

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Charleston County

William Jeffrey Young, Circuit Court Judge

VOLUME II OF II

RECEIVED

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S.C. SUPREME COURT

THE STATE,

RESPONDENT,

V.

RHAJON AKEEM RESHAE SANDERS,

APPELLANT

APPELLATE CASE NO 2016-001785

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1 ground did you see a pool of blood around him?

2 A. No.

3 Q. You didn't see any blood around the victim after he
4 was shot?

5 A. When we approached him when we came back outside?

6 Q. Yes, sir.

7 A. No. He already crawled towards the bushes.

8 Q. You never saw any blood on the victim after he was
9 shot?

10 MS. BROWN: Objection, asked and answered.

11 THE COURT: Overruled.

12 MS. SAVAS: I'll withdraw my question. Okay.

13 BY MS. SAVAS:

14 Q. Did you see a trail of blood anywhere, Mr. Sanders?

15 A. I mean, I wasn't paying attention. I was just
16 trying to make sure the guy was all right.

17 Q. Okay. Let's talk about when you ran back inside
18 the house. You did go back inside the house after your
19 brother shot Nicholas, right?

20 A. Yes.

21 Q. And at that point is when your brother then put his
22 gun on his dresser, correct?

23 A. I'm not sure.

24 Q. Okay. Well, you testified that he put it back in
25 his bedroom.

1 A. Yes.

2 Q. Okay. So that is his bedroom then with the blue
3 comforter?

4 A. Yes.

5 Q. Okay. And he put his gun inside. After that you
6 then went back outside, correct?

7 A. We went to see if he was all right.

8 Q. Okay. So you went back across the street to the
9 man you were so deathly afraid of without a weapon at
10 that point, correct?

11 A. No, like --

12 Q. Did you have a firearm on you then when you went
13 back across the street to assist the victim?

14 A. No. No one had a firearm.

15 Q. So your brother let go of the firearm then went
16 across the street to the guy that you were so scared of?

17 A. He was trying to make sure the guy was all right.

18 Q. Without his gun on him that time, right?

19 A. Because he wasn't -- he didn't mean to shoot the
20 guy.

21 Q. That's not what I'm asking, sir. Please just
22 answer the question. Did you go back outside with your
23 brother armed or unarmed?

24 A. He was unarmed.

25 Q. Mr. Sanders, you testified that you could see a

1 cigarette in Nicholas' hands, correct?

2 A. Uh-huh. Yes.

3 Q. She just has to take everything down. Mr. Sanders,
4 did you notice that he had headphones on at any point?

5 A. No.

6 Q. Did you notice that he had a cell phone on him at
7 any point?

8 A. No.

9 Q. But you were somehow able to see a cigarette about
10 an inch or two?

11 A. You could see the light from the cigarette.

12 Q. How many cigarettes did he smoke?

13 A. I don't know. He had one. I mean, like I said, it
14 happened so fast so.

15 Q. Did you see him come off the porch the first time
16 and light the cigarette then?

17 A. No, like --

18 MS. BROWN: Objection.

19 THE COURT: What is your objection or withdrawn?

20 MS. BROWN: No. I withdraw the objection.

21 THE COURT: Okay.

22 A. I never -- first time I saw him is when I looked up
23 and saw him over there in front of [REDACTED]

24 Q. Okay. And did he have anything in his hands at
25 that time?

1 A. He had a cigarette.

2 Q. And you said you've actually never had an issue
3 with Nicholas before, have you?

4 A. Never.

5 Q. Did you apologize to the victim?

6 A. Yes.

7 Q. Did you apologize to the victim because it was
8 wrong to shoot him?

9 A. No.

10 Q. Why did you apologize to the victim?

11 A. Because it was a miscommunication. My brother
12 didn't mean to shoot him.

13 Q. How is there a miscommunication if you testified
14 that there was absolutely no communication?

15 A. Because he was trying to get the guy's attention.

16 Q. Mr. Sanders, you said that you gave your brother a
17 lighter, correct?

18 A. Yes.

19 Q. Do you typically keep your lighter in your pocket?

20 A. Yes.

21 Q. Mr. Sanders, you said that you went across the
22 street with your brother to look at the victim, right?

23 A. No. We went over there to help him.

24 Q. Okay. And when you went over there you saw other
25 family members around while you were over there, correct?

1 A. Uh-huh.

2 Q. So at that time his family was out there when y'all
3 approached him?

4 A. Yes.

5 Q. And is that when you told your brother not to shoot
6 him?

7 A. Huh?

8 Q. When you went across the street is that when you
9 told Rhajon, I told you not to shoot him?

10 A. No. I never even said that.

11 Q. On your jail calls to your brother while he was in
12 jail you did tell him that you hoped this was a lesson
13 learned though, right?

14 A. I hope he grew up from it.

15 Q. You are his older brother, right?

16 A. Yes.

17 Q. So you want to make sure he learns the hard lessons
18 in life sometimes, right?

19 A. I mean, I just wanted him to learn that sometimes
20 you have to grow up. You got to be man.

21 Q. You got to be a man, right?

22 A. Yes.

23 Q. For the actions that you have taken in life, right?

24 A. I mean, sometimes things happen in life that makes
25 you grow up.

1 Q. And in that same jail call you mentioned that
2 Nicholas was --

3 MS. BROWN: Objection, Your Honor. May we
4 approach?

5 THE COURT: You may.

6 (WHEREUPON, a bench conference was had.)

7 THE COURT: Counsel, proceed as instructed.

8 MS. SAVAS: Thank you, Your Honor.

9 BY MS. SAVAS:

10 Q. Mr. Sanders, in your call to your brother in jail
11 you did say the dude had on headphones, didn't you?

12 A. The police told us that.

13 Q. And that's that same call when you told him that
14 there's got to be a lesson learned, right?

15 A. I mean, that's not what, like -- that's not what I
16 said. What I told him was, you know, sometimes in life
17 you learn lessons that you have to grow up from.

18 Q. And this is one of those lessons, right?

19 A. I mean, sometimes you make a mistake which was a
20 mistake that he made.

21 Q. Okay. And you said that because as you told him it
22 could have been worse. He or you could have died, right?

23 A. Yes. I mean, you know, that's what I said.

24 Q. Because opening fire at least four times across the
25 street someone could die, right?

1 A. I mean, the guy could have killed us.

2 Q. If someone opens fire and shoots someone at least
3 four or five times they could die, right?

4 A. He didn't shoot the guy four or five times.

5 Q. That's not what I'm asking you, sir. I'm asking
6 you if you shoot someone could they die from that?

7 A. Yes.

8 Q. Thank you. You also spoke to your brother while he
9 was in the back of that patrol car, didn't you, on his
10 phone?

11 A. Yeah.

12 Q. Okay. And then you've since talked to your brother
13 while he was in jail, right?

14 A. Well, yeah. You talking about since he was in jail
15 during this trial?

16 Q. No, sir, prior to this?

17 A. Yeah.

18 Q. And you went back to living with your brother at
19 that house, right?

20 A. I mean, that's where I live at.

21 Q. And it's with your brother, right?

22 A. Yeah.

23 Q. And you don't own a gun, do you, sir?

24 A. No, ma'am.

25 Q. And just to be clear, today is the first time that

1 we heard that he was apparently in the street, right?

2 A. Yeah.

3 Q. But he never went onto your property, right?

4 A. He approached it. He came towards our property.

5 Q. Sir, did he ever touch your property?

6 A. No.

7 Q. And there were no prior problems with Nicholas,
8 right?

9 A. No.

10 Q. No prior problems with the people across the
11 street, right?

12 A. No.

13 Q. And you were out there before your brother shot at
14 Nicholas, right?

15 A. I already answered that.

16 Q. Yes or no.

17 A. Yes.

18 MS. SAVAS: Beg the Court's indulgence?

19 THE COURT: Yes.

20 MS. SAVAS: Nothing further from the State.

21 THE COURT: Redirect?

22 REDIRECT EXAMINATION

23 BY MS. BROWN:

24 Q. Now, at the point that you saw this tall six-four,
25 200-some-pound stranger across the street near the

1 abandoned home is that when you turned your light on?

2 A. Yes, ma'am.

3 Q. Prior to that did you see where that guy came from?

4 A. No, ma'am.

5 Q. If you seen that guy come out of [REDACTED] -- [REDACTED] would
6 you have been nervous?

7 A. No, ma'am.

8 Q. Why were you nervous?

9 A. Because he's standing in front of a vacant house
10 looking suspicious.

11 Q. And that house is [REDACTED]?

12 A. Yes, ma'am.

13 Q. Now, when your brother fired the shots towards and
14 advanced a 6.4, 200-pound guy in all black heading in
15 your direction --

16 MS. SAVAS: Objection. Compound question.

17 THE COURT: Sustained.

18 Q. When your brother fired his weapon were you afraid?

19 A. Yes.

20 Q. Did you believe that you were going to be killed?

21 A. I believed the guy was about to shoot my brother.

22 Q. Now, once the guy was on the ground was there any
23 need for you to have a weapon in your hands?

24 A. No.

25 Q. Is that the reason why Rhajon put up his weapon?

1 A. Yes.

2 Q. Was a danger no longer present?

3 A. No.

4 Q. Now, you indicated that when shots -- after the
5 shots were fired and the guy is down on the ground what
6 does he do?

7 A. He starts crawling.

8 Q. He crawls?

9 A. Yes.

10 Q. And he crawls where?

11 A. Towards those bushes.

12 Q. And are these the bushes that you are referring to?

13 A. Yes, ma'am.

14 Q. Before the shots were fired was he in that area?

15 A. No, ma'am.

16 Q. Now, the night of the shooting did you voluntarily
17 give information to law enforcement?

18 A. Yes.

19 MS. SAVAS: Objection, beyond the scope of --

20 THE COURT: I'll give her a little leeway.

21 Proceed.

22 Q. Did you voluntarily give information to law
23 enforcement?

24 A. Yes. They told me I had to come give my -- just
25 give them my statement real quick.

1 Q. And after you gave that statement were you
2 available to talk to law enforcement at any point in
3 time?

4 A. Yes.

5 Q. Now, that was in 2014; is that correct?

6 A. Yes.

7 Q. When is the next time you heard from law
8 enforcement?

9 A. Maybe two or three weeks ago.

10 Q. Oh, two years?

11 A. Yeah.

12 Q. Never one time before that point?

13 A. No.

14 Q. Now, you received a subpoena by the State of South
15 Carolina?

16 MS. SAVAS: Objection. Asked and answered several
17 times.

18 THE COURT: I'll let her ask. You can recross on
19 that as well.

20 MS. SAVAS: Thank you.

21 Q. Did you receive a subpoena?

22 A. Yes.

23 Q. Did you show up at court?

24 A. Yes.

25 Q. Were you here the entire day?

1 A. Yes.

2 Q. Did anybody from the State of South Carolina talk
3 to you?

4 A. No.

5 Q. So you weren't hiding from them, were you?

6 A. Not at all.

7 Q. Were you concerned? Did you hire an attorney
8 because you were concerned your brother was on trial?

9 A. Yes.

10 Q. And you guys provided them truthful information in
11 December?

12 A. Yes.

13 Q. And they are still trying your brother?

14 A. Yeah.

15 MS. SAVAS: Objection, argumentive.

16 THE COURT: Sustained.

17 Q. Has your statement changed at all?

18 A. No.

19 Q. Did you provide this Court exactly what happened
20 December 26 of 2014?

21 A. Yes, ma'am.

22 Q. Is it your testimony that December 2016 [sic] you
23 were afraid?

24 A. Yes.

25 Q. And the phone calls that you spoke to your brother,

1 did you guys sit there and try to come up with what
2 happened?

3 A. Not at all.

4 Q. In fact, you had already given your statement; is
5 that correct?

6 A. Yes, ma'am.

7 Q. Now, there is some line of question about children
8 running in and out of [REDACTED]. Did you see anything like
9 that?

10 A. No, ma'am.

11 Q. When you were sitting on that porch in the dark did
12 anyone come out [REDACTED]?

13 A. No, ma'am.

14 Q. Would your brother have shot someone but for being
15 afraid?

16 MS. SAVAS: Objection, speculation.

17 THE COURT: Sustained.

18 Q. Now, since December of 2016 -- 2014, I apologize,
19 has your brother changed?

20 A. Yes.

21 Q. How has he changed, in your opinion?

22 A. He's depressed, stressed out.

23 Q. Is he concerned about this case?

24 MS. SAVAS: Speculation.

25 THE COURT: Sustained.

1 MS. SAVAS: Relevance.

2 THE COURT: Irrelevant.

3 MS. BROWN: Beg the Court's indulgence.

4 THE COURT: Yes.

5 (PAUSE.)

6 MS. BROWN: Nothing further.

7 THE COURT: Any recross based on her redirect?

8 MS. SAVAS: Briefly, sir. Yes, sir.

9 RECROSS-EXAMINATION

10 BY MS. SAVAS:

11 Q. Mr. Sanders, you testified just now on redirect
12 that your statement has not changed, correct?

13 A. It hadn't.

14 Q. But on cross-examination you did admit to me that
15 it did change, right?

16 A. In what way?

17 Q. Because you did not initially in your written
18 statement tell officers that he was in the street and now
19 today you did, correct?

