out warrants on Zaquan
20 Taste, Treshawn Jenkins, Matthew Brown, Frank Smooth, and
21 Dwendell High. All of the warrants were for the same
22 charges. They were all charged with murder. They were all
23 charged with attempted murder and they were all charged with
24 possession of a weapon during the commission of a violent
25 crime.

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1 So then we heard from the co-defendants. We heard from
2 Frank Smooth, from Matthew Brown and Dwendell High. They
3 told you they've all known each other for years. Also knew
4 the Defendant for years. They all testified that the
5 Defendant had an assault rifle when he went to Eutawville.
6 That the assault rifle was black and brown. They all told
7 you it was about this big. They told you that nobody
8 threatened them, that nobody pulled a gun on them, and that
9 nobody ever shot at them as they were driving away, they
10 told you this Defendant jumped out of the car, fired two
11 shots, then he got his foot run over. After his foot got
12 run over, he then fired another volley of shots. They told
13 y'all it was a lot of shots, more than ten. We now know it
14 was twenty-five. There were slight differences and I'm sure
15 that Defense counsel is going to say that shows that they're
16 lying. They're trying to save their own skin. Well, I'll
17 tell you that it's actually the exact opposite. I would be
18 more concerned if their stories were identical and they got
19 -- they're the same, because to me that would have meant
20 that they all got together and came up with the exact same
21 story to tell. They didn't do that. They told you what
22 they remember happening that day. All of them testified
23 that they hadn't been made any promises in exchange for
24 testifying. They were all still facing the same charges of
25 murder, attempted murder and possession of a weapon during

1 the commission of a violent crime.

2 They told you they contacted me. I did not contact
3 them. And the reason they contacted me is because they
4 wanted everybody to know exactly what their role, and not
5 only what they did but more specifically what they didn't do
6 in this incident.

7 And you heard from Dwendell High who had a hard time
8 testifying. And that's because the Defendant is his first
9 cousin, said he was like a little brother to him, that he
10 had taken him in several times and he'd generally tried to
11 keep him out of trouble. He didn't want to get on the stand
12 and point out his cousin as the person who did this, but he
13 had to tell the truth. You heard that he got harassing
14 phone calls from his own family asking him not to testify,
15 don't tell the truth.

16 MR. FARLEY: Judge, this was already excluded.

17 THE COURT: Okay.

18 MR. FARLEY: May we approach?

19 THE COURT: Yeah.

20 (Off the record bench conference with counsel and the
21 Court.)

22 THE COURT: Please continue, Ms. Cornwell.

23 MS. CORNWELL: Thank you, Your Honor.

24 STATE'S CLOSING CONTINUED

25 BY MS. CORNWELL:

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1 Mr. High also testified that the only time the
2 Defendant jumped out of the car was after Zaquan Taste told
3 him Old Boy's here.

4 Well, let's talk about Zaquan Taste. He's the driver
5 of the black Buick. Told he'd been to Craig Street before,
6 didn't have any problems with anybody there. They were all
7 friends. He told you that before they even got there when
8 the Defendant came to his house to get him, he was already
9 talking about Rico. Hoping Rico wasn't going to be there.
10 And wondering what was going to happen if Rico was there.
11 And because of that, because he knew Rico was probably going
12 to be there because Rico lived there, he went and made Mr.
13 Taste go get guns, help me get guns. He got an assault
14 rifle and he made sure Mr. Smoot also got a gun. Zaquan
15 Taste told you they even tried to give him a gun but he
16 didn't want a gun. He didn't need one. He was seventeen
17 years old. He was doing what his uncle asked him to do by
18 driving the boys down there. Should he have known that you
19 don't need to drive a car full of guns to a place where
20 somebody is already talking about trouble with somebody,
21 probably. But if your mother was anything like my mother
22 she told you it's not only the actions you do, but you can
23 also be found guilty by association. And as a teenager you
24 don't really take that into consideration. And
25 unfortunately, I think Zaquan Taste got a very hard lesson

1 in life of how true that really is. Because Zaquan drove
2 down there, got out, shook hands everybody, asked if his
3 cousin was there. When he found out she wasn't, he got back
4 in the car and started to leave.

5 He told you that when he told Mr. Jenkins that Old Boy
6 was there, meaning Rico, that's when Treshawn Jenkins jumped
7 out of the car and started shooting at the shed. He told
8 you again and confirmed that he did run over the Defendant's
9 foot. And that after he ran over the Defendant's foot, he
10 back the car up off the foot and after Mr. Jenkins jumped
11 back in the car, he fired another round of shots. He
12 identified this Defendant in court as the person who had the
13 assault rifle and who shot the twenty-five shots at the shed
14 that day. Dwendell High, Frank Smoot and Matthew Brown also
15 identified that Defendant as the person who had the assault
16 rifle and who fired a shot that day. You also heard that
17 Mr. Taste was going to go on trial this week. But on
18 Tuesday -- and you may recall the long break that you had as
19 jurors during selection -- he pled guilty that day to avoid
20 trial. He didn't plead guilty to murder. He didn't plead
21 guilty to attempted murder and he didn't plead guilty to
22 possession of a weapon during the commission of violent
23 offense, even though those are the charges that he was
24 charged with. He didn't plead guilty to those because he
25 wasn't guilty of those. But, again, it's not the State's

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1 goal to just get convictions on what people are charged
2 with. Mr. Taste pled guilty to accessory after the fact of
3 murder and to assault and battery of a high and aggravated
4 nature. And we allowed him to plead under North Carolina
5 versus Alford and the Judge explained to you what that was.
6 He didn't want to admit guilt because in his mind he didn't
7 have the criminal intent to do anything. But he realized
8 that if he had gone on trial for those charges, he would
9 have likely been found guilty of those charges. So he
10 wanted to take the benefit of asking the court for mercy and
11 taking a benefit of the deals that he could receive from the
12 Court. And the Judge told you that it was his job to
13 sentence, not mine.

14 When Mr. Taste appeared in front of the court, let me
15 tell you, he was scared. He was facing up to thirty-five
16 years in prison. The Judge also told you that part of his
17 probation was that he had to come and testify truthfully
18 because if he didn't, he could go to jail for fifteen years.
19 And so that's exactly what he did. He came and he testified
20 to you truthfully about what happened. And the truth of
21 what happened is that that Defendant fired his assault rifle
22 at the shed twenty-five times with the intent to get Rico.

23 Let's talk about the Defendant Treshawn Jenkins. You
24 heard that he was properly Mirandized every time he met with
25 law enforcement. He was never threatened, never coerced.

1 Law enforcement spoke to him for no more than an hour each
2 time. The first two times law enforcement talked to him, he
3 lied. I'm not involved. I don't know anything about this.
4 And finally confessed twice. You heard he confessed once
5 outside of the interview room while he was taking a smoke
6 break. And then he confessed on the video that you were
7 able to see. And what did he tell you? He confessed that
8 he shot a gun and he confessed that he had the gun. You
9 also heard that his DNA was found at the crime scene.
10 There's no deny he was there and no denying he had a gun and
11 no denying shots were fired, no denying somebody was killed
12 or that somebody was shot

13 And finally, we heard from a bunch of experts. You
14 heard a DNA expert tell you that the DNA taken from the
15 brass knuckles matched the Defendant. And the probability of
16 that DNA matching anybody was 1 in 6.7 septillion. I don't
17 even know what septillion is, but it sounds like a real big
18 number. It is highly unlikely that that DNA could have been
19 anybody else's. And there was no other DNA found on those
20 brass knuckles. So you can tell by that that this Defendant
21 was prepared for trouble. He had evil intent. He not only
22 brought an assault rifle to Craig Street, he brought brass
23 knuckles too. He came there looking for a fight. You heard
24 from the firearms expert that all of the cartridge casings
25 on the scene and all of these bullet fragments that were

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1 found inside the shed were fired from the same gun and that
2 it would be an assault rifle and that the type of bullet is
3 a 7.62 by 39 mm bullet.

4 Finally, you heard from the pathologist who told you
5 that cause of death was a fatal distant penetrating gunshot
6 wound, which both entered and exited the victim's head,
7 lacerating her brain and causing death within minutes of
8 sustaining her injury. She also told you that the manner of
9 death in this case was homicide.

10 So let's talk about the law. And I will tell you the
11 one thing that Mr. Farley and I agree upon. Is that while
12 you are the sole judges of the facts, the Judge is the only
13 person that can tell you exactly what the law is. And if I
14 say anything or if Mr. Farley says anything that differs
15 from what the Judge says on the law, you are absolutely to
16 disregard what we say and only follow the law as the Judge
17 gives it to you. That's why he gets paid the big bucks.

18 But in the State of South Carolina murder is an
19 unlawful killing of another with malice aforethought. And
20 that malice deemed to be expressed during a crime.
21 Premeditation is not required for murder in the State of
22 South Carolina, but I would submit to you, even though it's
23 not required in South Carolina, that Defendant premeditated
24 what he was doing that day. That's the only reason he
25 brought the assault rifle and the brass knuckles because he

1 knew what he was going there to do.

2 So what is malice? Malice can be proven by an
3 intentional act of violence. It is the reckless disregard
4 of the welfare of another. Malice's conduct signifies a
5 conscious effort of creating a high risk of serious bodily
6 injury to another. The use of a deadly weapon alone can be
7 inferred as malice. There's no time limit for malice. You
8 don't have to think about it. You don't have to get angry
9 about it. Malice can happen in the blink of an eye. It can
10 happen the second that the deadly weapon is pulled. And the
11 Judge is going to tell you that it can be expressed or
12 implied malice and he's going to go over exactly what
13 expressed and implied malice means. It's not different
14 types of malice, it's just different ways that malice can be
15 interpreted.

16 The Defendant's also charged with attempted murder.
17 And in an attempted murder we must prove that the Defendant
18 had the intent to kill and attempted to kill another person
19 with malice aforethought.

20 Well, what is criminal intent? In order to prove any
21 case in South Carolina, the State has to prove that there
22 was criminal intent. Criminal intent is a mental state.
23 It's a conscious wrongdoing. It may arise from
24 circumstances that show purpose, knowledge, recklessness or
25 negligence. Criminal intent is a thought. It's nothing

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1 that I can prove to you by direct evidence, but you can
2 infer criminal intent by the actions that surround the act.
3 Did he act purposefully? Did he act knowingly? Did he act
4 with negligence and recklessness? Absolutely. He clearly
5 had the criminal intent to commit the crimes that he
6 committed.

7 The Judge is also going to talk to you about
8 transferred intent. And transferred intent is if a
9 defendant with malice aforethought attempts to kill another
10 person, but by mistake injures or kills a different person,
11 the defendant still has the intent to kill and is still
12 guilty of the crimes just as if he would have killed the
13 person that he was actually trying to kill or injure.

14 So in this case just because he didn't kill Rico
15 doesn't mean that he's not guilty of the murder of
16 Jacqueline Wright or the attempted murder of Damian Shuler
17 because while he didn't succeed in what he tried to do with
18 Rico, he still had that intent when he fired that weapon.
19 And based on that, he still committed the crimes of murder
20 and attempted murder for Jacqueline Wright and Damian
21 Shuler.

22 Let's talk a little bit about the intent to kill. And
23 this is kind of fun in South Carolina. In South Carolina
24 the crime of murder does not require a person to have an
25 intent to kill, the criminal intent has to be to act

1 maliciously. So in this case pulling a firearm even if your
2 intent is to shoot in the air and you shoot somebody else
3 instead, just because you didn't intend to kill that person,
4 you intended to act maliciously and that person died, so
5 that is murder in South Carolina. It's not the intent to
6 kill. It's the intent to act maliciously, which he clearly
7 did. However, the crime of attempted murder does require
8 that intent to kill. And that is what you as jurors have to
9 figure out in your jury room.

10 It's my position that the Defendant absolutely
11 attempted to kill not only Ricardo Lee but everybody at that
12 cookout because there is no reason, other than an intent to
13 kill for somebody to fire twenty-five shots at a shed where
14 he knows multiple people are sitting in, unless you intend
15 to kill people.

16 Finally, he's charged with possession of a weapon
17 during the commission of a violent crime. We have to show
18 that he possessed the weapon and that he possessed it during
19 the commission of a violent crime. And as you know, murder
20 and attempted murder are both violent crimes in South
21 Carolina. So if you find him guilty of murder, attempted
22 murder or both of them, you also must find him guilty of
23 possessing the weapon. Conversely, if you find him not
24 guilty of murder and attempted murder, you cannot find him
25 guilty of possessing a weapon during the commission of a

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1 crime.

2 You're going to hear a lot about reasonable doubt. So
3 what is a reasonable doubt? A reasonable doubt is the kind
4 of doubt that would cause a reasonable person to hesitate to
5 act. The State does not have to prove anything beyond all
6 doubt. It is very difficult to prove anything beyond all
7 doubt. I think the saying is the only thing in certain in
8 life are death and taxes. I don't have to prove anything
9 beyond all doubt, simply a reasonable doubt. So if you did
10 what you swore under oath that you were going to do as
11 jurors as you sat in that jury box on Tuesday morning not
12 knowing anything about this case, and now today after you've
13 heard the testimony and seen the evidence, you now think
14 that this Defendant is guilty of the crimes he's charged
15 with, then the State has met its burden and proved its case
16 beyond a reasonable doubt. Because if you are firmly
17 convinced of this Defendant's guilty, you must find him
18 guilty.

19 When you go back into jury room -- this isn't like
20 sometimes when you see on TV. It's not your job to search
21 for reasonable doubt. You are not allowed to consider
22 anything that wasn't presented to you. You are only allowed
23 to consider the evidence that was given to you through this
24 courtroom and on that witness stand, which is why the Judge
25 has instructed you every night, you can't go look at outside

1 things. That's not your role. Your role is to examine the
2 facts and the evidence that's presented to you here in court
3 and apply them to the law.

4 So how has the State proven murder beyond a reasonable
5 doubt? Well, again, you know, Rico got into a fight with
6 the Defendant approximately one month before the shooting.
7 Zaquan Taste told you that. You know that the Defendant
8 knew Rico would probably be at the house on Craig Street and
9 that he took an assault rifle with a full clip to Craig
10 Street. He also took brass knuckles, that he jumped out of
11 the car with the assault rifle, that he intentionally fired
12 more than ten shots -- twenty-five shots to be exact --
13 directly at the shed where Rico was standing. The Defendant
14 ha been identified as the only person who was shooting at
15 the shed. All of the other testimony that you've heard says
16 that anybody else in that car that had a gun, fired in the
17 air. This Defendant fired at the shed with an assault
18 rifle, not a handgun. And you're going to see that this
19 Defendant killed Jacqueline Wright when he shot into the
20 shed and the way that you know that his gun and his bullet
21 is the one that killed Ms. Wright and not some handgun, not
22 a revolver, was you've got the autopsy photo.

23 MR. FARLEY: Objection. There's been no testimony
24 to link the wound of the victim to any one particular gun.

25 MS. CORNWELL: It's closing arguments, Your Honor.

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1 I'm allowed to argue.

2 THE COURT: You're allowed to argue and I'll let
3 you make that in your argument. So I'll note your objection
4 for the record but overrule it.

5 MR. FARLEY: Thank you.

6 MS. CORNWELL: Thank you, Your Honor.

7 STATE'S CLOSING CONTINUED

8 BY MS. CORNWELL:

9 When you look at the size of the hole from twenty yards
10 away, you use your common sense. Can a handgun from twenty
11 yards away penetrate a shed and go through a person's head,
12 lacerate their brain and leave a hole that big? An assault
13 rifle did that. The Defendant's assault rifle did that.

14 So we have to prove that there was an unlawful killing
15 of another person. The State has done that. Jacqueline
16 Wright died that day because of a gunshot wound she received
17 from that Defendant. Then we have to show you there was
18 malice aforethought. That Defendant intentionally fired
19 twenty-five shots from an assault rifle into a crowd of
20 people. That shows that he acted with evil intent, that he
21 had a reckless disregard for others and the fact that he had
22 an assault rifle and pulled the trigger just once is enough
23 to prove Malice. The State has shown you all of that. So
24 you have gotten the elements of an unlawful killing of
25 another person with malice aforethought. And, therefore,

1 the State has proven beyond a reasonable doubt that this
2 Defendant is guilty of murder.

3 We showed you attempted murder. We told you he
4 attempted to kill Ricardo Lee. We know that from Mr. High
5 and Mr. Taste testimony. We know that he actually shot
6 Damian Shuler. And, again, when you look at the injuries on
7 Damian Shuler, the big scar that he had when the bullet
8 entered, the big scar that he had when it exited, you make
9 the determination. Do you think that that was from a
10 handgun from twenty yards away? That was from an assault
11 rifle. That was from his assault rifle. And, again, he
12 shot at attempting to kill everyone else in that shed.
13 Because there is no reason to shoot twenty-five shots at a
14 shed full of people unless you mean to kill someone. And
15 thank God nobody told him that Rico was standing out there
16 when the car was exactly beside the shed. Otherwise, it
17 would have been a massacre and we would potentially be here
18 on ten or more murder cases.

19 So the State has to prove there was an intent to kill
20 another person. Again, he intended to kill Rico. And
21 anytime you shoot into a crowd of people, the intention to
22 kill is there. We have to show that he attempted to kill
23 another person, that he not only intended to do it, but he
24 attempted to do it. Well, clearly he attempted to do it
25 because he fired his assault rifle twenty-five times. And

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1 he had to do it with malice aforethought. And again, malice
2 is the same for attempted murder as it is with murder. And
3 we've proven that by showing him firing into the crowd with
4 evil intent, reckless disregard and using an assault rifle.
5 So the State has proven beyond a reasonable doubt the
6 Defendant is also guilty of murder.

7 And finally, we have firearm during the commission of a
8 violent crime. Absolutely. We've shown you that through
9 all of the shell casings and the holes that you see, that
10 there was an assault rifle. You've heard testimony that he
11 was the only one in that car that had an assault rifle. And
12 that he's the one that fired twenty-five times at that shed,
13 killing Jacqueline Wright and injuring Damian Shuler. Was
14 it during the commission of a violent crime, absolutely.
15 Murder and attempted murder are violent crimes. So the
16 State has proven him guilty of possessing a weapon during
17 the commission of a violent crime beyond a reasonable doubt
18 as well.

19 So at the end of this case now, as I'm about to sit
20 down, my job is done. Justice has been served for me
21 because you have now gotten all of the facts, all of the
22 evidence and all of the testimony in this case. We've
23 gotten a fair trial for both the victims' family and the
24 Defendant. It is now your job as jurors to apply those
25 facts, that testimony and that evidence to that law, not as

1 I've given it to you, but as the Judge has given it to you
2 and render a fair and just unanimous verdict. And I would
3 submit to you that if you saw what I saw and heard what I
4 heard, you will have no problem finding the Defendant guilty
5 of murder, guilty of attempted murder and guilty of
6 possessing a weapon during the commission of a violent
7 crime.

8 THE COURT: Thank you, Ms. Cornwell.

9 Mr. Farley.

10 MR. FARLEY: Thank you, Judge.

11 THE COURT: Yes, sir.

12 MR. FARLEY: If it pleases the Court?

13 THE COURT: Yes, sir.

14 DEFENDANT'S CLOSING

15 BY MR. FARLEY:

16 I don't know about y'all but I don't think the
17 Solicitor watched the same trial as us. Doesn't want a
18 convict -- their job isn't to convict people. What do you
19 think happens to Solicitors that doesn't get convictions,
20 that lose one trial after another? That's common sense, all
21 right? It's common sense.

22 When I talk to juries, it is extremely hard to try to
23 explain what is going on in a courtroom, the burdens of
24 proof and the law. I'll let the Judge tell you the law.
25 I'm not going to try to twist it and shape it into the way

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1 that I want it to look. The Judge is the one that's going
2 to talk about that.

3 Unfortunately, she mischaracterized one thing so bad
4 that I think I'm going to have to follow up on that.

5 But a criminal trial is like a puzzle. You know, like
6 the puzzles that we had growing up. And it's not one of
7 those twenty-piece puzzles. It's one of those thousand
8 piece puzzles. And it's not one of those puzzles that comes
9 in the box with the picture in it. It's that old puzzle
10 that you had that's in a ziplock bag that you've tried to
11 put together and you can't put together. You try to put
12 together, you can't put together. You probably lost pieces
13 along the way. You probably picked up some pieces from
14 other puzzles that you -- that don't even fit. I don't know
15 about you. The only time I really do puzzles is when the
16 power goes out, but when I first open that bag I look for
17 those pieces that are still stuck together. You know, those
18 are the easy ones. Like a real puzzle person, what they're
19 going to do, they're going to separate them all out. But I
20 take the easy road. I keep the pieces that are stuck
21 together, together. And then what do you do? Huh? You
22 build a frame. You take all the flat edges and the corner
23 pieces and you put them together and you build a frame.
24 Now, this little piece that's already put together, that's
25 those little bits of knowledge that police gather at the

1 scene of a crime. That's the little pieces of evidence.

2 And then as the case develops, they get more pieces.

3 Well, what's the frame? What's the frame of this
4 puzzle? Well, that's the probable cause that gets it into
5 this courtroom. Like I told you, those indictments, that
6 gets them into the courtroom. There's probable cause.
7 There's enough evidence to charge the Defendant with a
8 crime. If there was enough evidence to charge the Defendant
9 with a crime for ten or however many counts of attempted
10 murder, then why didn't she do it? Oh, she's doing it out
11 of the goodness of her heart. She could have, but she
12 didn't. Well, if she was seeking justice, she should have
13 sought justice for every single one of those poor people
14 that were there. So that argument, that argument fails.

15 Now, to build that frame, build that frame, they need
16 probable cause. Probable cause isn't the cause that we're
17 talking about here, what you have to find to convict this
18 man, probable cause is the lowest standard in criminal law.
19 Probable cause is, is there cause to believe that there's a
20 crime committed. And is there any evidence, however weak,
21 hearsay, whatever. Is there any evidence that shows that
22 the Defendant may have been connected with that crime?

23 So how do we get probable cause? Well, the Solicitor
24 just can't get up oh, well, we've got probable cause. Let's
25 do an indictment and let's roll. No, what the Solicitor has

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1 to do is the Solicitor has to take the case to the Grand
2 Jury, grand, big. Grand Jury I had a lot of questions
3 about.

4 What is a Grand Jury. Well, it's pretty simple. It's
5 a kangaroo court. There's no judge. What a Grand Jury is,
6 is eighteen people, eighteen people that meet in complete
7 secrecy. They only hear testimony from law enforcement.
8 They don't hear testimony from anybody else. You know what,
9 the Defendant does not even have a lawyer in the Grand Jury
10 proceedings. There's no one to speak on his behalf. He is
11 not allowed to say well, no, that's not right. I've got a
12 defense to that. No. And unlike you, unlike you, twelve
13 people that have to be unanimous in their decision, these
14 eighteen people, only twelve out of eighteen of them have to
15 agree. Now, unanimity, everybody agreeing about one thing
16 is a tough, tough thing. And that's the job that y'all
17 have. But try -- the defendant -- the Grand Jury only hears
18 from the police officer, nobody on his side, doesn't have to
19 be unanimous, what do you think's going to happen?