20 A. Yeah, I said --

21 Q. So you admitted that that was the first time that
22 you actually said that, correct?

23 A. I admit that he approached.

24 Q. Right. So that is a change in your statement since
25 you did not initially say that to officers, correct?

1 A. I mean, that's what you want to think.

2 Q. Sir, I'm asking you really quickly. You admitted
3 on cross-examination to me that you did never once told
4 any officer in your statement that that man was in the
5 street, correct?

6 A. No. Not -- I didn't write it down.

7 Q. And you are telling me that now, correct?

8 A. Yes.

9 Q. Therefore that's a change in your statement,
10 correct?

11 A. I mean, I guess.

12 Q. Yes or no, sir. Is that a change?

13 A. Yes.

14 Q. Okay. So what you just told Ms. Brown then is
15 actually not true, correct?

16 A. No. That's the truth.

17 Q. You either have a change in your statement, sir, or
18 you don't.

19 A. I just added what happened.

20 Q. It's a change though, right?

21 A. Yes.

22 Q. Okay. Also on redirect you just told her that the
23 danger was no longer there when you approached -- when
24 you first approached Nicholas, right?

25 A. You talking about after when we came outside to

1 check on him?

2 Q. After your brother shot him you disarmed yourself
3 and went across the street, right?

4 A. I didn't disarm myself. I didn't have a gun.

5 Q. After your brother shot him?

6 A. Yeah.

7 Q. After your brother shot him and y'all went across
8 the street, right?

9 A. Uh-huh.

10 Q. You just told Ms. Brown that that danger was no
11 longer there, right?

12 A. Yes.

13 Q. How is that that danger is no longer there if you
14 didn't know whether or not he had a gun on him to begin
15 with?

16 A. His family was outside. They came outside to check
17 on him.

18 Q. But you didn't see him hide a gun, did you?

19 A. I only saw him reach -- reach for what looked like,
20 you know, he was reaching for a gun.

21 Q. But after Rhajon shot Nicholas you never saw him
22 hide a gun, did you?

23 A. No.

24 Q. Okay. So you actually can't be certain whether
25 that danger was there or not there anymore if you thought

1 he had a gun and never saw him hide a gun, right?

2 A. Could have been.

3 MS. SAVAS: Nothing further, Your Honor.

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

5 MS. BROWN: Your Honor, I would like to ask one
6 question.

7 THE COURT: No, ma'am. I go -- I'll let you one
8 question.

9 MS. BROWN: Thank you.

10 MS. SAVAS: Your Honor, I object that it's been
11 redirect and recross.

12 THE COURT: I'll let her ask one question and then
13 you can ask one more question.

14 MS. SAVAS: Yes, sir.

15 FURTHER REDIRECT EXAMINATION

16 BY MS. BROWN:

17 Q. One final question. Do you think that telling the
18 officer that the gentleman was in the street would have
19 changed this investigation?

20 MS. SAVAS: Objection, speculation.

21 THE COURT: Sustained. It's speculative.

22 MS. BROWN: Nothing further.

23 THE COURT: Thank you.

24 Thank you. You are dismissed.

25 Any objection to this witness being excused.

1 MS. SAVAS: No, Your Honor.

2 MS. BROWN: No, Your Honor.

3 THE COURT: Thank you.

4 I don't know about y'all but I'm getting hungry,
5 and the County has again -- I want to always hold court
6 during Spoleto because the County is buying us lunch
7 every day. So I will let you go back and eat your lunch.
8 Again, you are not under sequestration so if you want to
9 go outside in the 93 degree temperature out there and eat
10 your lunch you can do so. Be back here at 2:15. All
11 right? Thank you, ladies and gentlemen. Please do not
12 discuss anything about the case while you are on break.

13 (WHEREUPON, the jury leaves the courtroom at
14 approximately 1:02 p.m.)

15 THE COURT: All right. Court is in recess until
16 2:15.

17 MS. BROWN: Your Honor, before we begin recess, can
18 you give us an idea when we come back -- of course,
19 Mr. Sanders will take the stand.

20 THE COURT: Yes, ma'am.

21 MS. BROWN: He's going to be the last witness for
22 the day.

23 THE COURT: I doubt seriously if we will argue and
24 charge this afternoon.

25 MS. BROWN: Thank you.

1 THE COURT: I mean, if we come back at 2:15, if he
2 takes at least an hour then there's going to be more
3 motions. I just don't see how we can argue and charge.

4 MS. BROWN: Thank you.

5 MS. SAVAS: Your Honor, we would just make note
6 that the State is the prepared and we would at least
7 request to do the charge conference.

8 THE COURT: Oh, we'll do the charge conference but
9 we won't actually argue and charge until tomorrow
10 morning. We'll do our charge conference and there's
11 motions to be made and everything like that.

12 MS. BROWN: Thank you.

13 THE COURT: All right. Thank you.

14 (WHEREUPON, a lunch break was taken.)

15 THE COURT: The defense ready?

16 MS. BROWN: Yes, Your Honor, we are.

17 THE COURT: Okay. Let's bring our jury in.

18 He's not in shackles or anything?

19 MS. BROWN: No, Your Honor.

20 (WHEREUPON, the jury enters the courtroom at
21 approximately 2:26 p.m.)

22 THE BAILIFF: All jurors present, Your Honor.

23 THE COURT: All right. Thank you.

24 All right, Ms. Brown. You may call your next
25 witness.

1 MS. BROWN: Thank you, Your Honor. At this time,
2 the defense call Rhajon Sanders.

3 THE COURT: All right. Come forward and be sworn.

4 RHAJON AKEEM RESHAE SANDERS, after having
5 been duly sworn, testified as follows:

6 THE CLERK: State your first and last name and
7 spell your last name loudly and clearly into the
8 microphone.

9 THE DEFENDANT: Rhajon Akeem Reshae Sanders,
10 S-a-n-d-e-r-s.

11 THE COURT: You may proceed.

12 MS. BROWN: Thank you, Your Honor.

13 DIRECT EXAMINATION

14 BY MS. BROWN:

15 Q. Rhajon, how old are you?

16 A. I'm 25 years old.

17 Q. And what is your level of education?

18 A. I finished high school and I went to Trident
19 Technical College for two years.

20 Q. And what program were you enrolled in?

21 A. Criminal justice program.

22 Q. And do you remember what years you attended Trident
23 Technical College?

24 A. 2011 and 2012.

25 Q. Did you, in fact, earn a degree?

1 A. No, ma'am.

2 Q. What is your history of employment?

3 A. My first employment after high school was a
4 contract employee at MUSC. My employer was Sodexo. I
5 was a nutrition assistant.

6 Q. And what did that require you to do?

7 A. We prepared the food for the patients and for the
8 workers who worked there.

9 Q. And how long were you employed at Sodexo?

10 A. For almost two years.

11 Q. And when was the last day you worked?

12 A. December 26, 2014.

13 Q. And have you worked since December 26, 2014?

14 A. No, ma'am.

15 Q. Why not?

16 MS. SAVAS: Objection, relevance.

17 THE COURT: Sustained.

18 Q. Do you have any children, Rhajon?

19 A. No, ma'am.

20 Q. Where do you live?

21 A. I live [REDACTED], North Charleston.

22 Q. How long have you lived there?

23 A. We've been living there for about two years, going
24 on three.

25 Q. And who all lives in that home with you?

1 A. It's me, my mom, my cousin, and my aunt.

2 Q. Now, who all lived in that home December of 2014?

3 A. Me, my mother, my brother, and my aunt.

4 Q. Prior to December -- well, let me ask this. Where
5 did you live before Kent Avenue?

6 A. We were living at 5582 Betty Court. That's behind
7 Boeing. That's also in North Charleston.

8 Q. How long were you guys there?

9 A. We been there for four years.

10 Q. Have you always lived with your mother?

11 A. Yes, ma'am.

12 Q. Now, before December of 2014 have you ever been
13 arrested?

14 MS. SAVAS: Objection, relevance.

15 THE COURT: She can ask that question.

16 A. Never.

17 Q. You ever been charged with a crime?

18 A. Never.

19 Q. Before December of 2014 what was a typical day like
20 for you?

21 A. I go to work. I usually work six to eight hours.

22 I was a full-time employee at MUSC. Usually when I'm not
23 at work I'll be home watching TV or hang out with some
24 friends or go around the neighborhood.

25 Q. What neighborhood you referring to?

1 A. My old neighborhood. I should have been clear.

2 Q. Did you used to hang out in the neighborhood that
3 you live in now -- that you lived in December 2014?

4 A. I have a friend that lives in the neighborhood. I
5 go to his house but his mom is always home so. . .

6 Q. Now, do you recall the events of December 26 of
7 2014?

8 A. Yes, ma'am.

9 Q. Was that the day after Christmas?

10 A. Yes, ma'am.

11 Q. Now, let's begin with that morning. What time did
12 you wake up?

13 A. I woke up around 4:30. Between 4:30 and 5:00. I
14 had to have been to work at 6:00.

15 Q. Was that typically the time you would wake up?

16 A. Yes, ma'am. I always wake up like an hour early
17 before I have to go to work.

18 Q. And how did you get to work?

19 A. My brother took me.

20 Q. And you're talking Ferantez?

21 A. Yes, ma'am.

22 Q. And do you recall how long you worked that day?

23 A. I worked eight hours.

24 Q. What time did -- after you left work where did you
25 go?

1 A. I went straight home.

2 Q. And who took you?

3 A. My brother. He picked me up from work. I got off
4 work at 3:30. We went straight home.

5 Q. And what time do you think you guys arrived home?

6 A. Slightly before 4 o'clock.

7 Q. And when you arrived home what did you do?

8 A. Got to the house. I went inside my room. I
9 showered up because I just was fresh off of work. I
10 talked on the phone for a couple hours. Then when my mom
11 came home she started making the dinner and I got me
12 something to eat.

13 Q. Now, once you went home or arrived at your home did
14 you at any point leave out of your home?

15 A. No, ma'am.

16 Q. When you did leave out of your home where did you
17 go?

18 A. I went on the porch.

19 Q. And was it at this point daylight or night?

20 A. It was dark outside.

21 Q. And tell me about the light in your neighborhood.

22 A. The only light comes from the porches of the home.
23 There's no street light.

24 Q. And how long has that been the case?

25 A. Since we moved there.

- 1 Q. So since 2013?
- 2 A. Since 2013, since we moved there.
- 3 Q. Tell me about the homes in that neighborhood.
- 4 A. We have a couple of abandoned homes.
- 5 Q. Do you know how many?
- 6 A. About two on my street for sure, for certain.
- 7 Q. And where are those abandoned homes in relationship
8 to your house?
- 9 A. There's one next door. Well, there's two actually
10 right down next door to me. One on the right and one on
11 the left.
- 12 Q. So you guys are sitting in the middle of two
13 abandoned homes?
- 14 A. Yes, ma'am.
- 15 Q. What about across the street? Were there any
16 abandoned homes at that time?
- 17 A. At that time the house [REDACTED] was abandoned.
- 18 Q. And how did you know it was abandoned?
- 19 A. No one lived there. No one came out. No one
20 entered. There was no mail delivered there. No one
21 lived there.
- 22 Q. And what about now, is someone living in that home?
- 23 A. Yes, ma'am.
- 24 Q. Do you know how long someone has been living in
25 that home?

1 A. I think he purchased the home around the Summer of
2 2015.

3 Q. Now, when you walked out of your home in the dark
4 on the porch what were you going on the porch for?

5 A. I was going on the porch to smoke a cigarette.

6 Q. Why were you doing that?

7 A. I don't smoke inside the house?

8 Q. And once you got on the porch what happened?

9 A. I got on the porch. I notice I didn't have my
10 lighter so I ask my brother, Ferantez, could I hold his
11 lighter. He gave me his lighter, so I start smoking my
12 cigarette. That's when I notice the tall suspicious guy
13 in all black across the street at [REDACTED].

14 Q. When you say tall suspicious let's -- about how
15 tall did this guy appear to be to you?

16 A. About six-two, six-three.

17 Q. How big?

18 A. Over 200, over 200 pounds.

19 Q. And how tall are you?

20 A. I'm five-five.

21 Q. Can you stand up.

22 A. (The witness complied).

23 Q. And how much do you weigh?

24 A. I weigh 130.

25 Q. Sit down.

- 1 A. (The witness complied).
- 2 Q. And was that about your height December of 2014?
- 3 A. No, ma'am. I weighed 146 around December of 2014.
- 4 Q. Were you any taller?
- 5 A. No, ma'am.
- 6 Q. Okay. Now, before we go any further I want to show
- 7 you a photo that's been marked as Defendant's Exhibit 7,
- 8 and in this photo, of course, is this what your
- 9 neighborhood looked like in 2014?
- 10 A. No, ma'am. That sidewalk wasn't there.
- 11 Q. Okay. And what am I pointing to in this picture?
- 12 A. That's my mailbox.
- 13 Q. This is your mailbox?
- 14 A. Yes, ma'am.
- 15 Q. And this home here that I'm pointing to right now,
- 16 can you tell us where is this home located or the
- 17 address?
- 18 A. That's [REDACTED]. That's right across. That's exactly
- 19 right across from my house.
- 20 Q. And do you know the people that live in this home?
- 21 A. I don't know them but I'm familiar with them.
- 22 Q. When you say familiar you mean have you seen them
- 23 before?
- 24 A. I know their faces.
- 25 Q. Now, the home, [REDACTED] that was abandoned, did that

1 home look the way it looks in this photo?