20 Now, I don't have specific numbers on this because the
21 Solicitor's office doesn't publish these specific numbers,
22 but my question is, if a cops telling you something, you
23 don't have anybody in here, they're going to indict just
24 about everybody that goes in there. And my experience in
25 the time that I've been doing this, I have had three cases

1 that were not indicted. And I did the math like a couple of
2 years ago, and I've handled thousands, literally. Not one
3 thousand but over two thousand criminal cases. And me, my
4 numbers, three. So if the Grand Jury's going to indict a
5 ham sandwich, all right. This case is here. That that
6 evidence to get it into this courtroom is extremely weak.

7 So we've got that little, that little, those couple of
8 pieces that came out of the bag put together. We've got
9 this frame that the Grand Jury has set up for us. Now comes
10 the hard part. And the hard part, the part that the
11 Solicitor's got to do is the Solicitor's got to fill in all
12 of those little pieces. And this isn't a puzzle -- the
13 lights come back on. Oh, well, we're done. We walk away.
14 No, this is a puzzle that they have to completely put
15 together. It's got to be finished. No missing pieces. No
16 trying to squeeze one of these things in, which I do. I try
17 to squeeze that puzzle piece in. They can't do that. It's
18 not -- they say nothing, nothing is certain in this life.
19 Well, it's pretty certain that if you have a puzzle with a
20 thousand pieces, okay, it's pretty certain that you're going
21 to be able to put it together or if you can't put it
22 together, surely someone else can. And in this case, they
23 have not put together the puzzle.

24 Now, let's start talking about some of the pieces that
25 they have put together. I'm not going to sit here and lie

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1 to you and say they haven't put evidence on the record. I'm
2 not going to do that. They've put some pieces of this
3 puzzle together. The Defendant was there. We know he was
4 there. We know he was there because his DNA was on the
5 brass knuckles. All right. I'm not going to try to hide
6 that. He was there. Just as an aside, who brings brass
7 knuckles to a gun fight?

8 Let's see. I had an abbreviated a list of the things
9 that the Solicitor got right. Oh, guns. There were guns
10 involved. The Solicitor's right. There were guns involved.
11 And we'll get into this a little bit when we get into their
12 experts. But all of these, all of these were fired from one
13 gun. But we talk about revolvers. Revolvers are guns.
14 Revolvers shoot. There are big revolvers and then there's
15 small revolvers. You heard their expert say I can't tell
16 you what kind of guns were used. You know, the funny thing
17 about a revolver is I could fire and it doesn't eject the
18 cartridges, okay? It does not eject the cartridges. So
19 that's why they didn't find them. We don't know if they've
20 got a .22, which is a tiny little bullet. It's a little bit
21 bigger than a BB or we don't know if they have a magnum. A
22 missing piece is that ammunition you don't see there.
23 That's one of those pieces that they don't have. That's one
24 of those pieces that we're given right there.

25 So something else I agree with them on is they brought

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1 four witnesses up here. Five people charged with a crime.
2 They brought four witnesses up here. The driver, Mr. Taste.
3 The Solicitor just told you he didn't plead guilty to murder
4 because he wasn't guilty of it? Well, why are those three
5 other boys still charged with murder? Because they played
6 the exact role as that man in this case. Why are they still
7 charged? It's so that they could have leverage over them to
8 make them come in here and testify. How about the other
9 young man, Mr. High, who's out on bond? Mr. Taste
10 cooperated. They saw him. All those people they saw him.
11 Mr. Taste cooperated, Mr. Taste gets out on bond. Mr. High,
12 he saw that. He had the discovery. Discovery is the
13 evidence against him. The police reports, any kind of
14 videos, any kind of forensics. He had it. They all had it.
15 They all knew what the police wanted. They all knew what
16 the Solicitor wanted. So when he sees -- when Mr. High sees
17 Mr. Taste get out on bond, he's like I'm going to jump on
18 that bandwagon. I'm going to roll with that. And guess
19 what, it worked for him.

20 Now, the two other guys that have been sitting in the
21 jail for twenty months, she parades them out of that door in
22 shackles, sits them up there in the stand and says I want
23 you to tell the truth. You know, come on. Tell the truth.
24 Oh, I'm just trying to clear my chest. Well, they held out
25 for twenty months refusing to plead guilty, refusing to bow

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1 down to the Solicitor to tell you what she wants you to tell
2 them. But they finally jumped on the bandwagon.

3 The only person who hasn't jumped on the bandwagon is
4 Treshawn. He didn't testify. He doesn't have to. That's
5 his Fifth Amendment Right. But I submit to you that he did
6 testify when he told the Judge that he is not guilty and he
7 wanted a jury of his peers to say that. He would not jump
8 on that bandwagon. That's why there's a trial. That's why
9 Mr. Taste is at home on probation. And that's why these
10 other -- because they haven't been made any deals. They're
11 just getting it off their chest.

12 What do you think's going to happen? Do you really
13 think that nothing is going to happen? That they're going
14 to go to trial or do you think they're going to get their
15 charges reduced too? Well, you're not allowed to do it now,
16 but when this case is over, I want you to take a look at the
17 media, read the newspaper, because either today or tomorrow,
18 next week, those kids are going to plead guilty and those
19 kids are going to -- well, they're either going to plead
20 guilty or their charges are going to be dropped. But they
21 aren't going to be pleading guilty to murder. That's
22 another piece that doesn't fit. They're facing a mandatory
23 minimum, day-for-day, thirty years in prison. Now, thirty
24 years in prison, that's a number that we talk about.
25 They're just thrown around all the time. Thirty years in

1 prison.

2 Well, I think back to where I was thirty years ago. I
3 was a nine-year-old middle schooler. Had no idea what I
4 wanted to do with my life. I was a stupid kid that had no
5 idea about the world. That's a lifetime ago. And if you
6 sit in a jail cell for twenty months thinking, I'm looking
7 at thirty years of my life in prison? That's something
8 that's going to persuade you to jump on that bandwagon and
9 say anything that they want you to say. And not only
10 mandatory minimum day-for-day no parole, they're facing life
11 in prison. And unlike what you hear in some states, life in
12 prison in South Carolina means you roll out of that prison
13 in a coffin. That's the only way you get out. I know if it
14 was my life, I would be extremely tempted to hop on that
15 bandwagon and that's what they did.

16 So when you listen to their testimony, just like when
17 you listen to anybody else's testimony, you've got to be
18 skeptical. When you listen to the Solicitor's opening and
19 closing, you've got to be skeptical. And I'm not going to
20 lie to you. You've got to be skeptical about what I'm
21 saying. All right? But those guys have every reason to
22 lie. The co-defendants have every reason to lie and I am
23 not afraid to say those kids got up on that stand and lied
24 to you to save their own skin. One of them said there were
25 three guns. One of them said there were two. Several of

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1 them said we got into the car, a Buick and we didn't see a
2 machine gun that I think the Solicitor just told you was
3 about that big. What did they do; stick it under the seat?
4 Hide in that map compartment on the back of the seat? They
5 didn't see a machine gun in the car. That goes against all
6 common sense whatsoever. Then some of them talked about
7 well, it was this missing girl, Shy. I fail to see how that
8 fits into the narrative that the Solicitor has gone. I fail
9 to see it. What is that? That's a missing piece that they
10 haven't been able to fill in. Did y'all hear when they said
11 well, we -- basically, we were worried about Shy so we went
12 to the Holly Hill Police Department and we filed a report.

13 Did you hear any testimony whatsoever about a police
14 report? Why didn't bring in the Holly Hill Police
15 Department and say yes, they filled out a report or no, we
16 never got a report? What is that? That's reasonable doubt
17 right there. And then these guys oh, well, we're going to
18 go over and check out this and see if Shy is over there.
19 They just went and filed a police report. Why wouldn't they
20 call the police department and have the police go check it
21 out? This is -- it's nonsense. It just does not make any
22 sense. Every single one of those stories were different.

23 You have this running over the foot thing. I don't
24 know about you but I'm pretty sure that having your foot run
25 over by a Buick doesn't feel too good. Did you have any

1 testimony -- hear any testimony from the officers that yes,
2 when we apprehended him, his foot had been run over? I
3 didn't. What is that? What does that foot running over
4 have to do with it? I don't know.

5 Another missing -- three guns in the car. Oh, yeah, I
6 shot up in the air. I shot up in the air. Yeah, I was
7 there. I had a gun, but I didn't hurt no one. I was
8 shooting up in the air. One guy said I didn't have a gun.
9 Another guy said he did have a gun. So we've got two, we've
10 got three? Do they shoot up in the air, shoot at the
11 ground? We don't know. You can't trust any of those
12 people. You can't trust a single one of them.

13 Y'all sat here. You heard the same evidence I did.
14 You know that the inconsistencies in this story and the
15 inconsistencies in the narrative the Solicitor tried to
16 paint in that closing argument. They're there. You've seen
17 them. You know.

18 Let's move on to the highspeed chase, the pursuit.
19 They said who was in that car. They did. The police didn't
20 tell you. The police didn't know if there were three, four.
21 Granted, they had just been hit and I understand that. But
22 what the police said that was different than what they said
23 -- the police said everybody scattered out on one side of
24 the car. The driver went out the passenger's side. The
25 back passenger went out on the -- you know, everybody went

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1 out on that side. But to hear them talk, they just jumped
2 ship, just like a normal person and they ran. We don't know
3 who ran. You can't believe their testimony so we don't
4 know. They knew what the Solicitor wanted them to say.
5 They knew what the police wanted them to say, but we don't
6 know because their testimony is completely unreliable. All
7 right.

8 Now, there are some witnesses that we can believe. I
9 believe, all right. And those are the three experts that
10 came up here. The three expert witnesses that the Judge
11 said you listen to their opinion because through their
12 training and experience, they have been qualified as
13 experts. The pathologist, she told us two things. That the
14 victim is dead from a gunshot wound and that the gun was not
15 close to the victim. That's all she said. I agree with her
16 and I think you all agree with her as well. The DNA expert.
17 She said a couple of things that are important that I think
18 you should look at. The first thing that she said is the
19 Defendant's DNA was on the brass knuckles. Septillion,
20 septillion, I don't remember the exact number, but it's
21 pretty darn definitive. We're not going to hide behind
22 that. That's what she said. It's the truth. We're not
23 going to sugarcoat it. It's the truth. But the other part
24 that the Solicitor didn't want you to hear is that she was
25 only given that one DNA sample, the standard. She wasn't

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1 given it for Mr. Smoot. She wasn't given a DNA standard for
2 Mr. Smooth. She wasn't given a DNA sample for Mr. High.
3 She wasn't given a DNA sample from anyone else in this case,
4 including the people on scene at the time.

5 How difficult -- they told you about a buccal swab.
6 How difficult would it be to say, hey, you're charged with a
7 crime. Why don't we swab your mouth and send it off to SLED
8 to see if it matches up to any evidence that we take in.
9 That is a big missing piece that you don't have.

10 And then finally, the witness that I think we can all
11 agree on is the firearms expert, all right? He said in his
12 report that we went over in detail with you -- he said that
13 that fragment that was left over in her brain was consistent
14 with a bullet but he couldn't tell us what kind of bullet.
15 We know it was a bullet. Come on, it's common sense, but he
16 couldn't tell us what kind. So could it have been fired by
17 that .22 or could it have been fired by a machine gun or
18 whatever it is that they say that he had or could it have
19 been fired by a Colt? We don't know. And the Solicitor
20 said well, they've got all these casings and every single
21 bullet that they've found with those trajectory rods, they
22 found every single one of them, and they were all directed
23 at the house. They didn't find all the bullets, twenty-five
24 or whatever. You tell me how many bullets are in here. It
25 ain't twenty-five bullets in there. It was twenty-five

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1 shell casings, not to include the ones fired by the
2 revolver.