2 A. No, ma'am.

3 Q. What looks different?

4 A. It's cleaned up. It wasn't that clean and they
5 really didn't have any blinds.

6 Q. Okay. Now, when you notice the tall guy across the
7 street can you tell me where did you see him at the time?

8 A. When I saw him I saw him right here (indicated).
9 He was like here where that pole at right here.

10 Q. Now, where is that located, on which property?

11 A. That's [REDACTED].

12 Q. And at that time were there any lights at [REDACTED]

13 A. No, ma'am.

14 Q. And I want to show you another picture that's been
15 marked as Defendant's Exhibit Number 1. In this photo
16 what do you see here?

17 A. I see my house, [REDACTED].

18 Q. And is this the mailbox that's, in fact, in the
19 photo that we previously looked at?

20 A. Yes, ma'am.

21 Q. Is that mailbox pretty close to your home?

22 A. It is.

23 Q. So it's not near a street or anything like that?

24 A. No, ma'am.

25 Q. And the lighting, can you tell me if the lighting

1 in this picture is the lighting that was reflective

2 December 26 when you walked outside?

3 A. No, ma'am.

4 Q. What's the difference?

5 A. You have the police patrol cars light and the

6 officer who took this picture he had his flash on his

7 camera so it has the picture. It's always dark outside

8 in that area.

9 Q. Would you say that the darkness up here is more

10 conducive to what the light was like?

11 A. Yes, ma'am.

12 Q. And is it like that all the time when it gets dark

13 in your neighborhood?

14 A. Yes, ma'am.

15 Q. And when you first notice the guy what was he

16 doing?

17 A. He was just standing looking suspicious. He was

18 standing a certain way. He was smoking a cigarette. I

19 couldn't tell by his movement the cigarette was lit.

20 Q. Okay. And when you said he was just standing

21 there, did he say anything to you?

22 A. No, ma'am.

23 Q. When you first saw the guy where was your brother?

24 A. My brother, he was sitting on the porch on the

25 right-hand side in a chair --

1 Q. Okay.

2 A. In the chair.

3 Q. And at some point -- what happened next?

4 A. Well, I came outside, got a lighter from him,
5 smoked my cigarette and I noticed the suspicious tall guy
6 in all black in the vacant yard. I asked my brother did
7 he know him. He replied back, No. That's when I was,
8 like, all right. So I waive at him because he look
9 suspicious. He didn't look all right.

10 Q. Why were you waiving at him?

11 A. Because I wanted to make sure if he was okay.
12 Like, he just looked like he was just up to no good,
13 honestly.

14 Q. Okay. And when you waived to him did you say
15 anything rude?

16 A. No, ma'am. I asked him, I said, Yo, are you all
17 right?

18 Q. Were you aggressive with him at all?

19 A. No, ma'am.

20 Q. Did he respond back to you?

21 A. No, ma'am.

22 Q. Did you see him with a telephone?

23 A. No, ma'am.

24 Q. And did you see where the guy came from?

25 A. No, ma'am.

1 Q. Now, after you waived and he didn't say anything
2 what happened next?

3 A. I took a few steps down -- well, I took a few steps
4 down the steps and I waive again to try to get his
5 attention. When I walk and took a few steps he kind of
6 positioned himself in the way I was walking, so he kind
7 of positioned himself in that direction. So I stop and I
8 try to lean -- I try to lean to the side to see his face,
9 if I get a good look at his face.

10 Q. You were not able to tell who he was at that point;
11 is that correct?

12 A. No, ma'am.

13 Q. And why is that?

14 A. He had on all black. He had a hood on. He had a
15 hood on his head so I didn't know who it was.

16 Q. Okay. So he had the hood on his head. And when
17 you leaned over to look in his direction what happened?

18 A. He throw the cigarette down and he kind of
19 reaching. He reach. He pull up his pants from the back
20 and that's when he reached in his waistband and I thought
21 he was reaching for a gun, so I stepped back and I pulled
22 out my weapon and I fired.

23 Q. Why did you have your weapon on you?

24 A. I always have my weapon on my porch when I'm
25 outside.

1 Q. Is there a reason?

2 A. The neighborhood, it's just --

3 MS. SAVAS: Objection, relevance.

4 THE COURT: Sustained. The jury will strike the
5 last statement.

6 MS. SAVAS: Thank you, Your Honor.

7 Q. When did you purchase -- no. Let's go back to at
8 the point when you fired your weapon. Did you see when
9 the guy fell?

10 A. No, ma'am.

11 Q. At some point -- do you know how many times you
12 fired your weapon?

13 A. At least between three and four times.

14 Q. And once he dropped did you continue to fire your
15 weapon?

16 A. No, ma'am.

17 Q. In fact, once he dropped what did you do?

18 A. I stopped shooting and I put my gun in my back of
19 my hip. My brother grabbed me because he was coming down
20 the steps and he grabbed me so we went inside the house.

21 Q. What did you do when you went inside the house?

22 A. I put my gun on my dresser. I told my mom that I
23 just shot somebody. I was scared because she asked what
24 happened, so I went back outside and I noticed the family
25 was out there. So when I went out there I asked them,

1 Did you all know him?

2 The granddad said, Yeah, that's my grandson.

3 So I told him, I'm sorry. He was reaching in his
4 waistband. I thought he was grabbing a gun.

5 Q. And you said that immediately?

6 A. I told his granddad that immediately.

7 Q. And when you walked over there did you see a cell
8 phone?

9 A. No, ma'am.

10 Q. Did you see headphones?

11 A. No, ma'am.

12 Q. And at this point where was the gentleman?

13 A. What you mean?

14 Q. When you walked across the street. When you went
15 to go check on him where was he at that time?

16 A. (There was no response).

17 Q. Let me find the photo for you. Can you tell from
18 this photo where he was?

19 A. Yes. At that same spot. He was at the same spot
20 but he wasn't right -- he wasn't right there (indicated).
21 He was, like, in this area right here (indicated) and
22 then that's when he took a few steps towards me.

23 Q. And then?

24 A. I backed up. I reached for my weapon and I fired
25 my shot.

1 Q. And then at the point when you walked across the
2 street where was he at that point?

3 A. When I walked across the street to check back on
4 him when the family was outside he was actually right
5 here (indicated).

6 Q. Did you see how he got there?

7 A. I saw him crawling. I saw him crawling. That's
8 when the family started crowding him.

9 Q. Do you remember how many people came outside?

10 A. At least six or seven people.

11 Q. Did you know any of those people that came outside?

12 A. No, ma'am. I was, like, familiar with their faces.

13 Q. Now, what made him look suspicious to you that
14 night?

15 A. Him being in all black just standing there the day
16 after Christmas. Like, that didn't give me a good vibe
17 at all. He just looked like he was up to no good.

18 Q. And when you fired your shot were you still on your
19 property?

20 A. Yes, ma'am.

21 Q. Did you ever leave your property?

22 A. No, ma'am.

23 Q. Is the first time you left your property is when
24 you checked on him?

25 A. Yes, ma'am.

1 Q. And when you checked on him who was with you?

2 A. The first time I went, the first time I checked on
3 him I was out there by myself. I went back in the house.
4 I put everything together with my gun, I put everything
5 together, that's when I went back outside with my mom and
6 my brother, and that's when we all went to check on him
7 and went to talk to the family, explain what happened.

8 Q. And you said you put your weapon up?

9 A. Yes, ma'am.

10 Q. And at that point, were you -- were there any
11 reason to be afraid? Is that the reason you put your
12 weapon up?

13 A. Ma'am?

14 Q. When you placed your weapon up were you still --
15 were you afraid at that point?

16 A. I was shocked. Like, my mind was just going crazy
17 because I was just -- I didn't -- I really didn't know
18 what happened. Like, it just happened so fast.

19 MS. BROWN: Beg the Court's indulgence, Your Honor.

20 THE COURT: Yes.

21 Q. Do you remember how long before law enforcement
22 arrived?

23 A. I'll give them about six or seven minutes after the
24 incident.

25 Q. And what were you doing before they arrived?

1 A. I was talking to the family. I was still trying to
2 explain to them what happened. When law enforcement came
3 I put my hands up and surrender move, had my hands up so
4 they know that I wasn't trying to go nowhere or anything.

5 MS. BROWN: Beg the Court's indulgence, Your Honor.

6 (PAUSE.)

7 Q. And when you saw law enforcement did you
8 immediately tell them that you thought the guy across the
9 street had a gun?

10 A. Yes, ma'am. I told them that I was scared.

11 Q. Did you tell them that you saw the guy coming in
12 your direction?

13 A. Yes, ma'am.

14 Q. Did you tell them you saw the guy reaching for
15 something?

16 A. Yes, ma'am.

17 Q. Have you changed your story since December 2014?

18 A. No, ma'am.

19 Q. Did you voluntarily talk to law enforcement
20 immediately?

21 A. Yes, ma'am.

22 Q. Were you compliant that night?

23 A. Yes, ma'am.

24 MS. BROWN: May I approach the witness, Your Honor?

25 THE COURT: You may.

1 (PAUSE.)

2 THE COURT: Is this already in evidence?

3 MS. SAVAS: Yes, sir.

4 MS. BROWN: It is. Beg the Court's indulgence,
5 Your Honor.

6 (PAUSE.)

7 (WHEREUPON, State's Exhibit Number 1, the Dash Cam
8 Video, was played during the following examination.)

9 Q. Is that you, Rhajon?

10 A. Yes, ma'am, in the back.

11 THE COURT: She can't hear his testimony when you
12 have that playing.

13 (The video was stopped.)

14 Q. He probably did have one.

15 MS. SAVAS: Objection.

16 THE COURT: Sustained. Counsel, refrain from
17 editorializing.

18 MS. BROWN: Certainly.

19 BY MS. BROWN:

20 Q. Right when the officer came to your -- came to the
21 vehicle, did I hear you say I swear I thought he had gun?

22 A. Yes, ma'am.

23 Q. Is that what you told the officer?

24 A. Yes, ma'am.

25 Q. Did you also say just give me a fair chance?

1 A. Yes, ma'am.

2 Q. Did you tell the officer at any point in time that
3 the gentleman was moving in your direction before you
4 fired your weapon?

5 A. Yes, ma'am.

6 Q. Did you tell them he was reaching for something
7 before you fired your weapon?

8 A. Yes, ma'am.

9 Q. And when they arrived on this scene you had your
10 hands up; is that correct?

11 A. Yes, ma'am.

12 Q. At that time when you fired your weapon were you
13 afraid?

14 A. I was.

15 Q. Did you think that the guy was going to shoot you?

16 A. I did. I thought he was reaching for a gun.

17 Q. What kind of weapon did you have that night?

18 A. I had a PT-11 Taurus.

19 Q. When you purchase that gun?

20 A. I think I purchased it -- no. I purchased it
21 September of 2014.

22 Q. Did you have it registered?

23 A. Yes, ma'am.

24 Q. How much did you pay for it?

25 A. I paid \$300.

1 Q. So let me be clear. Your testimony is that you
2 fired your weapon that night only to protect yourself?

3 A. Yes, ma'am.

4 Q. And did you tell law enforcement that immediately?

5 A. Yes, ma'am.

6 Q. Have you spoke to law enforcement since December of
7 2014?

8 A. No, ma'am.

9 Q. Have you changed your story since December of 2014?

10 A. No, ma'am.

11 MS. BROWN: Beg the Court's indulgence, Your Honor.

12 (PAUSE.)

13 MS. BROWN: Nothing further at this time, Your
14 Honor.

15 THE COURT: Okay. Thank you.

16 Ms. Savas?

17 MS. SAVAS: Thank, Your Honor.

18 CROSS-EXAMINATION

19 BY MS. SAVAS:

20 Q. Good afternoon, Mr. Sanders.

21 A. Good afternoon.

22 Q. Mr. Sanders, I just quickly want to touch on this
23 point. You know you are not allowed to talk to law
24 enforcement or my office once you've retained an
25 attorney, correct?

1 A. Say that again.

2 Q. You know once you are charged with a crime you do
3 not speak to law enforcement once you've retained an
4 attorney unless it goes through communication with that
5 attorney, correct?

6 A. Now I know.

7 Q. Okay. And you do know that the Solicitor's Office
8 has been in communication with your attorney during
9 preparing this trial, correct?

10 A. Correct.

11 Q. I also just want to quickly address something on
12 this dash cam video. Mr. Sanders, you said that you
13 lived in that house about a year prior to this incident,
14 correct?

15 A. Correct.

16 Q. Okay. Mr. Sanders, you testified on direct that
17 the street lights don't work, correct?

18 A. Correct.

19 Q. Mr. Sanders, can you please tell me what's above
20 that police car right there? Do you see that light?
21 What does that look like to you, sir?

22 A. That's not above the police car but that's a street
23 light down the street.

24 Q. Okay. And that's your house on the right between
25 that street light and that crime scene tape? That's

1 where you were standing when officers arrived on scene,
2 correct?