3 Now, the Solicitor really, really, really wanted to
4 show you this picture, which you're going to take back into
5 the jury room and wanted to say oh, that, use your common
6 sense. A wound that big had to come from a machine gun.
7 But what she didn't do with the expert up there is she
8 didn't ask him is that wound consistent with that kind of
9 ammunition? We're talking what, twenty yards away? You
10 know, twenty yards or you're in the red zone? We don't know
11 what kind of pistols there are so we don't know if they
12 could make that wound. Why not ask him? He's their expert.
13 Why not ask him? Because I think they knew what the answer
14 would be, just like with everything else. I can make no
15 determination about it.

16 Now we've come to the people at the party. The
17 Solicitor says they didn't have guns. They didn't have a
18 beef with these people. We don't have that. We know what
19 they said. We know what they said, but they didn't do
20 gunshot residue kits on the people at the party. Remember,
21 you were told that a gunshot residue kit is where they look
22 for minerals and element that come onto your clothing and
23 your skin after a gun is fired. It had to be done within a
24 couple of hours. Police were on scene in minutes and they
25 didn't do it. Had they done it, what would they have found?

1 You know what, we'll never know. I'm not a police officer,
2 but I'm a police officer. I come up to the scene of a
3 shooting. I'd probably want to make sure everybody is
4 unarmed. I haven't heard any testimony that they padded
5 these folks down. I haven't had any testimony that they
6 looked in the house, looked in the woods, looked in the
7 bushes for guns. They may have. But I haven't heard any of
8 that testimony.

9 Back to the crash site. The Solicitor put in two
10 shoes. Why? I can think of no logical reason whatsoever to
11 put in these shoes. And if she has a reason, I'd be glad to
12 know it. But don't worry. When y'all get this evidence,
13 when you get to go back into the jury room, you'll be able
14 to open that up and maybe you can figure, looking at these
15 shoes, what they're there for. But red herrings. You know,
16 that's an example of trying to take one of those puzzle
17 pieces -- you know how you do it sometimes and you try to
18 squeeze it in, it doesn't quite fit but you're really trying
19 to squeeze it in. That's what they're trying to do, throw
20 out red herrings. Try to throw -- their idea is let's throw
21 as much information out to the jury as possible and let's
22 see what sticks. You can't fit the puzzle pieces together
23 that simply don't fit. No one had a beef with anybody at
24 that cookout. I didn't hear -- that goes to motive, all
25 right. That goes to motive. That goes to why did this

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1 happen?

2 Now, the State told you and I agree with the State one
3 hundred percent, that the State does not have to prove
4 motive to prove the crime. But you know this puzzle analogy
5 we've got going here, remember we pulled this out of the
6 bag. We didn't have the box with the picture on it. Well,
7 guess what? Motive is that picture. Motive is that guide
8 that tells us where those pieces go, how they fit together.
9 It's a heck of a lot easier to know what you're building if
10 you've got that picture and we do not have that picture.
11 The State has not proven or shown any kind of reliable
12 sensible motive whatsoever.

13 Now we come to the confession. Sitting in here with
14 that TV it's hard to hear. It's hard to see. It's hard to
15 look at it, figure out what's going on with it, but guess
16 what? When you go back into that jury room, I want you to
17 listen to that confession. I want you to listen to what's
18 in it. I want you to listen to what's not in it, okay?
19 Listen very carefully. You can rewind it. You can fast
20 forward it, you can do whatever you want to. I want you to
21 look at that little thing where the police officer and him
22 have an interaction and some kind of understanding. Is that
23 a bond issue? I don't know. But you're looking at that
24 video in the absence of the other two videos where the
25 Defendant denied that he did this. So he gets arrested.

1 First thing he does is deny that he had any involvement. So
2 what do they do? They bring him over again two days later.
3 Once again, he denies any involvement. By the time that
4 second interview had happened, some of these co-defendant's
5 had started trickling into the jail. They were talking. Do
6 you remember what the officer testified happened in that
7 second video? He testified that he told the Defendant I
8 want to help you. I am reaching out my hand to you. I just
9 want to help you. And I need you to help me. That's what
10 he said. He didn't say like the Solicitor said. We read
11 him his Miranda rights and then he said I did it. That's
12 not what happened. I'm going to reach out my hand and I'm
13 going to help you, but you've just got to help me. So he
14 sends him off to the jail telling him he really wants to
15 help him. Five days later, after he's been sitting in that
16 jail thinking man, if I just help them, I'm going to get a
17 bond. All I've got to do is help him and he's going to help
18 me. He goes in there and he does what the cop tells him,
19 the cop wants him to. He helps him. Watch the confession.
20 Watch the confession.

21 Now, there's other evidence that I haven't touched on.
22 Y'all have got it. Take a look at it. Apply skepticism to
23 all of it. I hate to go into the law with people because
24 the Judge is going to do it and it's going to take him a
25 while to do it, so please listen to him. But the one thing

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1 that I think she categorically misstated was the law of
2 transferred intent, all right. Ms. V's going to kill me for
3 this. But I'm intending to shoot a rubber band at Ms. V. I
4 miss and I hit that court reporter. I didn't intend to hit
5 the court reporter at all. That wasn't my intention. My
6 intention to hit Ms. V. Well, guess what, I'm guilty of
7 hitting the court reporter just as I would have been if I
8 had hit Ms. V. You've got to find intent to hit anyone to
9 apply that transferred intent doctrine. I have not heard
10 any intent to hit anyone whatsoever. The Judge's charge is
11 going to be long, I know. But listen carefully. You know,
12 listening to that, that's the law, okay?

13 Now, you all got to find him guilty or you all got to
14 find him not guilty. If you go back in that jury room and
15 people don't agree listen to each others' discussion.
16 Listen to what other people are saying. You've got to keep
17 your mind open. Twelve people see things from twelve
18 different perspectives. All right. So listen to each
19 others' perspective, compromise when you have to but do not
20 compromise the fact that the State has to prove this case
21 beyond a reasonable doubt. The State has to put this puzzle
22 together one hundred percent perfect, although you can't
23 prove anything -- you can put a puzzle together and they
24 have not put this puzzle together. There are missing
25 pieces. There are missing pieces. And if one of those

1 pieces are missing, one of those pieces are left over from
2 another puzzle and won't fit in, or if the puzzle pieces
3 from this puzzle won't fit in, then they have not proven
4 their case.

5 There's a reason why two hundred plus years ago the
6 founders of our country put the burden on the State to prove
7 a defendant guilty. You know what, it's even older than
8 that, the Magna Carta. That's when you really first see the
9 codification of the right to a jury of your peers. I think
10 Jefferson said in the Declaration of Independence there's
11 some unalienable rights, life, liberty and the pursuit of
12 happiness. When we have a criminal trial what the State is
13 trying to do is take away someone's right to any or all of
14 these, life, liberty and the pursuit of happiness. And
15 those things I like. Those are the things that make our
16 country good. Those are the things that make our country
17 strong. And those are the things that they can't take away
18 unless they have proven their case.

19 Ladies and gentlemen, I thank you for being here. I
20 thank you for taking the time to listen. This is a very
21 important case. After you've looked at all this evidence,
22 after you've deliberated, there's only one right just
23 outcome to this case and I think you know what that is.
24 That outcome is to find the Defendant not guilty.

25 THE COURT: Thank you, Mr. Farley.

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COURT'S CHARGE

1
2 All right. Ladies and gentlemen, you've now heard all
3 the evidence in this case and arguments of both parties. It
4 is now, my duty to explain the law to you. You and I have
5 specific duties to perform. As the trial Judge, it is my
6 responsibility to preside over the trial and it is your
7 responsibility to consider the testimony, which has been
8 presented from this witness stand and the exhibits that were
9 introduced into evidence. I have the duty to charge you the
10 law applicable in this case. As the presiding Judge, I am
11 the sole judge of the law and it is your duty as jurors to
12 accept and apply the law as I now state it to you. If you
13 already have any idea as to what the law is or what the law
14 ought to be and it does not agree with what I now tell you
15 the law is, you must abandon this idea because you are sworn
16 to accept the law and apply the law exactly as I state it to
17 you. Your duty is to determine the facts. In every case
18 the jury is the sole and exclusive judge of the facts. A
19 trial judge cannot suggest, state, comment on or make any
20 statement to a trial jury about the facts. Since you, the
21 jury, are the sole judges of the facts, you are not to infer
22 from what I have said during the progress of this trial in
23 ruling upon the admissibility of evidence or otherwise or
24 anything that I say now during the course of this
25 instruction to you, that I have any opinion about the facts.

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1 The law does not allow me to have an opinion about the
2 facts. This is a matter solely for you, the jury, to
3 determine. As jurors, it is your duty to determine the
4 effect, value, weight and truth of the evidence presented
5 during this trial.

6 These indictments that we mentioned at the very
7 beginning charge the Defendant with murder, attempted
8 murder, and possession of a weapon during the commission of
9 or attempt to commit a violent crime. I remind you that the
10 fact that the Defendant was arrested, charged and indicted
11 is not evidence in this case and cannot be considered by you
12 as evidence of guilt, nor does it create any presumption or
13 inference of guilt. These documents are simply the formal
14 written instruments, which contain the charges made against
15 the Defendant. It is the formal documents by which the case
16 is brought into court.

17 The Defendant has pled not guilty to these indictments.
18 That plea puts the burden on the State to prove the
19 Defendant guilty beyond a reasonable doubt. A person
20 charged with committing a criminal offense in South Carolina
21 is never required to prove himself innocent. I charge you
22 that the Defendant in a criminal trial, no matter how
23 serious the charge, is always presumed to be innocent of the
24 crime for which the indictment was issued, unless guilt is
25 proven by evidence satisfying you of that guilt beyond a

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1 reasonable doubt. This presumption of innocence does not
2 end when you begin your deliberations. It accompanies the
3 Defendant throughout the trial until you reach a verdict of
4 guilt based on evidence satisfying you of that guilt beyond
5 a reasonable doubt. The presumption of innocence is like a
6 robe of righteousness placed about the shoulders of the
7 Defendant, which remains with the Defendant until it has
8 been stripped from him by evidence satisfying you of the
9 Defendant's guilt beyond a reasonable doubt. The
10 presumption of innocence is not mere legal theory. It is
11 not just a legal phrase. It is a real and substantial right
12 to which every Defendant is entitled unless you, the jury,
13 are satisfied of the evidence of the Defendant's guilt
14 beyond a reasonable doubt. I instruct you and emphasize to
15 you that the fact that the Defendant did not testify is to a
16 factor to be considered by you in any way in your
17 deliberation and in your consideration on the question of
18 the guilt or innocence of the Defendant. It must not be
19 considered by you in any manner whatsoever. The Defendant
20 has the Constitutional right to remain silent. And the
21 assertion of this right must not be considered by you in
22 your deliberations. I repeat, under your oath you are to
23 draw no conclusion whatsoever from the fact that the
24 Defendant did not testify. The fact that this Defendant did
25 not testify should not even be discussed in the jury room.

1 The burden of proof, as I have stated to you is on the
2 State. The Defendant is not required to prove his
3 innocence. The burden of proof remains on the State to
4 prove guilt beyond a reasonable doubt. What is reasonable
5 doubt in the law? A reasonable doubt is the kind of doubt
6 that would cause a reasonable person to hesitate to act.
7 The State has the burden of proving the Defendant guilty
8 beyond a reasonable doubt. Some of you may have served as
9 jurors in civil cases where you were told that it is only
10 necessary to prove that a fact is more likely true than not
11 true, such as by the greater weight or preponderance of the
12 evidence. In criminal cases, the State's proof must be more
13 powerful than that. It must be beyond a reasonable doubt.
14 Proof beyond a reasonable doubt is proof that leaves you
15 firmly convinced of the Defendant's guilt. There are very
16 few things in this world that we know with absolute
17 certainty and in criminal cases the law does require proof
18 that overcomes every possible doubt. Based on your
19 consideration of the evidence, if you are firmly convinced
20 that the Defendant is guilty of the crimes charged, you must
21 find the Defendant guilty. On the other hand, if you think
22 there's a real possibility that the Defendant is not guilty,
23 you must give the Defendant the benefit of the doubt and
24 find him not guilty.

25 There are two types of evidence which are generally

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1 presented during a trial, direct evidence and circumstantial
2 evidence. Direct evidence is the testimony of a person who
3 claims to have actual knowledge of a fact, such as an
4 eyewitness. It is evidence which immediately establishes
5 the main fact to be proven. Circumstantial evidence is a
6 proof of a chain of facts and circumstances indicating the
7 existence of a fact. It is evidence which immediately
8 establishes collateral facts from which the main fact may be
9 inferred. Circumstantial evidence is based on inference and
10 not on personal knowledge or observation. The law makes no
11 distinction between the weight or value to be given to
12 either direct or circumstantial evidence, nor is a greater
13 degree of certainty required of circumstantial evidence than
14 of direct evidence. You should weigh all of the evidence in
15 this case. To the extent the State relies on circumstantial
16 evidence, all of the circumstances must be consistent with
17 each other and when taken together point conclusively to the
18 guilt of the accused beyond a reasonable doubt. After
19 weighing all of the evidence, if you are not convinced of
20 the guilt of the Defendant beyond a reasonable doubt, you
21 must find the Defendant not guilty.

22 Necessarily, you must determine the credibility of
23 witnesses who have testified. Credibility simply
24 believability. It is your duty as jurors to analyze and to
25 evaluate the evidence and determine which evidence convinces

1 you of its truth. In determining the believability of
2 witnesses who have in this case, you may believe one witness
3 over several witnesses or several witnesses over one
4 witness. You may believe a part of the testimony of a
5 witness and reject the remaining part of the testimony of
6 that same witness. You may believe the testimony of a
7 witness in its entirety or reject the testimony of a witness
8 in its entirety. You may consider whether any witness has
9 exhibited to you any interest, bias, prejudice or other
10 motive in this case. You may also consider the appearance
11 and manner of a witness while he is on the witness stand.
12 The rules of evidence ordinarily do not permit witnesses to
13 testify to opinions or conclusions. An exception to this
14 rule exist for witnesses we call expert witnesses. A
15 witness who by education and experience has become expert in
16 some art, science, profession or calling may state an
17 opinion as to a relevant and material matter in which the
18 witness claims to be an expert and may also state the
19 reasons for the opinion. You should consider any expert's
20 opinion like any other evidence and give it the weight you
21 think it deserves. If you decide that the opinion of an
22 expert witness is not based on sufficient education and
23 experience, or if you conclude that the reasons given in
24 support of the opinion are not sound, or that the opinion is
25 outweighed by other evidence, you may disregard the opinion

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1 entirely. An expert witnesses' testimony is to be given no
2 greater weight than that of other witnesses simply because
3 the witness is an expert. You are not required to accept an
4 expert's opinion, even though it is uncontradicted. The
5 testimony of experts is to aid and assist you as jurors, not
6 to dominate or control you in the decision of questions of
7 fact. Their opinions and deductions from the evidence
8 before you and their judgments and opinions do not preclude
9 yours. You are required to decide disputed questions after
10 comparison and consideration of all the evidence in this
11 case.

12 In order to establish criminal liability, criminal
13 intent is required. The mental state required to be proven
14 by the State for a particular crime might be purpose,
15 intent, knowledge, recklessness or criminal negligence.
16 Criminal intent must be proven by the State beyond a
17 reasonable doubt. Criminal intent is always a matter that
18 must be determined by the jury from the circumstances
19 surrounding the situation. There is no way to prove intent
20 to a mathematical certainty. There is no way medical
21 science can dissect a person's brain and determine what the
22 person had in mind so the law says that criminal intent may
23 be inferred from the circumstances existing at that time.
24 You must make a determination of whether or not the elements
25 requiring intent was present. It is not necessary to

1 establish intent by direct and positive evidence, but intent
2 may be established by inference in the same way as any other
3 fact, by taking into consideration the acts of the parties
4 and all the facts and circumstances of the case. Criminal
5 intent is a mental state, a conscious wrongdoing. It is up
6 to you to determine what the Defendant intended to do based
7 on the circumstances that were shown to exist at that time.
8 Criminal intent can arise from action or from a failure to
9 act. It may arise from negligence, recklessness or an
10 indifference to duty or to consequences that are considered
11 by the law to be the equivalent of criminal intent.

12 The Defendant is charged with murder. The State must
13 prove beyond a reasonable doubt that the Defendant killed
14 another person with malice aforethought. Malice is hatred,
15 ill will or hostility towards another person. It is the
16 intentional doing of a wrongful act without just cause or
17 excuse and with an intent to inflict an injury or under
18 circumstances that the law will infer an evil intent.
19 Malice aforethought does not require that the malice exist
20 for any particular time before the act is committed, but
21 malice must exist in the mind of the Defendant just before
22 and at the time the act is committed. Therefore, there must
23 be a combination of the previous evil intent and the act.
24 Malice aforethought may be expressed or inferred. These
25 terms, expressed and inferred, do not mean different kinds

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1 of malice, but merely the manner in which malice may be
2 shown to exist. Malice may be proven by direct evidence or
3 by inference from the facts and circumstances, which are
4 proved. Expressed malice is shown when a person speaks
5 words which express hatred or ill will for another or when
6 the person prepared beforehand to do the act, which was
7 later accomplished. For example, lying in wait for a person
8 or any other acts of preparation going to show that the deed
9 was within the Defendant's mind would be expressed malice.
10 Malice may be inferred from conduct showing a total
11 disregard for human life. Inferred malice may also arise
12 when the deed is done with a deadly weapon.

13 A deadly weapon is any article, instrument or substance
14 which is likely to cause death or great bodily harm.
15 Whether an instrument has been used as a deadly weapon
16 depends on the facts and circumstances of each case. The
17 following are examples of instruments which may be deadly
18 weapons, a pistol, a shotgun, a rifle, a dirk, a dagger, a
19 knife, a sling shot, metal knuckles, a razor, gasoline, a
20 fire bomb, a Molotov cocktail and lighter fluid. A gun may
21 be a deadly weapon even if it is not operating.

22 If facts are proved beyond a reasonable doubt
23 sufficient to raise an inference of malice to your
24 satisfaction, this inference would simply be an evidentiary
25 fact to be considered by you, along with the other evidence

1 in this case. And you may give it the weight you decide it
2 should receive.

3 The Defendant is charged with attempted murder. The
4 State must prove beyond a reasonable doubt that the
5 Defendant with the intent to kill attempts to kill another
6 person with malice aforethought, either expressed or
7 implied. An attempt is an effort to accomplish a crime,
8 which does not succeed. An attempt includes a specific
9 intent to do a particular criminal act, along with the act
10 falling short of the act intended. The State must show more
11 than mere preparation and intent. There must be some overt
12 act committed in the effort to commit the crime. Intent
13 means intending the result which actually occurs, not
14 accidentally or involuntarily. Intent may be shown by acts
15 and conduct of the Defendant and other circumstances from
16 which you may naturally and reasonably infer intent.
17 Transferred intent. If the Defendant with malice
18 aforethought attempts to kill another person but by mistake
19 injures or kills a different person, the Defendant still has
20 the intent to kill. The intent to kill is merely
21 transferred from the original person the Defendant attempted
22 to kill to the actual person killed or injured. The
23 Defendant would be guilty of murder or attempted murder just
24 as if the attempt had resulted in the death or injury of the
25 person the Defendant attempted to kill.

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1 The Defendant is charged with possession of a weapon
2 during the commission of or attempt to commit a violent
3 crime. The State must prove beyond a reasonable doubt that
4 the Defendant was in possession of a firearm or visibly
5 displayed what appeared to be a firearm during the
6 commission of a violent crime. A firearm means any machine
7 gun, automatic rifle, revolver, pistol or any weapon which
8 will and is designed to or may be readily converted to expel
9 a projectile. In order to find the Defendant guilty of
10 possession of a weapon during the commission of a violent
11 crime, you must first find the Defendant guilty of either
12 committing a violent crime or attempting to commit a violent
13 crime. Murder is defined as a violent crime. Attempting to
14 commit murder is defined as a violent crime.

15 I have declared the law to you through these
16 instructions to help guide you to a just and lawful verdict.
17 Whether some of these instructions apply will depend upon
18 what you find to be the facts. The fact that I have
19 instructed you on various subjects in this case should not
20 be taken as indicating an opinion of this Court as to what
21 you should find to be the facts or as to what your verdict
22 should be. Your verdict must represent the considered
23 judgment of each juror. In order to return a verdict, it is
24 necessary that each juror agree. Your verdict must be
25 unanimous. All twelve of you must agree on the verdict.

1 Your verdict cannot be based on sympathy, passion,
2 prejudice, emotion, or any other consideration not in
3 evidence in this case. Remember at all times you are not
4 partisans favoring one party over another. You are the
5 judges of the facts. Your sole interest is to seek the
6 truth that has been provided to you in this case.

7 Now, Mr. Foreman, I know you're tired of sitting. I'm
8 tired of sitting. I'm going to go over the verdict form.
9 I'm not giving it to you. Remember, I said go over it with
10 you.

11 FOREMAN: Yes, sir.

12 THE COURT: This is the verdict form. And we
13 already have -- I'm going to scratch out one thing right
14 here. I've actually had three people look at this and we've
15 got a conflict and I'm going to point this out to you, okay?
16 This tells you where we are, State of South Carolina. And
17 it says County of Dorchester, but guess what? We're not in
18 Dorchester. We're in Orangeburg. I told you at the first
19 -- that Orangeburg is also in the First Circuit. So I'm
20 going to scratch that out before I give it to you and write
21 in Orangeburg, okay? But we are in the First Judicial
22 Circuit. I told you that the First Judicial is made up of
23 Orangeburg, Dorchester and Calhoun. This is the way the
24 case is styled. The State of South Carolina versus Treshawn
25 Markeese Jenkins. The indictment numbers here are

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1 indictment numbers that -- just the numbers that are on the
2 indictments, okay. Then it tells you that this is the
3 verdict form. The directions now go, please circle the
4 appropriate verdict below and follow the accompanying
5 instructions carefully. The first question is, as to the
6 charge of murder: we, the jury, unanimously find the
7 Defendant -- and y'all will have to decide whether he's
8 guilty or not guilty of that charge. The second question.
9 As to the charge of attempted murder: we, the jury,
10 unanimously find the Defendant -- and again you have to
11 decide whether he is either not guilty or guilty of that
12 charge. Okay. Now, you have some more instructions before
13 you go to question three. If your answer to either question
14 one, two, or both is guilty, then you will go to question
15 three. If your answer to both questions number one and two
16 are not guilty, you stop and end your deliberations at that
17 time. Now, question three say as to the charge of
18 possession of a firearm or knife during the commission of a
19 violent or attempting to commit a violent crime, we, the
20 jury unanimously find the Defendant -- and, again, you have
21 to decide whether -- if you have answered one of those two
22 questions above it -- you have to decide whether he's either
23 not guilty or guilty. Now, you will then -- you're
24 responsible for signing the verdict form and dating it. You
25 notice we left the date blank. That's in case we have to be

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1 here longer than today, okay? Now, I'm not giving you this.
2 I've just told you I've got several corrections to make on
3 this. And I mentioned earlier that the reason I'm not
4 giving you this is because -- you know how much fun it was
5 to hear that law. I was glad y'all stayed awake and I
6 appreciate that, okay? I could have misspoke and I could
7 have left something out. So if I did, the attorneys are
8 going to point it out to me. And if I need to correct
9 something, I'll bring y'all back. I'll bring y'all back out
10 here to make that correction. If, however, we don't have to
11 make any corrections on the charge of the law that I've just
12 given you, then this verdict form, after I correct, and all
13 the exhibits are going to come back into the jury room with
14 you. And Delaine's going to say begin your deliberations.
15 Again, until you are told to begin your deliberations, you
16 cannot begin talking about this case. And the other thing
17 she may do while you're in there is --

18 You want to go ahead and get the -- yeah, if you'll go
19 ahead and get the orders.

20 -- because in addition to the huge amount of money
21 y'all are getting paid for this, we're going to buy you
22 lunch today, okay? All right. I'm going to let y'all go
23 back in the jury room. I'm going to talk to the attorneys
24 and we'll see where we go. Okay. One other thing, if you
25 don't come back here, you cannot deliberate while you're

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1 eating, okay? Everybody's got to finish eating before you
2 can pick it up, okay?