3 A. That street light is all the way down the street on
4 the other side of Kent Avenue.

5 Q. Mr. Sanders, were you standing just on the other
6 side of that crime scene tape when officers arrived on
7 scene?

8 A. (There was no response).

9 Q. Mr. Sanders, can you please point to where you were
10 standing when officers arrived on scene.

11 A. I was standing right there at the edge of the road
12 (indicated).

13 Q. If you can get up. I'm sorry. We don't have that
14 pointer from yesterday, and just please point to where
15 you are speaking to. Are you speaking in the road or a
16 little bit on that yard on the right?

17 A. I was a little bit in my yard right there
18 (indicated).

19 Q. So that street light that you're talking about is
20 only about two houses down you would say?

21 A. About four houses down.

22 Q. Okay. Around there. And, Mr. Sanders, that crime
23 scene tape, those are garbage cans and recycling bin on
24 the left there, correct?

25 A. Correct.

1 Q. And that's where they pulled the stretcher with the
2 victim on it, correct, out from under that crime scene
3 tape? We just watched the video.

4 A. Correct.

5 Q. Okay. Mr. Sanders, when you look across the street
6 from your house is this an accurate picture?

7 A. Of what?

8 Q. Of across the street from your house.

9 A. Yes, ma'am.

10 Q. Okay. And so on the night of this incident you --
11 this is the neighbors across, directly across the street
12 from you, correct?

13 A. Yes, ma'am.

14 Q. And these are those bushes, correct?

15 A. Yes, ma'am, that's half of the bush.

16 Q. Okay. And, once again, putting these sort of
17 pictures together, this is the leaves, this is the
18 leaves. These seem to be the same bushes, correct?

19 A. Correct.

20 Q. And these are the garbage and recycling bins as
21 seen in that video, correct?

22 A. Correct, but they was moved. He moved it.

23 Q. Did you actually see them get moved, Mr. Sanders?

24 A. No, ma'am.

25 Q. Okay. So you don't know for certain if they

1 actually were or were not moved because you did not see
2 them, correct?

3 A. Correct.

4 Q. Mr. Sanders, while we are looking this the picture,
5 this is that area of leaves right in front of those
6 bushes, correct?

7 A. Correct.

8 Q. Okay. And you saw that Officer Cook pointed out
9 right here this is a blood stain, correct?

10 A. Where? Where is the blood stain?

11 Q. Right about here. (Indicated).

12 A. Correct.

13 Q. And that's on the right-hand side of this garbage
14 can and recycling bin in this photo, correct?

15 A. Correct.

16 Q. And these are just close-ups of Nicholas' blood,
17 correct?

18 A. I guess that's blood.

19 Q. Okay. Mr. Sanders, you said that you were
20 relatively new to that neighborhood, correct?

21 A. Correct.

22 Q. And you've had no prior problems with people across
23 the street, right?

24 A. Right.

25 Q. Okay. And you've never had an actual problem with

1 Nicholas before, right?

2 A. Right.

3 Q. You've never had a problem with anybody that lived
4 across the street, right?

5 A. Right.

6 Q. You've never had a problem with anyone that went to
7 visit them before, right?

8 A. Right.

9 Q. And there was no problem earlier that day with
10 anyone visiting them, right?

11 A. No, ma'am.

12 Q. No threats made by anyone over there, right?

13 A. No, ma'am.

14 Q. Mr. Sanders, I'd like you to clarify suspicious
15 behavior. You testified in direct that Nicholas looked
16 suspicious because he was standing outside and smoking;
17 is that correct?

18 A. Correct.

19 Q. And you were actually on your porch standing
20 outside smoking, correct?

21 A. In my yard, correct.

22 Q. And if someone then is standing outside smoking
23 does that make them suspicious?

24 A. He looked suspicious in an abandoned yard smoking
25 in all black clothes just smoking a cigarette.

1 Q. Mr. Sanders, you know if he was actually wearing
2 black or navy blue that day?

3 A. He was wearing all black.

4 Q. Did you actually see a close-up of his shirt that
5 night, sir?

6 A. Yes, I did because he passed while I was in the
7 patrol car.

8 Q. But it was pretty dark out there, right?

9 A. Yes.

10 Q. So in the dark sometimes dark colored clothing may
11 look like one color or the other, right?

12 A. Right, but he was wearing black.

13 Q. Mr. Sanders, about this hoodie, you were wearing a
14 hoodie that night, right?

15 A. Yes, ma'am.

16 Q. And just to clarify, on that dash cam video when
17 officers asked you to pull up the hoodie they were
18 speaking to you, right?

19 A. Yes, ma'am.

20 Q. And when they asked to look at the waistband it was
21 your waistband, right?

22 A. Right.

23 Q. The waistband where you had your gun on you before,
24 right?

25 A. Right.

1 Q. This abandoned house, just briefly. Mr. Sanders,
2 have you ever been inside that home?

3 A. No, ma'am.

4 Q. So do you actually know for certain that no one was
5 inside that home on that night of the incident?

6 A. I know for a fact no one was inside that home.

7 Q. How do you know for certain if you were not inside
8 there?

9 A. No one lives there at all.

10 Q. You don't know your neighbor, Ms. Prissy, that comes
11 and goes from the hospital?

12 A. There is no Ms. Prissy that lives around there.

13 Q. You don't know the niece that goes in and out?

14 A. There's no niece or Ms. Prissy that lives around
15 there.

16 Q. But the abandoned homes are next to you on your
17 left-hand side and your right-hand side, correct?

18 A. Yes, ma'am. I never been inside those neither.

19 Q. Okay. Mr. Sanders, you stated that you always go
20 outside on your porch with a loaded gun on you, don't
21 you?

22 A. I do.

23 Q. Every single time you walk on your porch you take
24 one of your loaded guns out there with you?

25 A. Yes, ma'am.

1 Q. Every single time?

2 MS. BROWN: Objection, Your Honor. May we
3 approach?

4 THE COURT: Yeah.

5 (WHEREUPON, a bench conference was had.)

6 THE COURT: You may proceed.

7 MS. SAVAS: Thank you, sir.

8 BY MS. SAVAS:

9 Q. Nicholas, I'm going to show you 7A?

10 A. Excuse me?

11 Q. Nicholas, this is your gun -- I'm sorry.

12 Mr. Sanders, this is your gun, right?

13 A. Yes, ma'am.

14 Q. This is the gun that you shot Nicholas with that
15 night?

16 A. Yes, ma'am.

17 Q. Did you shoot him with the cartridge or the
18 extended magazine in it?

19 A. The cartridge.

20 Q. But you have an extended magazine, right?

21 A. I do.

22 Q. And you bought that extended magazine so you can
23 carry more bullets at a certain time in that gun, right?

24 A. Wrong. I bought the extended mags to have fun at
25 the gun range.

1 Q. The purpose of an extended magazine is to have
2 extra bullets in the gun at a certain time, right?

3 A. Right.

4 Q. Mr. Sanders, do you have your concealed weapons
5 permit?

6 A. No, ma'am.

7 Q. Mr. Sanders, do you know -- that other cammo gun is
8 yours, too, right?

9 A. Yes, ma'am.

10 THE COURT: Is there an objection?

11 MS. BROWN: Your Honor, I would object that it's
12 not even relevant.

13 THE COURT: Overruled. Go ahead. It was found in
14 the search.

15 MS. SAVAS: Thank you, sir.

16 BY MS. SAVAS:

17 Q. Mr. Sanders, your brother was outside prior to you
18 going on the porch, correct?

19 A. Yes, ma'am.

20 Q. He was out there for at least a few minutes,
21 correct?

22 A. Yes, ma'am.

23 Q. And he had the porch light on to your house before
24 you walked out there, right?

25 A. Yes, ma'am.

1 Q. And then you later turned that porch light off,
2 right?

3 A. No.

4 Q. Later the porch light was turned off somehow,
5 right?

6 A. No, it wasn't.

7 Q. Mr. Sanders, was the neighbor across the street,
8 was their porch light on?

9 A. No, ma'am.

10 Q. Mr. Sanders, when you went on the porch did your
11 brother ever tell you that he was scared of being out
12 there?

13 A. No, ma'am.

14 Q. And when you went on the porch you looked across
15 the street and you saw Nicholas, right?

16 A. Yes, ma'am.

17 Q. So as your brother was out there Nicholas was
18 already out there, too, right?

19 A. Yes, ma'am.

20 Q. And then you asked your brother whether he knew him
21 or not, right?

22 A. Yes, ma'am.

23 Q. And you really don't know Nicholas, do you?

24 A. I don't know him from a can of paint.

25 Q. That's right. You don't know him from a can of

1 paint, do you? Mr. Sanders, you then tried to get his
2 attention, right?

3 A. Yes, ma'am.

4 Q. You were jumping and flailing, right?

5 A. I was waiving at him.

6 Q. And you said on direct that you were waiving at him
7 after you were scared of his suspicious behavior, right?

8 A. No. I said I waive at him and when I looked at him
9 he was suspicious. I didn't say I was scared. Actually,
10 I was scared when he walked towards me he was reaching in
11 his waistband. That's when I pulled out my weapon.

12 That's when I said I was scared. I never said I was
13 scared when I came on the porch.

14 Q. You were never scared when you came out on the
15 porch?

16 A. I never said I was scared when I walked on porch.

17 Q. Then you walked down your porch and you walked
18 towards the street, right?

19 A. I walked towards -- I walked down the pathway on my
20 yard.

21 Q. Okay. And you walked towards your mailbox, right?

22 A. Yes. My mailbox is in the area.

23 Q. And, Mr. Sanders, you said on direct that it was
24 really dark out, about this kind of dark, right?

25 A. Yes, ma'am.

1 Q. Okay. And you walked off your porch, right, and
2 you walked this way, right?

3 A. Yes, ma'am.

4 Q. And you walked off that porch with your loaded gun,
5 right?

6 A. Yes, ma'am.

7 Q. Then you continued walking towards Nicholas further
8 out towards the street, right?

9 A. Wrong.

10 Q. Which way did you walk then, Mr. Sanders?

11 A. I stopped right there.

12 Q. Right here?

13 A. Nope. Wrong. I stopped -- can I point?

14 Q. Yes, sir. Please do.

15 A. I stopped right there (indicated). I didn't stop
16 at the edge of the cement but I stopped --

17 Q. About right here?

18 A. Yeah, about in that area right there.

19 Q. But you were originally on the porch when you
20 spotted Nicholas and you continued walking with your gun
21 this way, right?

22 A. Yes, ma'am. My gun was on my hip.

23 Q. Okay. And at that point you were waiving at
24 Nicholas, right?

25 A. I waive again and as I walked -- as I walked he

1 positioned himself toward me, then I waive again and I

2 tried to look to see if I could see his face.

3 Q. Because it was so dark that you couldn't actually

4 see his face, right?

5 A. Right.

6 Q. You can't really see much out there because it's so

7 dark, right?

8 A. I could see something because -- we had a porch

9 light on. So I could have seen a little bit. I couldn't

10 see his face. I couldn't see exactly what he was doing

11 except smoking a cigarette. I knew he was smoking a

12 cigarette.

13 Q. And you walked towards him as he was not

14 responding, right?

15 A. I didn't literally walk towards him. I walked down

16 the pathway of my yard.

17 Q. So you walked away from your home towards the end

18 of the yard?

19 A. That is still my home.

20 Q. Right. I said away from your home towards the end

21 of your yard, towards the further front?

22 A. No, it wasn't towards the end.

23 Q. Mr. Sanders, you walked this way, correct?

24 A. I didn't stop.

25 Q. Or did you walk back inside? Were you walking this

1 way, sir?

2 A. I told you. I stopped right there.

3 Q. Okay. So you walked from your porch to about here.

4 At this time you were waiving and calling out questions

5 to him?

6 A. I didn't say anything to him at that time. I

7 didn't say anything to him. I only said something when I

8 was on the porch.

9 Q. Okay. And when you asked him on the porch you

10 asked him if he was okay, right?

11 A. Yes, ma'am.

12 Q. Did he look like he was in distress?

13 A. Honestly, he just kind of looked suspicious. Like,

14 I just want to know if he was all right.

15 Q. So you're asking questions and flailing your arms

16 at someone who you think looks suspicious?

17 A. No, someone who does look suspicious.

18 Q. Right. So he looks suspicious and you were still

19 flailing and asking questions, right?

20 A. I wanted to know if he was all right.

21 Q. So you initiated contact with Nicholas or attempted

22 to?

23 A. I tried to get his attention.

24 Q. You were trying to get the attention of a

25 suspicious person?

1 A. I wanted to know who he was.

2 Q. And you could do that because you had your gun on
3 you, right?

4 A. I mean, I have a right to know who anybody is.
5 That's not illegal.

6 Q. It doesn't mean that someone has to answer back to
7 you, do they?

8 A. No, ma'am.

9 Q. No, they don't, but you were okay because you were
10 confident in approaching someone that you thought
11 suspicious because you purposely brought your gun out,
12 right?

13 A. I didn't approach him.

14 Q. You were walking off your porch, correct?

15 A. I didn't approach him though.

16 Q. You stated to officers I was coming by my mailbox,
17 correct?

18 A. Yes, ma'am.

19 Q. And he was smoking a cigarette, correct?

20 A. Yes, ma'am.

21 Q. So I shot him in his leg, correct?

22 A. I did not say that.

23 Q. You did not say --

24 A. I did not say, Oh, he was smoking a cigarette so I
25 shot him in his leg. I did not tell the officers that.

1 Q. You were present in the courtroom when we played
2 your post Miranda statement, correct?

3 A. Correct.

4 Q. Okay. You also asked the officers, one of the
5 first things that you did was ask him if he was dead,
6 right?

7 A. I wanted to make sure if he was okay.

8 Q. You asked them if he was -- you said, Is he dead.
9 Correct?

10 A. Yeah.

11 Q. And that's because you know that shooting someone
12 could kill them, correct?

13 A. Yeah.

14 Q. So you know that the moment that you make the
15 decision to shoot your firearm at least four times, as
16 you describe, it could kill someone, right?

17 A. Correct.

18 Q. Okay. And that's what you did to Nicholas, right?

19 A. I wasn't trying to kill him.

20 Q. I didn't ask you that. Mr. Sanders, you knew that
21 shooting a gun could kill someone and you shoot at
22 Nicholas, right?

23 A. Yes. I shoot at him.

24 Q. Mr. Sanders, did you see the two children playing
25 across the street as well?

1 A. No, ma'am.

2 Q. Did you see a lot of people coming in and out of
3 those houses across the street that day?

4 A. No, ma'am. I was working that day.

5 Q. When you came home did you notice that there were
6 people across the street?

7 A. No, ma'am, because I didn't went outside as I came
8 home. I went in my room.

9 Q. You didn't see any cars out there that were there
10 all day when you came home in broad daylight?

11 A. The only car that's always out there is that red
12 jeep that doesn't work.

13 Q. And they have people coming in and out a lot,
14 right?

15 A. So they say.

16 Q. I'm asking you. You live across the street, right?

17 A. I do.

18 Q. So do they have people coming in and out a lot?

19 A. Not a lot but they have people coming in and out.

20 Q. They have people coming in and out. At the point
21 in which you shot Nicholas, Mr. Sanders, you were
22 standing by this tree, right?

23 A. Excuse me?

24 Q. You were standing by this tree when you shot
25 Nicholas, somewhere in there?

1 A. Yes, ma'am.

2 Q. And those are your shell casings from your gun,
3 right?

4 A. Yes, ma'am.

5 Q. They did a search warrant of your house, right?

6 A. Right.

7 Q. And you told them that you put your gun back in the
8 bedroom, right?

9 A. I told them I put my gun on the dresser.

10 Q. Is this where you put your gun?

11 A. Yes, ma'am.

12 Q. After you shot Nicholas?

13 A. Yes, ma'am.

14 Q. Right next to your extended magazine?

15 A. I put the extended magazine next to the gun.

16 Q. Where was the extended magazine?

17 A. It was in the dresser.

18 Q. You took the extended magazine out of the dresser?

19 A. And put it towards -- put it next to the gun
20 because I know the police was going to get it anyway, so
21 just put it all together.

22 Q. You knew the police were going to come in your
23 house anyways, right?

24 A. Yeah. That was after we called the police though
25 so. . .

1 Q. Right, and that's your gun, that's your dresser,
2 that's your extended magazine, right?

3 A. Yes, ma'am.

4 Q. That's your weed, too, right?

5 A. What weed?

6 MS. BROWN: Objection, Your Honor. May we
7 approach?

8 THE COURT: Yeah.

9 (WHEREUPON, a bench conference was had.)

10 THE COURT: Overruled. Proceed.

11 BY MS. SAVAS:

12 Q. Mr. Sanders, is that your weed?

13 A. What weed?

14 Q. Mr. Sanders, this is your dresser, right?

15 A. Yes, ma'am.

16 Q. Is that weed?

17 A. That's not weed.

18 Q. Mr. Sanders, you said that's where you placed your
19 weapon after you shot Nicholas, right?

20 A. Yes, ma'am.

21 Q. And then you met with your mother in the kitchen,
22 right?

23 A. No. My mom came in the living room.

24 Q. Okay. So after you placed your gun on the dresser
25 you then went back outside, right?

- 1 A. Yes, ma'am.
- 2 Q. And you went right back across the street, right?
- 3 A. Yes, ma'am.
- 4 Q. And you went and you actually stood right over
- 5 Nicholas, right?
- 6 A. No, ma'am.
- 7 Q. You stood near Nicholas?
- 8 A. No, ma'am.
- 9 Q. You approached him?
- 10 A. No, ma'am.
- 11 Q. Okay. So on direct you said that you actually went
- 12 over to the victim. So please tell me where you went
- 13 when we went to the victim?
- 14 A. I did not say I went over to the victim. I didn't
- 15 say went over to the victim. I went over to the family.
- 16 The family was surrounding him. He was already in the
- 17 yard. I went over to --
- 18 Q. He was in the yard across the street?
- 19 A. Yes, ma'am.
- 20 Q. Uh-huh.
- 21 A. I went over to the family to talk to them. I was
- 22 in the middle of street. I didn't went over to the yard.
- 23 Q. Oh, okay. So you unarmed yourself and went back
- 24 across the street, right?
- 25 A. I didn't went across the street. I was in the

- 1 street trying to talk to them.
- 2 Q. You shot Nicholas, right?
- 3 A. Yes, ma'am.
- 4 Q. You went inside your house after that, right?
- 5 A. To put my gun up.
- 6 Q. And you put your gun up, right?
- 7 A. Yes, ma'am.
- 8 Q. And then you went back outside, right?
- 9 A. Yes, ma'am.
- 10 Q. And then you went into the street, right?
- 11 A. To talk to his family.
- 12 Q. And all of a sudden you just happen to not be
- 13 scared anymore, right?
- 14 A. Because his family was out there. His family told
- 15 me that that was -- the granddad told me that was his
- 16 grandson. When he told me that I tried to explain to
- 17 them. No, I wasn't scared anymore but I was a little
- 18 shocked, but he wasn't a threat anymore.
- 19 Q. Right, because you've already shot him, but did you
- 20 ever see Nicholas hide a gun?
- 21 A. No, ma'am.
- 22 Q. Did you ever see a gun on Nicholas?
- 23 A. No, ma'am.
- 24 Q. And did you actually see Nicholas reach inside his
- 25 pockets?

1 A. No, ma'am. I saw him reach inside his waistband.

2 Q. Reach inside his waistband but yet on the night
3 when you were Mirandized you said that he reached --
4 tried to grab his waistband. You never said he reached
5 inside his waistband but now you are saying he reached
6 inside waistband, right?

7 A. I said he was reaching in waistband.

8 Q. Okay. Mr. Sanders, you heard on the video, he
9 tried to grab his waistband. Now he reached inside
10 waistband. Mr. Sanders, are you changing your testimony?

11 A. I didn't say that on the video.

12 Q. Okay. So Mr. Sanders [sic] became such a life
13 threat to you when he was smoking his cigarette after he
14 didn't answer you questions, right?

15 A. Repeat that again.

16 Q. Nicholas became such a treat you after he didn't
17 answer your questions, right?

18 A. He became a threat when he took his steps and
19 reached inside his waistband. That's when I felt that he
20 was a threat.

21 Q. To the gun you never saw, right?

22 A. I didn't try to waste no time.

23 Q. You didn't try to --

24 A. No. I mean, I wasn't trying like -- it just
25 happened fast. It happened too fast.

1 Q. Because you jumped to the conclusion that he had a
2 gun, right?

3 A. He was reaching in his waistband.

4 Q. So you jumped to the conclusion that he had a gun,
5 right?

6 A. I mean, if that was a police officer and I reached
7 inside my waistband he would have assumed the same thing.

8 Q. That's a big statement, Mr. Sanders. Whew.

9 Mr. Sanders, you said that you actually then went up to
10 the family and you spoke to his grandfather, right?

11 A. Yes, ma'am, I tried to talk to them.

12 Q. Right. And there is the grandfather that y'all
13 have never had an issue with across the street, right?
14 The elderly gentleman?

15 A. I never had an issue with the granddaddy.

16 Q. Right. And on a jail call to your friend you say,
17 He better keep his old ass still or he get next, N word,
18 right?

19 MS. BROWN: Objection.

20 A. I do not remember.

21 MS. BROWN: I'll withdraw the objection.

22 Q. You don't remember saying that on the jail call?

23 A. No, ma'am.

24 Q. To your friend on December 27, 2014?

25 A. No, ma'am.

1 Q. Uh-huh. Do you remember your brother telling you
2 that the dude had on headphones?

3 A. I remember my brother saying the police officer
4 said he had on headphones.

5 Q. Okay. Do you remember telling on your jail call
6 too this ain't that type of neighborhood you do that
7 shit. This shit could have been avoided, right?

8 A. No, ma'am. I do not remember that.

9 Q. You just don't remember what happened on your jail
10 calls, do you?

11 MS. BROWN: Objection.

12 THE COURT: Is there an objection?

13 MS. BROWN: Objection, Your Honor. May we approach
14 again?

15 THE COURT: Yes.

16 (WHEREUPON, a bench conference was had.)

17 BY MS. SAVAS:

18 Q. Mr. Sanders, you said that you could see the light
19 of his cigarette, right?

20 A. Yes, ma'am.

21 Q. Did you see the light of his cell phone, too?

22 A. I didn't see any cell phone.

23 Q. And you heard on the videotape actually officers
24 telling Nicholas they needed to take his cell phone,
25 didn't you?

1 A. No, ma'am. I didn't hear that clearly.

2 Q. On the video we just played the officer said, We
3 need that cell phone --

4 A. I heard his mom said, Give me that cell phone.
5 That's what I heard.

6 Q. You heard Nicholas' mother tell him to give her
7 that cell phone, right?

8 A. Yes, ma'am.

9 Q. So he had a cell phone, right?

10 A. I didn't see no cell phone.

11 Q. Phones tend to light up, right?

12 A. They do.

13 Q. Is that a yes or no?

14 A. Yes.

15 Q. But you don't see the light of his cell phone when
16 he's playing music but you see the light of the end of
17 that cigarette, right?

18 A. He didn't have a cell phone in his hand.

19 Q. Not that you knew of, right?

20 A. He was smoking a cigarette. He didn't have the
21 cell phone in his hand.

22 Q. Could you actually see everything in his hand from
23 that far, Mr. Sanders?

24 A. Can I stand up and show you how he was standing?

25 Q. That's not answering my question, Mr. Sanders. Did

1 you see what was actually in his hand from that distance

2 in that dark, dark sky, sir?

3 A. I saw his cigarette.

4 Q. That's all that you saw though, right?

5 A. Yes, ma'am.

6 Q. So you don't know whether something else was there

7 or not if you didn't see it, right?

8 A. No, ma'am.

9 Q. Okay. Mr. Sanders, you didn't see a trail of
10 blood, did you?

11 A. No, ma'am.

12 Q. Okay. Mr. Sanders, after you shoot Nicholas he
13 fell, right?

14 A. Yes, ma'am.

15 Q. After he fell you continued firing, right?

16 A. No, ma'am.

17 Q. How many times did you shoot Nicholas?

18 A. I shot him one time.

19 Q. How many times did you shoot at Nicholas?

20 A. About three or four times.

21 Q. Do you know in those other three or four times
22 where the bullets went?

23 A. No, ma'am. It happened fast. I was panicking.

24 Q. Do you know if it went into your neighbor's house?

25 A. No, ma'am, I don't.

1 Q. Do you know if it went into anyone's car right
2 there?

3 A. No, ma'am, I don't.

4 Q. Do you know if it went through anyone else's
5 windows?

6 A. No, ma'am, I don't.

7 Q. But it could have, right?

8 A. It could have.

9 Q. Mr. Sanders, you testified that you know that
10 shooting someone can kill them, right?

11 A. Yes, ma'am.

12 Q. Mr. Sanders, you made that decision to shoot
13 Nicholas that night, didn't you?

14 A. Yes, ma'am.

15 Q. Nicholas never threatened you, did he?

16 A. No, ma'am.

17 MS. SAVAS: Beg the Court's indulgence.

18 THE COURT: Yes.

19 (PAUSE.)

20 MS. SAVAS: Nothing further from the State, Your
21 Honor.

22 THE COURT: Any redirect?

23 MS. BROWN: Yes.

24 REDIRECT EXAMINATION

25 BY MS. BROWN:

1 Q. Nicholas never threatened you verbally. Did he
2 threaten you nonverbally?

3 A. When he reached -- when he stepped forward and
4 reached into his waistband I felt like that was a threat.

5 Q. Did you believe that he was going to shoot you if
6 you didn't fire your weapon?

7 A. I believed he reached -- he was reaching for a gun
8 and if I didn't have my weapon he probably had his he
9 would have shot me.

10 Q. Would you have shot and fired a weapon at Nicholas
11 but for the fact that you believed he had weapon?

12 A. No, ma'am.

13 Q. Would you have shot and fired a weapon at Nicholas
14 but for the fact that he reached for his -- towards his
15 waistband?

16 A. No, ma'am.

17 Q. Would you have shot and fired your weapon if you
18 thought that Nicholas was not going to hurt you?

19 A. No, ma'am.

20 Q. Did you only fire the weapon because you were
21 afraid?

22 A. Yes, ma'am.

23 Q. Did you fire the weapon because you were protecting
24 yourself?

25 A. Yes, ma'am.

1 Q. Was there any other reason to fire your weapon?

2 A. No, ma'am.

3 Q. Now, why don't you stand up and show the Court how

4 Nicholas was standing.

5 A. He was standing like this (indicated). I don't

6 know which hand he was smoking a cigarette but he kept

7 smoking a cigarette. He was standing like this.