3 FOREMAN: Yes, sir.

4 THE COURT: Thank you.

5 (Jury out at 11:28 a.m.)

6 THE COURT: All right. Any corrections to my
7 charge from the State?

8 MS. CORNWELL: No objections from the State, Your
9 Honor.

10 THE COURT: Any corrections to my charge from the
11 Defendant, other than the ones that we talked about that I
12 have -- that I ruled on and we've preserved your objection
13 on.

14 MR. FARLEY: Judge --

15 THE COURT: Not that I mind your objection to
16 something else?

17 MR. FARLEY: Judge, I think we need a jury
18 instruction on the uncharged crimes. She went into detail
19 about, talking about all of these crimes I could have
20 charged him with but out of the mercy of my heart, I didn't.
21 So I think there needs to be some kind of curative
22 instruction in the charge saying that he's only charged with
23 the things that have been presented to the Court --
24 presented to you and you shouldn't consider the words of the
25 Solicitor.

1 THE COURT: Okay.

2 MR. FARLEY: And then another one for justice for,
3 you know -- to do justice for the victim. There's a PCR
4 that came out recently from Beaufort where the public
5 defender didn't object to that kind of language --

6 THE COURT: Do you happen to have that so I can
7 look over it.

8 MR. FARLEY: Not handy, Judge. I can find it.
9 It's been within the last year.

10 THE COURT: Okay. Well, you need to find that and
11 I need to look at that decision as quickly as I can.

12 MS. CORNWELL: And, Your Honor, just for the
13 record, the State didn't state that we had to find justice
14 for the victim. We actually stated that we had to find
15 justice for both the victim and the Defendant by coming to
16 --

17 THE COURT: I just want to see what that decision
18 said. That is what you said. I know you were concerned
19 about the justice statement. But in your opening you
20 mentioned you were here to seek justice for the Defendant.
21 And I think she just clarified that, but I would like to see
22 what the decision said to see if I need to do anything about
23 that.

24 All right. Let me see y'all back here.

25 We're going to be in recess for about ten minutes.

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1 (Court in recess for short break)

2 (Court in session after short

3 break)

4 (Jury deliberating at 11:41 a.m.)

5 (Court in recess awaiting the

6 verdict of the jury at 11:41 a.m.)

7 (Court in session for verdict at

8 12:54 p.m.)

9 THE COURT: I understand we've got a verdict so we
10 are done for the morning.

11 You told them to give the verdict form to you?

12 THE BAILIFF: Yes, sir.

13 MR. GIESE: Your Honor, we have just a couple more
14 of the victims' family are on the way back. They should be
15 here soon.

16 THE COURT: Okay. If you'll tell the jury to sit
17 tight for one second.

18 THE BAILIFF: Yes, Your Honor.

19 (Court at ease)

20 THE COURT: All right. Have we got everybody
21 here?

22 MR. GIESE: Yes, sir.

23 THE COURT: All right. Ladies and gentlemen, I
24 have been told that the jury has reached a verdict and I'm
25 about to find out what the verdict is, as is everybody.

1 When the verdict is read, I don't know what it's going to
2 be, there is to be absolutely no outburst from anybody.
3 Nobody's going to say anything, nobody's going to do
4 anything. If you can't maintain your composure and sit
5 quietly while we get the verdict, I'm going to give you an
6 opportunity to leave the courtroom now. If you disrupt the
7 courtroom, let me make sure you understand, you can be held
8 in contempt of court for making a disturbance. So if
9 anybody doesn't believe they can contain themselves and
10 remain quiet and composed while we go through the process of
11 finding out what the verdict is and sentencing, now is your
12 opportunity to leave. If you're in here, you're going to be
13 quiet. Okay. Everybody wants to stay? All right.

14 Is the State ready?

15 MS. CORNWELL: We are, Your Honor.

16 THE COURT: Is Defense ready?

17 MR. FARLEY: Yes, Judge.

18 THE COURT: All right. If you'll bring the jury
19 in please, ma'am.

20 THE BAILIFF: Yes, Your Honor.

21 THE COURT: All right.

22 (Jury in at 12:55 p.m.)

23 THE COURT: All right. Mr. Foreman, has the jury
24 reached a verdict?

25 FOREMAN: Yes, sir, we have.

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1 THE COURT: Is that verdict unanimous?

2 FOREMAN: Yes, sir, it is.

3 THE COURT: Would you mind giving the verdict form
4 to the bailiff?

5 FOREMAN: Yes, sir.

6 THE COURT: Okay. Thank you, sir.

7 THE BAILIFF: Your Honor, may I approach?

8 THE COURT: You may. Thank you.

9 All right. Madam Clerk, will you mind publish the
10 verdict.

11 THE CLERK: I bring the Court's attention to State
12 of South Carolina versus Treshawn Markeese Jenkins
13 indictment number 2016-GS-38-1268, 1269 and 1270.

14 As to the charge of murder: We, the jury, unanimously
15 find the Defendant guilty.

16 As to the charge of attempted murder: We, the jury,
17 unanimously find the Defendant guilty.

18 As to the charge of possession of a firearm or knife
19 during the commission of or attempt to commit a violent
20 crime: We, the jury, unanimously find the Defendant guilty.

21 It is signed today, February the 23, 2018, by our
22 Foreman, Mr. Daniel Green.

23 THE COURT: All right. Anything from the Defense?

24 MR. FARLEY: No, Your Honor.

25 THE COURT: Okay. All right.

1 Anything from the State?

2 MS. CORNWELL: No, Your Honor, the State's --

3 THE COURT: All right. Ladies and gentlemen of
4 the jury, let me tell you I know that sitting on a jury and
5 having to make a decision like this is a hard decision. I
6 appreciate y'all paying attention and the way y'all did it
7 through the entire trial. And I appreciate y'all's service
8 on this case. I really do. It's very much appreciated. I
9 told y'all, y'all would be talking about this, serving on a
10 jury for a long time. But, again, thank you for your
11 service. Y'all are now excused from service on the jury and
12 again, I hope y'all have a good weekend. Thank y'all very
13 much... Appreciate it. Thank you.

14 (Jury excused at 1:18 p.m.)

15 THE COURT: All right.

16 Are y'all prepared to go forward with the sentencing?

17 MS. CORNWELL: We are, Your Honor.

18 MR. FARLEY: We are, Judge.

19 THE COURT: Okay. All right. All right.

20 Anything from the State regarding sentencing?

21 MS. CORNWELL: Just briefly, Your Honor.

22 Obviously, the victim's family is here. Your Honor, you've
23 heard the facts of the case and the testimony and the
24 evidence. The State does not need to go any further into
25 that. The victim's family has been here this whole week and

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1 would like to address Your Honor in regards to sentencing in
2 this matter. Before we go into that, I would like to give
3 Your Honor the Defendant's prior criminal history.

4 THE COURT: Okay.

5 MS. CORNWELL: The Defendant was charged with
6 trafficking cocaine out of Florence County in 2015, prior to
7 this incident. He was recently convicted of that in 2017, I
8 believe.

9 THE COURT: That was a trafficking charge?

10 MS. CORNWELL: And that was trafficking charge.

11 MR. FARLEY: Reduced down to between 10 --

12 MS. CORNWELL: It was a trafficking of a higher,
13 over a hundred grams. He pled guilty to trafficking, I
14 believe seven to twenty-eight grams.

15 MR. FARLEY: That's correct, Judge. And that is a
16 strike.

17 THE COURT: Okay.

18 MS. CORNWELL: Also, prior to this incident
19 occurred.

20 THE COURT: Do y'all know what he was sentenced to
21 on that?

22 MR. FARLEY: Three years, the mandatory minimum.

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

24 MS. CORNWELL: And again, that was reduced down
25 from the one hundred where he would have faced twenty-five

1 to thirty years on that charge.

2 THE COURT: Right.

3 MS. CORNWELL: Also, before this case happened,
4 the Defendant was charged with cruelty to children in May of
5 2016. That is with this office. He has not been convicted
6 of that. However, I would like to bring it to the Court's
7 attention. This was a case where --

8 MR. FARLEY: Your Honor, he has not been convicted
9 of it. I don't think we need to go down that road.

10 MS. CORNWELL: Judge, is allowed to hear anything
11 in considering sentencing.

12 MR. FARLEY: And I'm asking him not to.

13 THE COURT: Well, you can, but I generally prefer
14 to just go over what they've been actually convicted of.
15 You've made me aware he's been charged with that. I don't
16 want to get into the particulars of it if you don't mind.

17 MS. CORNWELL: Okay.

18 THE COURT: Okay.

19 MS. CORNWELL: I mean, obviously in this case,
20 Your Honor, the jury has found him guilty of three charges.

21 THE COURT: Yes, ma'am.

22 MS. CORNWELL: All of these charges, all of the
23 arrests happened within a one-year period of time. He has
24 been incarcerated since this incident occurred. And his
25 date of arrest on that was July 20th, 2016. Given the facts

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1 of this case, the Defendant's prior criminal history, he's a
2 danger to the community, the State does feel that at this
3 point the maximum sentence of life is appropriate and we
4 would be asking you to impose a life sentence on this
5 Defendant. And at the appropriate time, Your Honor, the
6 family would like to address Your Honor in regards to their
7 requests. How this has affected them.

8 THE COURT: Your name, please ma'am?

9 MS. JAMISON: Elizabeth Jamison.

10 THE COURT: Okay. And Ms. Jamison, what would you
11 like to tell me?

12 MS. JAMISON: Well, I would like to say, Your
13 Honor, that I lost my sister and my loved-one. And I would
14 like him to get the highest, the highest sentences that you
15 can or you have the authority to give him because I can't
16 get my sister back and at least he's still alive. Number
17 two, I mean, we have issues in the world now with gun
18 violence. And, I mean, right now this process is all messed
19 up. And I mean, we need to really start tracking down, you
20 know, all these guns and everything. And I really would
21 like him to be off the streets because he could harm other
22 people and that is what I would like to say. And thank you
23 very much for allowing me to speak.

24 THE COURT: I'm sorry. Yes, ma'am. I appreciate
25 you coming up and speaking. I'm sorry that y'all have got

1 to live with the memory of this event.