8 Q. Okay. You may have a seat.

9 A. (The witness complied).

10 Q. And at some point he started advancing toward you;

11 is that correct?

12 A. Yes, ma'am.

13 Q. Now, at no point in time did you advance in the

14 street towards him?

15 A. No, ma'am.

16 Q. But he was in the street when he was coming towards

17 you?

18 A. When he took a few steps he stepped inside the

19 street, yes, ma'am.

20 Q. Now, there is some communication about you having

21 two firearms. Is there anything illegal about having two

22 firearms?

23 MS. SAVAS: Objection. Speculation about the law.

24 THE COURT: Overruled.

25 A. No, ma'am.

1 Q. Did you legally purchase those firearms?

2 A. Yes, ma'am.

3 Q. And you mentioned that you have an extended clip,
4 is that correct?

5 A. Yes, ma'am.

6 Q. And what do you do -- what's the purpose of having
7 that clip?

8 A. It's just something to have extra rounds in.

9 Q. And what do you use -- why do you use that? Where
10 do you use it at?

11 A. When I go to the gun range I use an extended clip.

12 Q. And what gun range do you go to?

13 A. World Trigger.

14 MS. BROWN: Beg the Court's indulgence, Your Honor.

15 THE COURT: Yes.

16 Q. And when Nicholas threw down his cigarette did that
17 appear to be a threat to you?

18 A. It startled me. It scared me. That really scared
19 me when he throw his cigarette down and as soon as he
20 throw that cigarette down he pull up his pants from the
21 back and he stepped forward, took a few steps and he
22 reach in his waistband. So, yeah, that scared me.

23 Q. And you were, in fact, afraid when you fired your
24 weapon?

25 A. Yes, ma'am.

1 MS. BROWN: Nothing further.

2 THE COURT: Any recross based on her redirect?

3 MS. SAVAS: No, Your Honor. The State has no
4 questions.

5 THE COURT: Thank you. You may step down. You may
6 step down, sir.

7 MS. BROWN: At this time, Your Honor, the defense
8 rests.

9 THE COURT: All right. Very well.

10 All right, ladies and gentlemen. I'm going to send
11 you back to the jury room for a few minutes while we take
12 up a few matters of law. Please do not discuss anything
13 about the case while you are back there. Thank you.

14 If they'd like a Coke or something you can give it
15 to them.

16 (WHEREUPON, the jury leaves the courtroom at
17 approximately 3:38 p.m.)

18 THE COURT: All right. Any motions?

19 MS. BROWN: Yes, Your Honor. However, I would ask
20 that before we begin our motion can we please have a
21 five-minute recess?

22 THE COURT: Yeah. We'll take a five-minute recess
23 and that's it. Restroom break and we'll come right back.

24 MS. BROWN: Thank you.

25 THE COURT: Court is in recess for five minutes.

1 (WHEREUPON, a brief recess was taken.)

2 THE COURT: All right. Any motions?

3 MS. BROWN: Yes, Your Honor.

4 THE COURT: Yes, ma'am.

5 MS. BROWN: Thank you, Your Honor. May it please
6 the Court. We, defense, move at this time for a directed
7 verdict relating to the charge of attempted murder and
8 possession of a weapon during the commission of a violent
9 offense, the indictment numbers 2015-GS-10-285 and
10 2015-GS-10-284.

11 The indictment for attempted murder alleges that
12 Rhajon Sanders on December 26 of 2014 with the intent to
13 kill and malice aforethought attempt to kill Nicholas
14 Washington in violation of SC Code Section 16-3-29.

15 The indictment for possession of a weapon during
16 the commission of a violent crime alleges that on
17 December 26 of 2014 Rhajon Sanders did possess a firearm
18 or did visibly display what appeared to be a firearm
19 during the commission of a violent crime, to wit, it is
20 attempted murder in violation of SC Code 16-23-490.

21 In State vs. Mitchell the Court has considered when
22 considering a motion for directed verdict the Court must
23 view the evidence in the light most favorable to the
24 State to determine whether there's any substantial
25 evidence which reasonably tends to prove the guilt of the

1 accused from which his guilt could be fairly and
2 logically deduced.

3 We understand at this stage the Court is, of
4 course, concerned with the existence or nonexistence of
5 evidence and not the weight of the evidence. The
6 indictment for attempted murder requires that the State
7 of South Carolina has to offer evidence during the course
8 of the trial that on December 26 of 2014 --

9 THE COURT: I don't want -- is this the same motion
10 you made before?

11 MS. BROWN: Absolutely.

12 THE COURT: You just want to renew your motion?

13 MS. BROWN: Absolutely, Your Honor.

14 THE COURT: Okay. It's on record so if there's
15 nothing really changed I'll let you renew it.

16 MS. BROWN: And I also -- I don't think, Your
17 Honor, at that point I discussed -- well, Your Honor, of
18 course, we have additional testimony that's taken place
19 since that time. Would you like me to include that as
20 well. I mean, I will --

21 THE COURT: No. If you want to go into additional
22 testimony but, I mean, the testimony is still in the
23 record that he fired the gun that shot him.

24 MS. BROWN: Yeah. The issue is not whether or not
25 he fired the gun and shot him. It's whether or not he

1 had malice aforethought at the time that he did so, and
2 at the time he did so there's been no evidence produced
3 by the State and especially not by the defense that he
4 did. And malice aforethought, if Your Honor will allow
5 me to once again to define it, as hatred, ill will,
6 hostility towards another person indicating a wicked or
7 depraved spirit intent on doing wrong, a form, purpose
8 and design to do a wrongful act without legal
9 justification or excuse.

10 Now, the State of South Carolina has offered two
11 fact witnesses, Nicholas Washington as well as his
12 mother, Katina Washington. Neither one of those
13 witnesses at any point in time testified that Rhajon
14 Sanders knew the defendant, knew the victim prior to the
15 shooting, that they have any prior ill will with one
16 another, that they were involved in any type of verbal or
17 nonverbal confrontation, that there was any problems
18 whatsoever related to these individuals.

19 In fact, when Mr. Washington testified, that would
20 be Nicholas, the victim in this case, he said that my
21 client contacted with him after the shooting that he was
22 startled, very afraid, that he came over and apologized.
23 His mother testified that following the shooting that he
24 came over apologetic and was also kind.

25 The State of South Carolina then offered officers

1 as witnesses and neither officer, any of the five
2 officers that testified produced any evidence that there
3 was any problems between these parties, that there were
4 any ill will, that there were any wicked or depraved
5 spirit. That does not exist.

6 That malice aforethought is an essential component,
7 element that must be proved during the course of this
8 trial as relates to attempted murder. That has not
9 happened on the State case and that certainly has not
10 happened on the evidence that we have provided to you.

11 Now, of course, we have provided you evidence that
12 suggests that there was legal justification or excuse for
13 which the reason he fired his weapon. Firing a weapon
14 alone does not mean a crime has been committed,
15 especially under these set of circumstances.

16 It is clear from the record that there was nothing
17 at all that provoked, nothing at all that caused any type
18 of criminal behavior. The only thing that's clear from
19 this record is that my client was afraid and he had every
20 right at the time to fire his weapon. He was on his
21 property. There was a stranger advancing towards him.
22 The stranger was in all black and the stranger was in the
23 dark. My client has repeatedly from December 26 of 2014
24 up until this very moment state that I was afraid. I
25 would have never fired but for the fact that someone is

1 reaching for a weapon -- for what I believe is a weapon
2 and advancing toward me.

3 Now, the State of South Carolina has an obligation.
4 Their obligation is to prove -- disprove self defense.
5 First their obligation is to prove attempted murder,
6 which they failed, and they certainly have not offered
7 any evidence to this Court that he was not defending
8 himself. The only thing that they have suggested is that
9 he fired a weapon for no apparent reason at all.

10 I once again would ask that you consider that this
11 case should be resolved right now on a basis of a
12 directed verdict because the State of South Carolina has
13 not done its job, and as well as if you look at the
14 charge of attempted -- assault and battery of a high and
15 aggravated nature, now we are looking at whether or not
16 there was an unlawful act that resulted in injury or harm
17 and I have yet to hear an unlawful act.

18 If any client at the time fired his weapon because
19 he was under threat and he believed that somebody was
20 coming towards him and reaching for a firearm his act was
21 not unlawful. He clearly was on his property. More
22 importantly, he had a legally owned firearm. There's
23 nothing in this record to suggest that he was operating
24 illegally at the time. We would ask for a directed
25 verdict on all the counts.

1 THE COURT: All right. Thank you.

2 Yes, ma'am?

3 MS. SAVAS: Thank you, Your Honor. May it please
4 the Court. We renew, of course, the reasons already --
5 I'm sorry, the reasons already on the record. We opposed
6 to this motion as we did earlier. The State has given
7 sufficient proof, as you already ruled, regarding the
8 charge of attempted murder, possession of a weapon during
9 the commission of a violent crime, as well as assault and
10 battery of a high and aggravated nature.

11 There was additional evidence brought out on the
12 defense's case and the defendant himself stated that he
13 knew that shooting someone could kill them and that he
14 did intend to shoot at the victim here in this case,
15 Nicholas Washington, which then could be inferred that he
16 did intend to kill him by the act of shooting at him
17 purposefully without just cause and reasons. And, Your
18 Honor, for those reasons already put on the record we
19 oppose this motion.

20 THE COURT: All right. In the light most favorable
21 to the State I'm going to respectfully deny your motion.

22 MS. BROWN: Thank you, Your Honor.

23 THE COURT: Does the State have any motions?

24 MS. SAVAS: Just that, Your Honor, we would want to
25 respond to the defendant's case in requesting a charge of

1 self defense but I don't know if they've don't that yet
2 or not, formally requested a charge --

3 THE COURT: I would assume that they -- I mean, we
4 haven't had a charge conference yet.

5 MS. SAVAS: At this point in time may we address
6 that them, sir?

7 THE COURT: If you'd like to.

8 MS. SAVAS: Yes, sir. I have submitted a brief to
9 you this past weekend. To reiterate a few points in that
10 for purposes of the record, sir, the State would reject
11 and ask the Court to not charge self defense.

12 Self defense clearly has the four elements, first
13 of which that the defendant must be without fault in
14 bringing on the difficulty. Second, the defendant must
15 be in actual imminent danger or believe that he was in
16 such danger of losing his life or sustaining serious
17 bodily injury, and third, if his defense is based on a
18 belief then it is up to the defendant to show that a
19 reasonably prudent person of ordinary firmness and
20 courage would have entertained that same belief and would
21 have struck the fatal blow in order to save himself from
22 serious bodily harm or the loss of his life; and, of
23 course, fourth, Your Honor, the defendant has no other
24 probable means of avoiding that danger.

25 In order to assert the right of self defense the

1 defendant must produce evidence of that defense that
2 causes a jury to have reasonable doubt. The burden then
3 shifts to the State to disprove the elements beyond a
4 reasonable doubt.

5 First, Your Honor, just briefly, the defendant
6 must be without fault in bringing on the difficulty.
7 Through the clear evidence in the case and the
8 defendant's own testimony he stated that he approached
9 the victim. He initiated verbal communication with him
10 and that he was walking towards him in attempts to get
11 his attention. The victim was merely standing there
12 minding his own business, what they thought was smoking a
13 cigarette. They made no prior communication. There were
14 no prior threats that day, no prior conversations either
15 that day or ever.

16 The courts have already ruled, sir, that in State
17 vs. Slater that when a weapon is brought into open view
18 when there is no prior involvement the defendant then is
19 not at fault if they initiate an altercation. That is
20 the exact case here as this defendant brought his loaded
21 firearm onto the porch, proceeded outside, attempted to
22 get the attention of the victim and then proceeded to ask
23 him questions and then fire at him.

24 On the cases in State vs. Wingington (phonetic) and
25 Hendricks, the Court did say that there, of course, is

1 nothing wrong with a man arming himself on his own land.
2 The important note is in those cases when self defense
3 was granted there was already a threat made by that
4 victim. There was not a threat here.

5 And secondly, the defendant must be in imminent
6 danger. The last question I asked the defendant on the
7 stand was whether he was threatened, and he said no. A
8 very firm no. And there was no evidence produced by the
9 defense that there was any sort of danger. There was no
10 firing, there was no communication, there was no threat
11 or danger, there was no threat of danger to the brother
12 that was already on the porch when the victim was
13 standing out there.

14 It is clear that there is not a danger nor were
15 there appearances of any weapon. It was an assumption
16 made by the defendant as he is claiming that as his
17 excuse, Your Honor; however, we would reject any
18 appearance charge being made as well to the jury.

19 In the charges where appearances -- I'm sorry, in
20 cases where appearance charges were given such as State
21 vs. Starnes, that case the victim brandished a firearm,
22 gave it to another victim. It was a miscommunication as
23 to who had the firearm. In other cases, in State vs.
24 Fuller there was evidence that there was a shiny object,
25 as well as in State vs. Nichols they claim that there was

1 a shiny object.

2 I specifically asked the defendant in this case
3 whether he saw any object in the victim's hands. He
4 stated a firm no. I asked him if he saw a weapon. He
5 said no. No firearm was on this victim. He was
6 completely unarmed; therefore, an appearance charge at
7 the very least should not be granted to the jury.

8 A defendant is not entitled to self defense charge
9 when there is no evidence of imminent danger, as
10 established in State vs. Goodson, when they denied the
11 defendant's request for that charge. There was no
12 initial confrontation such as this one here.

13 In the most controlling case, Your Honor, State vs.
14 Bruno, when they did not give a charge of self defense
15 the defendant was not entitled because there was no
16 imminent danger. And at that point very similarly here
17 the defendant asked the victim a question on whether his
18 name was James Murphy. The victim replied, Who the hell
19 wants to know? At that point in time the defendant shot
20 that victim.

21 Here it is even distinguishable from that because
22 the victim never even responded. The victim remained
23 across the street. It is uncontested the defendant was
24 on his property and that the victim was on the other
25 yard. It does not necessarily mean which yard. That's

1 not of question here. What the point is, the defense
2 contends he was across the street.

3 There has been mixed testimony of mixed statements
4 by the brother, whether he was in the street or not.
5 That's not even needed to be taken into consideration.
6 The facts remain that there was no communication, no
7 threats from that victim or that family.

8 And third, of course, Your Honor, is the
9 reasonable person standard. It is absolutely with most
10 certainty unreasonable to assume that simply because a
11 person was smoking a cigarette, put the cigarette out and
12 looked any which way means they were going to kill
13 someone. Making that snap judgment decision is
14 unreasonable, just as the defendant was doing smoking his
15 cigarette on his property.

16 A reasonable person would not assume that someone
17 who had a cigarette, where they may have the lighter in
18 his phone -- in his pocket, his phone in his pocket,
19 headphones on, a reasonable person would not assume that
20 someone not making contact clear across a street would
21 move his arms in such a direction to shoot him as a
22 threat. In most certainty, Your Honor, even if the
23 defendant believed that he was in danger, which he was
24 not, a reasonable person would never make that
25 assumption. If we did we would have people shooting each

1 other across the streets in all sorts of situations.

2 And lastly, they have a duty to the retreat. We
3 heard them testify that their family called 911. The
4 door was unlocked. They could have made any other
5 decision besides the last fatal blowing of shooting at
6 him five times. They could have called 911, they could
7 have gone inside the house, they could have locked the
8 door. They could have reported what they thought was
9 suspicious behavior.

10 Simply because someone is suspicious does not mean
11 they are going to kill you. It means they are not sure
12 of what they are doing over there. That does not rise to
13 the level of any danger or any threat reasonable enough
14 to cause to take the life of someone else.

15 Your Honor, the State would strongly oppose the
16 self defense charge being granted in this case as there
17 is absolutely no evidence, as required by the defense to
18 prove that there was any danger, and if there was a
19 thought to be in danger it was not a reasonable danger
20 and they had the option of retreating at that time.

21 Your Honor, the State respectfully requests that
22 that motion is denied and a charge is not granted on self
23 defense as similarly in the other cases already
24 established by the Supreme Court of the State. Thank
25 you.

1 THE COURT: Yes, ma'am, Ms. Brown.

2 MS. BROWN: Your Honor, just very briefly I just
3 want to say that Madam Solicitor is intentionally
4 omitting evidence that was already displayed over the
5 course of the trial. She has sat here in argument and
6 stated to you that my client approached the victim. That
7 never happened. There's no testimony that he approached
8 the victim.

9 She states that my client was walking towards him.
10 There's no testimony that he was walking towards him.
11 She states that my client brought his firearm into view.
12 There's no evidence that he brought his firearm or
13 displayed his firearm until he became under threat at the
14 time that he saw the stranger walking towards him and
15 also pulling out -- or reaching for what he believed at
16 the time to be a weapon.

17 Your Honor, you know, I can sit here and talk about
18 all these accounts about what has happened during the
19 course of this trial but at the end of day we all -- we
20 have all sat here for days and the only evidence, the
21 logical evidence that exists in the course of this trial
22 is that he was defending himself. Nothing else. There's
23 no other inference here.

24 There's no inference that he just decided because
25 he's a crazy man to go on his porch and start firing his

1 weapon. That did not happen. Nothing that they have
2 offered to this Court suggests otherwise, that he was not
3 defending himself.

4 It is clear from the record any evidence at all
5 that is produced during the course of a trial the
6 defendant is the entitled to a charge of self defense.
7 We not only produced a evidence, some evidence, the
8 entire trial is about self defense that came out from the
9 State position, from their own officer, Officer Tucker,
10 as well as especially during our presentation as well.

11 My client's brother stated that he was an
12 eyewitness to this account and that he would have -- and
13 he entertained the same belief, that he was going to be
14 harmed at that time and certainly if he had a firearm he
15 would protect himself as well.

16 So I would respectfully, once again, please deny
17 the motion that a charge of self defense should not be
18 submitted to this jury because there's no other charge,
19 in fact, that should be.

20 THE COURT: All right. At this phase of the trial,
21 again, just like a directed verdict the State is more
22 concerned about the existence of the evidence and the
23 defendant has stated that he was in fear of his life.
24 I've got officers on the tape making statements that he
25 had said at the very instance that he thought he had a

1 gun; so therefore, I'm going to respectfully -- I'm going
2 to charge self defense and let the jury sort it out from
3 there. Have you all had an opportunity to review the
4 proposed charge?

5 MS. BROWN: No, Your Honor.

6 THE COURT: He hasn't sent it yet.

7 MS. BROWN: No, we have not.

8 MS. SAVAS: Yes, Your Honor, and we as well have
9 some charges that we would request.

10 THE COURT: Okay.

11 MS. SAVAS: We have copies of that, if I may
12 approach.

13 THE COURT: Let me ask you, which do you all
14 prefer, to argue and charge in the morning and do the
15 clean up and all --

16 MS. BROWN: Yes, we do.

17 THE COURT: -- the stuff this afternoon?

18 MS. BROWN: Please. Thank you.

19 MS. SAVAS: We would prefer to argue and charge
20 this afternoon, Your Honor. We've been prepared.

21 THE COURT: It's after four o'clock.

22 MS. SAVAS: Yes, sir.

23 THE COURT: And I think it keeps the court
24 personnel here late and I don't want to have to do that.

25 MS. SAVAS: Yes, sir.

1 THE COURT: So we will -- I'm going to release the
2 jury for the afternoon and then we'll argue and charge at
3 9:30 tomorrow.

4 MS. BROWN: Thank you, Your Honor.

5 MS. SAVAS: Yes, sir.

6 THE COURT: Let me bring the jury back in here so I
7 can release them.

8 (WHEREUPON, the jury enters the courtroom at
9 approximately 4:06 p.m.)

10 THE BAILIFF: All jurors are present, Your Honor.

11 THE COURT: All right. Thank you.

12 You may be seated.

13 Ladies and gentlemen, due to the lateness of the
14 hour of the day I think I'm going to go ahead and release
15 you for the afternoon with instructions that you be back
16 here at 9:30 tomorrow morning where the attorneys will
17 give their closing arguments and I will charge you the
18 law then you will begin your deliberations. All right?
19 Ladies and gentlemen, have a wonderful evening. Get a
20 good night's rest and see y'all here at 9:30 tomorrow
21 morning. Thank you.

22 (WHEREUPON, the jury leaves the courtroom at
23 approximately 4:08 p.m.)

24 THE COURT: All right. Thank you. You may be
25 seated. What are the proposed charges that you all have?

1 MS. SAVAS: May I approach, Your Honor?

2 THE COURT: Yes, ma'am.

3 (Documents were handed to the defense attorneys and
4 the Court.)

5 MS. SAVAS: These are in regards to malice in one
6 and aforethought.

7 THE COURT: Well, I'll tell you what, have you all
8 seen my malice charge?

9 MS. SAVAS: I have not seen your -- and I think
10 some of the ones that I have in there the defense had
11 mentioned in their motions, Your Honor, and we would also
12 only additionally request a standard charge for stricken
13 testimony. We can look for one overnight, Your Honor, to
14 present to you.

15 THE COURT: Okay. Do you have any other charges
16 other than self defense?

17 MS. BROWN: Oh, yes, Your Honor, I do. I
18 apologize. May I approach, Your Honor?

19 (Documents were handed to the Court.)

20 THE COURT: Well, now that I have y'all's what I
21 think the best thing might be is for us to send y'all the
22 rough draft then we'll argue from that point, then that
23 way we are not all over the place.

24 MS. BROWN: Thank you.

25 MS. SAVAS: Would you like us to provide our

1 e-mails for him?

2 THE COURT: Yeah, he needs your e-mails.

3 (PAUSE.)

4 THE COURT: I've got the jury coming in at 9:30.

5 Would y'all like to meet at 9 o'clock?

6 MS. SAVAS: Yes, sir, that works.

7 THE COURT: That way the jury, when we get here we
8 can go ahead and get started.

9 MS. SAVAS: Yes, sir.

10 THE COURT: If y'all can be here in my chambers at
11 9 o'clock tomorrow morning, then if we need to put
12 anything on the record we can do so.

13 MS. BROWN: Thank you.

14 THE COURT: Thank you. Court's adjourned until
15 9:30 for everybody else but 9 o'clock for y'all.

16 (WHEREUPON, the trial was recessed for the day.)

17 Friday, June 10, 2016

18 THE COURT: Did y'all get the revised charge?

19 MS. SAVAS: I'm sorry, Your Honor, let me --

20 THE COURT: Okay. It just came in in mine.

21 (PAUSE.)

22 THE COURT: Did y'all have the opportunity look at
23 the verdict form as well?

24 MS. SAVAS: Yes, sir.

25 THE COURT: It's an either or. Let me ask you, do

1 y'all have any objection to me sending a hard copy of the
2 charge back to the jury?

3 MS. SAVAS: No, Your Honor.

4 MS. BROWN: We do not.

5 THE COURT: Okay. Very good. That forestalls a
6 lot of the questions that come up.

7 MS. SAVAS: Yes, sir.

8 THE COURT: All right. We have sent you the
9 updated charge. I have read the law concerning the
10 appearance charge and I'm not going to put that in there.

11 MS. SAVAS: Thank you, sir.

12 THE COURT: The law is pretty clear on that. So
13 that won't be in there. You have the other one. I think
14 we've tailored back on the self defense. We've got size,
15 and degree of force necessary, and continue until the
16 threat is eliminated.

17 MS. SAVAS: Yes, sir. That looks fine.

18 THE COURT: Any other objections?

19 MS. BROWN: Certainly, Your Honor. I'm not sure
20 this is the time to do the objections based on the jury
21 conference that we had in chambers. Your Honor, I'm
22 looking right now at what you just sent and I do not see
23 where the good character information is located. Can you
24 tell me where it is?

25 THE COURT: Yeah, that's on page 10.

1 MS. BROWN: Your Honor, we do have one question
2 whether or not looking at -- I'm looking at a case here,
3 is there a general charge that deals with the rights to
4 act on appearances?

5 THE COURT: And I said I'm not going to put that in
6 there.

7 MS. BROWN: I understand what you said I'm just
8 asking --

9 THE COURT: You want to put your objection on the
10 record?

11 MS. BROWN: Oh, I didn't know if this was the time.

12 THE COURT: Yeah.

13 MS. BROWN: I was trying to make sure and see
14 there's not a distinction between the two, there's more
15 than one. At the point that you allow us to do the
16 objections I'll be prepared.

17 THE COURT: Okay. And after I do my charge then I
18 allow you any other objections.

19 MS. BROWN: Certainly.

20 THE COURT: Okay. Anything further?

21 MS. BROWN: Well, Your Honor, I don't know if this
22 is the time either but certainly during the jury charge
23 conference we talked about potentially doing on closings
24 what information can be presented to the jury. Madam
25 Solicitor, of course, asked that I make no reference at

1 all to the community in which my client lived or any of
2 the events in which that has happened in that community
3 even if it's already on the record.

4 And we took some time and looked at the transcript
5 that I had in front of the Court at the time and her
6 witness, Nicholas Washington, testified on
7 cross-examination that there was a killing that took
8 place in that neighborhood, and that particular
9 information is already evidence in this trial.

10 I think it is certainly -- I have the right to
11 refer to it in my closing. And I will once again point
12 to the exact question that was asked of Mr. Washington
13 and his response. And my question was whether or not you
14 are familiar with any different types of burglaries or
15 robberies that happened in your community. His response,
16 No, I don't know anything about that. I did have a
17 homeboy who passed awhile back. That's the only thing
18 that I really know about that.

19 Okay. It continues to go on and I said, So Accabee
20 Community, are you aware of a friend of yours that got
21 killed out there?

22 And his response was, He was killed there.

23 I think certainly based on that line of
24 questioning, the fact that it's in the record, it was not
25 objected to, the fact that it's evidence in this trial I

1 should have a right to refer to any evidence in this
2 trial during my closing argument.

3 I understand that you do not want me to talk about
4 the neighborhood particularly but anything that's already
5 in this trial I should certainly not be restricted on
6 what I can say and present to the jury during closing.