2 MS. JAMISON: Yes, sir. Thank you.

3 THE COURT: Okay. Thank you, ma'am.

4 Anything else, Ms. Cornwell?

5 MS. CORNWELL: No, Your Honor, that would be all
6 from the State.

7 THE COURT: Okay. All right. Mr. Farley,
8 anything from the Defense?

9 MR. FARLEY: Yes, Your Honor. Thank you for the
10 opportunity. You've gotten to know my client somewhat over
11 the course of this and you have heard the facts of this
12 case. This isn't a case where we have -- this is a murder,
13 right? He's been convicted of murder. I'm not going to
14 lie, you know, try to say he hasn't been convicted of
15 murder. He still maintains his innocence and he's asked me
16 to file an appeal, but, you know, that's down the road.
17 Judge, a lot of times I hear talk about a trial -- where,
18 well, if you go to trial, you're going to get a lot worse
19 sentence than you would if you plead guilty. His plea offer
20 was thirty years. I don't expect that the Court's going to
21 do thirty years, especially after hearing the facts of the
22 case and seeing the family here all week long. But I think
23 life is at the opposite extreme. He's twenty-four years
24 old. Thirty years, day-for-day, prison life, you know,
25 that's not thirty years for me and you. That's a whole

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1 different world and that is a severe punishment. Judge, I'm
2 asking for something short of life, something that would
3 give just however slight a bit of hope for this young man.
4 I do want to point out that his family and friends have been
5 with the whole time, sitting on our side of the courtroom.

6 THE COURT: Uh-huh. (Affirmative response)

7 MR. FARLEY: And, your know, what I can really
8 tell you is in my discussions with him is that he wishes
9 that this had never happened. Not that he had not gotten
10 caught but that this woman had not perished in this kind of
11 way. So I'm not going to belabor the point, but we would
12 ask for something -- we'd ask for thirty if the Court would
13 show a little mercy and give him something short of life.

14 THE COURT: Okay.

15 MS. CORNWELL: Your Honor, if I could just briefly
16 respond to this trial tax thing, the State originally did
17 offer -- the State's original offer was a cap of forty. We
18 then reduced that to thirty years. My request for life is
19 based on the facts of the case. It is not a trial tax,
20 Obviously, the benefit of the bargain and the reason that we
21 were offering the mandatory minimum sentence is because
22 trial is difficult for a victim's family. They have to sit
23 through and see pictures that they've never had to see
24 before, hear testimony and based on that, we try to avoid
25 trials in order not to put the victims through that. The

1 Defendant exercised his right to trial and we absolutely
2 respect that and we're not trying to tax him, but we do feel
3 that the facts of the case do merit a life sentence and that
4 is why we're asking for life, not because he exercised his
5 right for trial.

6 THE COURT: Okay. All right. Y'all sit down for
7 a minute. I've got to -- the sentencing is what I've got to
8 decide and I've got to sit down and it's going to take it a
9 minute and I'll come back out in just a little bit, okay?

10 MS. CORNWELL: Thank you, Your Honor.

11 THE COURT: All right. Thank y'all.

12 (Court in recess for short break.)

13 (Court in session after short
14 break.)

15 THE COURT: All right. Ladies and gentlemen,
16 again, I would remind y'all that I'm getting ready to do the
17 sentencing. If anybody doesn't believe they can keep their
18 composure and stay calm and quiet during the sentencing, you
19 need to leave now, otherwise if you disrupt the Court you
20 can be held in contempt of court. I'm reminding you of it
21 again. So you have a chance to leave. If you don't leave
22 you can remain composed. All right.

23 All right. Mr. Jenkins, the jury has heard the
24 evidence in this case and found you guilty of all three
25 charges.

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1 On indictment 2016-GS-38-1269, this is the possession
2 of a firearm during the commission of a violent crime, the
3 sentence of this court is that you're committed to the state
4 department of corrections for a period of five years.

5 On the indictment number 2016-GS-38-1270, that is the
6 attempted murder charge that you were found guilty of. The
7 sentence of this court is you're committed to the state
8 department of corrections for period of thirty years.

9 On the indictment 2016-GS-38-1268, that is the
10 indictment for murder that the jury found you guilty of
11 murder, the sentence of this court is you're committed to
12 the State Department of Corrections for a period of forty-
13 five years.

14 The attempted murder and the murder charges are
15 concurrent. The charge on the possession of a firearm is a
16 consecutive sentence. I will give you credit for the time
17 you've served. Good luck to you.

18 DEFENDANT JENKINS: Thank you, sir.

19 MR. FARLEY: Judge?

20 THE COURT: Yes, sir.

21 MR. FARLEY: He also is in SCDC for a trafficking
22 charge, can that be run concurrent with these?

23 THE COURT: Let me think about it.

24 MR. FARLEY: Okay.

25 THE COURT: Okay. All right. Thank y'all.

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1 MS. CORNWELL: Thank you, Your Honor.

2 THE COURT: Okay. I appreciate it. We are now
3 done for the week, okay?

4 (This proceeding was concluded)

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C-E-R-T-I-F-I-C-A-T-E

I, THE UNDERSIGNED HILDA M. JORDAN, CVR-M, OFFICIAL COURT REPORTER FOR THE FIRST JUDICIAL CIRCUIT OF THE STATE OF SOUTH CAROLINA, DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE, ACCURATE AND COMPLETE TRANSCRIPT OF RECORD OF THE PROCEEDING IN THE CAPTIONED CAUSE, IN THE COURT OF GENERAL SESSIONS FOR ORANGEBURG COUNTY, SOUTH CAROLINA, ON THE 20 - 23 DAY OF FEBRUARY, 2018.

I DO FURTHER CERTIFY THAT I AM NEITHER OF KIN, COUNSEL, NOR INTEREST IN ANY PARTY HERETO.



Hilda M. Jordan, CVR-M

December 16, 2018

STATE OF SOUTH CAROLINA)
COUNTY OF ORANGEBURG)

ORANGEBURG COUNTY SHERIFF'S OFFICE
CRIMINAL INVESTIGATIVE DIVISION

Place: [REDACTED]

Date: 7/20/11

Time: 1220

THESE ARE YOUR RIGHTS. PLEASE READ CAREFULLY

BEFORE WE ASK YOU ANY QUESTIONS, YOU MUST UNDERSTAND YOUR RIGHTS.
Please initial beside each sentence.

- TJ 1. You have the right to remain silent, anything you say can be used against you in court.
- TJ 2. You have the right to talk to a lawyer for advice before we ask you any questions and to have him with you during questioning.
- TJ 3. If you cannot afford a lawyer, one will be appointed for you before any questioning if you wish.
- TJ 4. If you decide to answer questions not without a lawyer present, you will still have the right to stop answering at any time.
- TJ 5. You also have the right to stop answering at any time until you talk to a lawyer.

I UNDERSTAND MY RIGHTS.

[Signature]
Signature

WAIVER OF RIGHTS

I have read this statement of my rights and I understand what my rights are. I am willing to make a statement and answer questions. I do not want a lawyer at this time. I understand and know what I am doing. No promises or threats have been made to me and no pressure or coercion of any kind has been used against me.

[Signature]
Signature

Witnesses:

[Signature]



STATE OF SOUTH CAROLINA
COUNTY OF ORANGEBURG

ORANGEBURG COUNTY SHERIFF'S OFFICE
CRIMINAL INVESTIGATION DIVISION

PLACE: Orangenburg, SC DATE: 7-22-16 TIME: 10:09 am

THESE ARE YOUR RIGHTS. PLEASE READ CAREFULLY

BEFORE WE ASK YOU ANY QUESTIONS, YOU MUST UNDERSTAND YOUR RIGHTS.

PLEASE INITIAL BESIDE EACH SENTENCE.

- TJ 1. You have the right to remain silent; anything you say can be used against you in court.
- TJ 2. You have the right to talk to a lawyer for advice before we ask you any questions and to have him/her with you during questioning.
- TJ 3. If you cannot afford a lawyer, one will be appointed for you before any questioning if you wish.
- TJ 4. If you decide to answer questions without a lawyer present, you will still have the right to stop answering at any time.
- TJ 5. You also have the right to stop answering at any time until you talk to a lawyer.

I UNDERSTAND MY RIGHTS.

[Signature]
Signature

WAIVER OF RIGHTS

I HAVE READ THIS STATEMENT OF MY RIGHTS AND I UNDERSTAND WHAT MY RIGHTS ARE. I AM WILLING TO MAKE A STATEMENT AND ANSWER QUESTIONS. I DO NOT WANT A LAWYER AT THIS TIME. I UNDERSTAND AND KNOW WHAT I AM DOING. NO PROMISES OR THREATS HAVE BEEN MADE TO ME AND NO PRESSURE OR COERCION OF ANY KIND HAS BEEN USED AGAINST ME.

[Signature]
Signature

Witness

[Signature]
Witness

Travis Wright



STATE OF SOUTH CAROLINA
COUNTY OF ORANGEBURG

ORANGEBURG COUNTY SHERIFF'S OFFICE
CRIMINAL INVESTIGATION DIVISION

PLACE: [REDACTED] DATE: 07-27-16 TIME: 3:28 p.m.

THESE ARE YOUR RIGHTS. PLEASE READ CAREFULLY

BEFORE WE ASK YOU ANY QUESTIONS, YOU MUST UNDERSTAND YOUR RIGHTS.

PLEASE INITIAL BESIDE EACH SENTENCE.

- TJ 1. You have the right to remain silent; anything you say can be used against you in court.
- TJ 2. You have the right to talk to a lawyer for advice before we ask you any questions and to have him/her with you during questioning.
- TJ 3. If you cannot afford a lawyer, one will be appointed for you before any questioning if you wish.
- TJ 4. If you decide to answer questions without a lawyer present, you will still have the right to stop answering at any time.
- TJ 5. You also have the right to stop answering at any time until you talk to a lawyer.

I UNDERSTAND MY RIGHTS.

Treasure Jenkins
Signature

WAIVER OF RIGHTS

I HAVE READ THIS STATEMENT OF MY RIGHTS AND I UNDERSTAND WHAT MY RIGHTS ARE. I AM WILLING TO MAKE A STATEMENT AND ANSWER QUESTIONS. I DO NOT WANT A LAWYER AT THIS TIME. I UNDERSTAND AND KNOW WHAT I AM DOING. NO PROMISES OR THREATS HAVE BEEN MADE TO ME AND NO PRESSURE OR COERCION OF ANY KIND HAS BEEN USED AGAINST ME.

Treasure Jenkins
Signature

[Signature]
Witness

Witness



STATE OF SOUTH CAROLINA
COUNTY OF ORANGEBURG

ORANGEBURG COUNTY SHERIFF'S OFFICE
CRIMINAL INVESTIGATION DIVISION

PLACE: [REDACTED] DATE: 07-27-16 TIME: 3:28pm

THESE ARE YOUR RIGHTS. PLEASE READ CAREFULLY
BEFORE WE ASK YOU ANY QUESTIONS, YOU MUST UNDERSTAND YOUR RIGHTS.
PLEASE INITIAL BESIDE EACH SENTENCE.

- TJ 1. You have the right to remain silent; anything you say can be used against you in court.
- TJ 2. You have the right to talk to a lawyer for advice before we ask you any questions and to have him/her with you during questioning.
- TJ 3. If you cannot afford a lawyer, one will be appointed for you before any questioning if you wish.
- TJ 4. If you decide to answer questions without a lawyer present, you will still have the right to stop answering at any time.
- TJ 5. You also have the right to stop answering at any time until you talk to a lawyer.

I UNDERSTAND MY RIGHTS.

Treshawn Jenkins
Signature

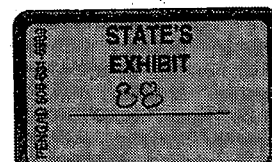
WAIVER OF RIGHTS

I HAVE READ THIS STATEMENT OF MY RIGHTS AND I UNDERSTAND WHAT MY RIGHTS ARE. I AM WILLING TO MAKE A STATEMENT AND ANSWER QUESTIONS. I DO NOT WANT A LAWYER AT THIS TIME. I UNDERSTAND AND KNOW WHAT I AM DOING. NO PROMISES OR THREATS HAVE BEEN MADE TO ME AND NO PRESSURE OR COERCION OF ANY KIND HAS BEEN USED AGAINST ME.

Treshawn Jenkins
Signature

Sgt. [Signature]
Witness

Witness



WITNESSES

John C Stokes

Orangeburg County Sheriff

ARREST WARRANT NUMBER
2016A3810100045

Arrested: July 20, 2016

ACTION OF GRAND JURY
TRUE BILL

[Signature]
DEC 06 2017
Date

Foreperson of Grand Jury
Date: December 6, 2017

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2016GS38-1268

The State of South Carolina
County of ORANGEBURG

COURT OF GENERAL SESSIONS

December 11, 2017 TERM

THE STATE
vs.

Treshawn Markeese Jenkins

Indictment for
MURDER

SC Code: 16-3-10

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

Witness:

C.C.C. PLS. AND G.S.

FILED FOR RECORD
WINNIE S. CLARK
2017 DEC -7 AM 12:15
CLERK OF COURT
ORANGEBURG, SC

STATE OF SOUTH CAROLINA)
COUNTY OF ORANGEBURG)

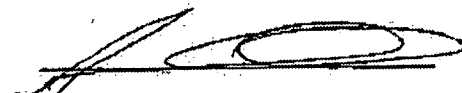
INDICTMENT
2016GS38-1268

At a Court of General Sessions, convened on December 6, 2017 the Grand Jurors of Orangeburg County present upon their oath:

MURDER

That in Orangeburg County on or about July 19, 2016, with malice aforethought, the defendant, Treshawn Markeese Jenkins did kill one Jacqueline Wright by means of shooting the victim with a gun. The victim did die as a proximate result thereof. This offense being in violation of the Common Law and Section 16-3-10, of the South Carolina Code of Laws, as amended.

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


Ashley B. Cornwell, Solicitor

704
STATE OF SOUTH CAROLINA

COUNTY OF Orangeburg
STATE VS.
Treshawn Markeese Jenkins

AKA:
Race: BLACK Sex: M Age: 24
DOB: SS#:
Address:
City, State, Zip: Holly Hill, SC 29059
DL#: STD#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐
In disposition of the said indictment comes now the Defendant who was
TO: Murder

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2016GS38-1268
A/W#: 2016A3810100045
Date of Offense: 7/19/2016
S.C. Code §: 16-3-10
CDR Code #: 0116

SENTENCE SHEET

in violation of § 16-3-10 of the S.C. Code of Laws, bearing CDR Code # 0116
☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)
The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST: Cornwell, Ashley B. 76577 SC Bar# Defendant Attorney for Defendant 74992 SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 45 days/months/years or ☐ under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment
of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 2/23/18
☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections.

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.
Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic
Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP
Total: \$ plus 20% fee: \$ days/hours Public Service Employment

Payment Terms:
☐ Set by SCDPPPS
Recipient:
*Fine: \$
§ 14-1-206 (Assessments 107.5%) \$
§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$
§ 56-5-2995 (DUI Assessment) \$12 \$
§ 56-1-286 (DUI Breath Test) \$25 \$
Proviso 61.6 (Public Def/Probation) \$500 \$
§ 14-1-212 (Law Enforce. Funding) \$25 \$ 25.00
§ 14-1-213 (Drug Court Surcharge) \$150 \$
§ 50-21-114(BUI Breath Test Fee) \$50 \$
§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$
3% to County (if paid in installments) \$ 3.75
TOTAL \$ 128.75

Obtain GED ☐
Attend Voc. Rehab. or Job Corp.
May serve W/E beginning
Substance Abuse Counseling ☐
Random Drug/Alcohol testing ☐
Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ beginning
\$ paid to Public Defender Fund
Other:

☐ Appointed PD or appointed other counsel,
Proviso 61.6 requires \$500 be paid to Clerk
during probation and shall be collected before
any other fees.

TOTAL

Clerk of Court/Deputy Clerk V. Glenn
Court Reporter: Kelda Jordan
SCCA/217 (07/2016)

Presiding Judge
Judge Code: 2153
Sentence Date: 2/23/18

WITNESSES

John C Stokes

Orangeburg County Sheriff

2016-5515

ARREST WARRANT NUMBER

2016A3810200206

Arrested: July 21, 2016

ACTION OF GRAND JURY

DEC 06 2017

Foreperson of Grand Jury

Date: December 6, 2017

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2016GS38-1269

The State of South Carolina

County of ORANGEBURG

COURT OF GENERAL SESSIONS

December 11, 2017 TERM

THE STATE

vs.

Treshawn Markeese Jenkins

Indictment forPOSSESSION OF A FIREARM OR
KNIFE DURING THE COMMISSION OF
A VIOLENT CRIME

SC Code: 16-23-490

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

Witness:

C.C.C. PLS. AND G.S.

ATTEST: TRUE COPY
 [Signature]
 CLERK OF COURT
 ORANGEBURG COUNTY, SC
 12-11-17
 FILED FOR RECORD
 12-11-17

STATE OF SOUTH CAROLINA)
)
COUNTY OF ORANGEBURG)

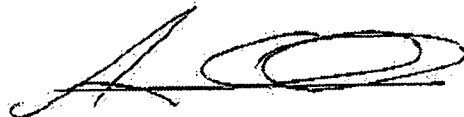
INDICTMENT
2016GS38-1269

At a Court of General Sessions, convened on December 6, 2017 the Grand Jurors of Orangeburg County present upon their oath:

**POSSESSION OF A FIREARM OR KNIFE DURING THE COMMISSION OF A
VIOLENT CRIME**

That in Orangeburg on or about July 19, 2016, the defendant, Treshawn Markeese Jenkins, did visibly display or have in his possession a firearm during the commission of a violent crime as defined by Section 16-1-60, Code of Laws of South Carolina, 1976, as amended, to wit: Murder or Attempted Murder, thereby violating Section 16-23-490, Code of Laws of South Carolina, 1976, as amended.

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



Ashley B. Cornwell, Solicitor

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

707

COUNTY OF Orangeburg
 STATE VS.
Treshawn Markeese Jenkins

AKA:

Race: BLACK Sex: M Age: 24DOB: [REDACTED] SS#: [REDACTED]Address: [REDACTED]City, State, Zip: Holly Hill, SC 29059DL#: [REDACTED] SID#: [REDACTED]*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Possession of a Firearm or Knife During the Commission of a Violent CrimeINDICTMENT/CASE#: 2016GS38-1269A/W#: 2016A3810200206Date of Offense: 7/19/2016S.C. Code §: 16-23-490CDR Code #: 0549

SENTENCE SHEET

in violation of § 16-23-490of the S.C. Code of Laws, bearing CDR Code # 0549

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☒ Recommendation by the State.

ATTEST:

Cornwell, Ashley B.76577
SC Bar#

Defendant

[Signature]
Attorney for Defendant74992
SC Bar#WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed yearsand/or to pay a fine of \$; provided that upon the service of days/months/years and/or paymentof \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☒ CONSECUTIVE to sentence on: 2/23/18☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUPTotal: \$ plus 20% fee: \$ days/hours Public Service EmploymentPayment Terms: ☐ Set by SCDPPPSRecipient:

*Fine:

§ 14-1-206 (Assessments 107.5%) \$ § 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$ § 56-5-2995 (DUI Assessment) \$12 \$ § 56-1-286 (DUI Breath Test) \$25 \$ Proviso 61.6 (Public Def/Probation) \$500 \$ § 14-1-212 (Law Enforc. Funding) \$25 \$ 25.00§ 14-1-213 (Drug Court Surcharge) \$150 \$ § 50-21-114(BUI Breath Test Fee) \$50 \$ § 56-5-2942(f) (Vehicle Assessment) \$40/ea \$ 3% to County (if paid in installments) \$ 3.75

TOTAL

\$ 128.75

Clerk of Court/ Deputy Clerk

Court Reporter: Hilda Jordan

SCCA/217 (07/2016)

Presiding Judge [Signature]Judge Code: 2153Sentence Date: 2/23/18

WITNESSES

John C Stokes

Orangeburg County Sheriff

2016-5515

ARREST WARRANT NUMBER
2016A3810200207

Arrested: July 21, 2016

ACTION OF GRAND JURY

TRUE BILL

DEC 06 2017

Foreperson of Grand Jury
Date: December 6, 2017

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2016GS38-1270

The State of South Carolina
County of ORANGEBURG

COURT OF GENERAL SESSIONS

December 11, 2017 TERM

THE STATE
vs.

Treshawn Markeese Jenkins

Indictment for
ATTEMPTED MURDER

SC Code: 16-3-29

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

Witness:

C.C.C. PLS. AND G.S.

FILED FOR RECORD
WINNIEA.S. CLARK
2017 DEC -7 11:15
CLERK OF COURT
ORANGEBURG, SC

STATE OF SOUTH CAROLINA)
COUNTY OF ORANGEBURG)

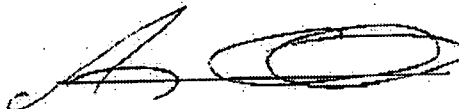
INDICTMENT
2016GS38-1270

At a Court of General Sessions, convened on December 6, 2017 the Grand Jurors of Orangeburg County present upon their oath:

ATTEMPTED MURDER

In that the defendant, Treshawn Markeese Jenkins, did in Orangeburg County on or about July 19, 2016 did with the intent to kill, attempt to kill one Damien Shuler with malice aforethought by shooting the victim with a gun. This offense being in violation of Section 16-3-29 of the South Carolina Code of Laws, as amended.

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



Ashley B. Cornwell, Solicitor

710
STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Orangeburg
STATE VS.
Treshawn Markeese Jenkins

AKA:

Race: BLACK Sex: M Age: 24

DOB: SS#

Address:

City/State/Zip: Holly Hill, SC 29059

DL#: SID#

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: Attempted Murder

INDICTMENT/CASE#: 2016GS38-1270

A/W#: 2016A3810200207

Date of Offense: 7/19/2016

S.C. Code §: 16-3-29

CDR Code #: 3410

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADS

in violation of § 16-3-29 of the S.C. Code of Laws, bearing CDR Code # 3410

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Prosecution to Grand Jury. (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Carnwell, Ashley B. SC Bar# 76577 Defendant Attorney for Defendant SC Bar# 79992

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 30 days/months/years or ☐ under the Youthful Offender Act, not to exceed _____ years

and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment

of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 2/23/18
☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %)	\$	\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 61.6 (Public Def/Probation)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ 25.00
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ca	\$
3% to County (if paid in installments)	\$	\$ 3.75

TOTAL

\$ 128.75

Clerk of Court/ Deputy Clerk:

Court Reporter:

SCCA/217 (07/2016)

PTUP

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel, Proviso 61.6 requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

Presiding Judge

Judge Code: 2153

Sentence Date: 2/23/18

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."

RECEIVED

JUN 20 2019

SC Court of Appeals

Respectfully Submitted,



Susan B. Hackett
Appellate Defender

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

ATTORNEY FOR APPELLANT

This 20th day of June, 2019.