7 THE COURT: Yes, ma'am?

8 MS. SAVAS: Just briefly, Your Honor. That was
9 after objections made and sustained by Your Honor
10 regarding no testimony regarding the neighborhood. That
11 was a question asked on cross-examination by the defense.

12 Additionally, just for clarification purposes, that
13 question asked in the Accabee neighborhood. Nearly every
14 officer that has testified has clarified for the defense
15 this is not the Accabee neighborhood. It is the
16 Dorchester Terrace neighborhood. It is a
17 mischaracterization of the neighborhood by the defense.

18 Accabee is on the other side of Accabee Road that
19 we saw on that map. This is Dorchester Terrace and that
20 was a personal experience of the victim regarding another
21 person in another neighborhood and we just, Your Honor,
22 would just respectfully request that that is not allowed
23 in as that has been deemed and so ordered by Your Honor
24 throughout the course of this entire trial.

25 MS. BROWN: Your Honor, may we respond briefly

1 because once again --

2 THE COURT: You can respond, yeah.

3 MS. BROWN: Thank you. What generally happens
4 during any argument is that Madam Solicitor just make up
5 information. There's no testimony by any officer that
6 this community is not Accabee. In fact, any time I make
7 any reference to this community I am told I am not
8 allowed, it is sustained and they are not able to
9 testify, but none of the officers came into this
10 courtroom and testified that this was not the community.

11 And another thing, I've been to that community, and
12 yes, Accabee Road is in that community. It is right
13 parallel to Kent. So I'm not sure where she's getting
14 this information from but it's part of the community.

15 THE COURT: Okay.

16 MS. BROWN: Once again, and one again I will make
17 it very clear. There was no objection whatsoever during
18 that line of questioning. It's not struck from the
19 record. It is inside the record and I should certainly
20 have a right to refer to it.

21 THE COURT: I have consistently in this trial
22 sustained objections that concerned the nature of the
23 neighborhood being a dangerous neighborhood. I have
24 instructed you in chambers that you will not refer to
25 that in your closing argument. If you do, and this is on

1 the record, it will be in violation of my order. You
2 understand that?

3 MS. BROWN: Absolutely.

4 THE COURT: Okay. Very good. Then let's bring our
5 jury in and we'll start for the day.

6 (WHEREUPON, the jury enters the courtroom at
7 approximately 9:52 a.m.)

8 THE BAILIFF: All jurors present, Your Honor.

9 THE COURT: All right. Thank you. You may be
10 seated.

11 Ladies and gentlemen, I want to just compliment you
12 on the fact that y'all were so prompt every day and every
13 time we met y'all were always here. I've had jurors come
14 floating in a half hour after everybody else was here,
15 and so I really want to compliment you on your being here
16 on time. Sometimes we weren't always ready to go but
17 y'all were, and I really appreciate that.

18 I also want to tell you I appreciate the
19 attentiveness that you've had throughout this trial, and
20 good to see that y'all are alert. I haven't had to tell
21 the bailiff to go give anybody water or anything like
22 that because you're nodding off. So I just want to
23 compliment you on your fine jury.

24 Ladies and gentlemen, now is the time, you've heard
25 all the evidence and now is the time where the attorneys

1 will give you their closing arguments then I will charge
2 you the law, and then you will begin your deliberations.

3 So is the State ready to proceed?

4 MS. SAVAS: Yes, Your Honor.

5 THE COURT: Is the defense ready to proceed?

6 MS. BROWN: Yes, Your Honor.

7 THE COURT: Yes, ma'am.

8 MS. SAVAS: Yes, Your Honor. We are going to
9 proceed on the law first.

10 THE COURT: Very well. You may proceed.

11 MS. SAVAS: Good morning, ladies and gentlemen of
12 the jury. It's been a long week. This first part that
13 I'm going to do is going to be very brief. It is just to
14 explain the law as the State sees it and how it applies
15 to this case. So what I'll just briefly do is go over
16 the charges that are presented before you and go through
17 them on -- if you can just direct your attention over
18 here, an explanation to sort of simplify things.

19 Now, the Judge will give you jury charges on the
20 law. Whatever the Judge says goes. So if I say
21 something that differs, please defer, of course, to His
22 Honor and the instructions that he will give you and to
23 take back to the jury room.

24 In this case, the State vs. Sanders, he is charged
25 with three things. The first is attempted murder, the

1 second is assault and battery of a high and aggravated
2 nature, and the third is the possession of a firearm
3 during a violent crime.

4 Now, for the first two it's an either or. So he
5 can only be convicted either of the attempted murder or
6 the assault with a high and aggravated nature, which is
7 the injury. And if a guilty is found on either of those
8 then a guilty must also be found on the possession of a
9 firearm for that Taurus that he had admitted to
10 possessing at the time of the shooting.

11 The first is attempted murder. There are three
12 things that the State must prove. Now, it is the State's
13 job and duty to prove beyond a reasonable doubt, which I
14 will explain. That burden is on me. That is from the
15 testimony that we've presented from the witnesses, that
16 is from the stream of evidence that we've also added in
17 as exhibits.

18 The first is the attempt to kill. You must prove
19 that they had an attempt to kill and an intent to kill
20 with malice aforethought whether it's express or implied.
21 That's a lot of words so I'll just break it down.

22 Malice aforethought. Malice is simply the doing of
23 a wrongful act intentionally and without cause or excuse,
24 intentionally acting without excuse. It can also be
25 inferred from brutal conduct or excessive force.

1 Just briefly, malice has also been defined by the
2 courts. In the law it does not require ill will. So it
3 does not require ill will towards the person injured but
4 a general malignant recklessness of the lives and safety
5 of others or a condition of the mind that shows a heart
6 regardless of social duty and fatally bent on mischief.
7 So to be clear, he does not need to hate the victim, just
8 that there's a disregard of safety of others. That is
9 all that is required to be malice. That is it.

10 Aforethought. Okay. This is formed in an instant.
11 There's no length of time that is needed. It does not
12 need to be planned, it does not need to be premeditated
13 trauma. An instant. The moment one decides to pull the
14 trigger, voluntary act of pulling a trigger is malice
15 aforethought and it is a voluntary act without legal
16 provocation and is deliberate no matter how sudden.

17 There's been testimony from the defendant himself.
18 There was no threat, there was no provocation, there was
19 no communication, there was no physical threats by the
20 victim, no words by the victim. No provocation. Simply
21 formed in an instant he decided to pull the trigger.
22 That completes attempted murder.

23 If for some reason you do not feel the State has
24 met the burden of attempted murder there is clear and
25 convincing evidence and the defendant has confessed on

1 the dash cam video and before you were in that chair
2 yesterday that he did, in fact, shoot and injure Nicholas
3 Washington from his own words.

4 Assault and battery of a high and aggravated nature
5 you need three things. And apologize. My little numbers
6 got all messed up on the slide show. Unlawful injury to
7 another person and a great bodily injury or likely to
8 produce death or great bodily injury.

9 Don't get too confused here. The doctor testified
10 that there was obviously great bodily injury, the
11 permanent rod, I'll go into that later, but its means by
12 likely to produce death, the defendant himself said he is
13 fully aware that shooting someone, obviously well known,
14 may kill someone. That very act of shooting, the very
15 injuring, that is ABHAN without doubt.

16 Possession of a weapon during a violent crime. The
17 State of South Carolina defines certain types of crimes,
18 very serious crimes as violent crimes. It is a statutory
19 thing, and those are the natures of those crimes such as
20 attempted murder and assault and battery of a high and
21 aggravated nature. That is something that is already
22 decided. So if you find him guilty of one or the other
23 you must also find him guilty of the possession of a
24 firearm. That goes without saying. That was his Taurus
25 gun that he used that you have seen before you that he

1 again admitted himself to using to shoot and injure
2 Nicholas.

3 Self defense, briefly. The defense has presented a
4 case that they believe is self defense. The State firmly
5 believes this in no way, shape or form is self defense
6 and that is because I must disprove, the State has a
7 burden to disprove at least one of these elements.

8 In order for a defendant to claim defense all four
9 elements must be met. The defendant was without fault,
10 there was imminent danger that he was in or he believed
11 to be in imminent danger. If he believes to be in
12 imminent danger that is a reasonable person standard.
13 That means a reasonably prudent person of ordinary
14 firmness must believe there was that imminent danger and
15 that there was lastly no other way possible in life to
16 avoid that danger.

17 I will go in detail regarding self defense and
18 disproving that when I come back up here. The defense is
19 going to present their argument. I will come back. But
20 if one of those elements is missing, if the defendant was
21 with fault, if he was not actually in danger, which he
22 was not, or if a reasonable person, and that
23 reasonableness, ladies and gentlemen, that's determined
24 by the 12 of you. Reasonableness is determined by the 12
25 of you, if it is determined that that is a reasonable

1 danger and there was no other possible ways to avoid that
2 danger. There were clearly many alternatives that he
3 could have taken before attempting to take the life of
4 someone else by shooting at least four times across the
5 street.

6 Ladies and gentlemen, those are just briefly the
7 things that I must prove as the State. It is a very
8 brief explanation. I will come back up and apply that to
9 our case. It's just a simple way to outline them and to
10 have y'all aware and to think of certain things during
11 the defense's closing as well as my closing and to think
12 back once you enter that jury room. Thank you.

13 THE COURT: Thank you, Madam Solicitor.

14 Ms. Brown?

15 MS. BROWN: Thank, Your Honor.

16 Madam Solicitor.

17 Good morning. I just want to take this opportunity
18 one again to thank you all for your time and your service
19 on this jury, and I want to echo the sentiments that came
20 from the Judge that I've noticed throughout this trial
21 that each of you have held your oath during this process.
22 You've shown up each day and you've been very attentive
23 to each witness that's taken that stand. On behalf of
24 the defense we want to thank you once more.

25 Now, Monday afternoon during opening remarks Madam

1 Solicitor informed you all that this was an important
2 case for both parts, Nicholas Washington and Rhajon
3 Sanders, and we agree. This case is important to Rhajon
4 Sanders. At the beginning of this trial Your Honor told
5 you all and he will continue to tell you that Rhajon has
6 no burden of proof in this case.

7 The burden of proof, as just mentioned by the
8 Solicitor, rests with the State of South Carolina. So
9 Rhajon could have very well sat over there each day and
10 offered no evidence whatsoever and he would have been
11 within his constitutional rights. But this case is
12 important to Rhajon so we brought forth witnesses that we
13 believe that's going to help you determine what happened
14 December 26 of 2014 on Kent Avenue.

15 As a juror it is your responsibility to consider
16 the evidence presented during this trial and you
17 determine what the facts are. You must resolve the issue
18 between the defense and the State. What happened that
19 resulted in the shooting on Kent Avenue?

20 Now, as Madam Solicitor just informed you, on
21 December 26 Rhajon was charged with attempted murder and
22 possession of a weapon during the commission of a violent
23 crime, and just several weeks ago, May of 2016, he was
24 charged with --

25 MS. SAVAS: Objection, Your Honor. Not in

1 evidence.

2 THE COURT: It's irrelevant. Move on. Sustained.

3 MS. BROWN: He's been charged with three charges
4 now and we have assault and battery of a high and
5 aggravated nature. All of these charges stem from the
6 events of December 26 of 2014.

7 The charge of attempted murder requires that the
8 State of South Carolina persuade each of you beyond a
9 reasonable doubt that Rhajon with malice aforethought
10 attempted to kill Nicholas Washington.

11 Now, malice aforethought, let's take a look at how
12 it's been defined by courts. Hatred, ill will, hostility
13 toward another person indicating a wicked or depraved
14 spirit on wrongdoing. A formed purpose and design to do
15 a wrongful act without legal justification or a cause.

16 Now, we have asserted self defense. That's a legal
17 justification. That's an excuse for someone to act. The
18 burden is on South Carolina to prove to you beyond a
19 reasonable doubt that at the time or shortly before
20 Rhajon fired his weapon he possessed hatred, ill will,
21 hostility, a formed purpose and design without legal
22 justification or cause.

23 Now, since the State has the burden let's consider
24 the evidence that they offered you during the course of
25 this week. Nicholas Washington testified and he was the

1 State's star witness. He testified first. He is the
2 victim in this case. Now, he testified Tuesday morning
3 and you haven't seen him since.

4 Now, Nicholas testified that he was 22 years of age
5 and that he had two jobs but he didn't want to tell you
6 where he worked. He testified that on December 26 of
7 2014 he was smoking a cigarette in front of his aunt's
8 residence but he was hiding his cigarette conduct because
9 his family didn't know that he had that behavior. In
10 fact, he pointed to the location where he was smoking.
11 Let's go take a look at that.

12 According to Nicholas he was smoking in the black
13 cement area right here. Now, it's going to be difficult
14 to hide his smoking conduct there because he's right in
15 front of the door. But he also testified that at some
16 point he walked up a little more, he placed on his
17 headphones and he was listening to some music. He didn't
18 want to talk about what he was listening to, you may
19 remember that.

20 He testified that he walked up some more to the
21 corner. Now, I don't see a corner on this picture but
22 that's what he testified to. He also testified that he
23 changed the song on his phone, that he glanced up and he
24 reached for his phone in his back pocket, and then he
25 went into another pocket to get a lighter, and then he

1 went to another pocket.

2 He said he noticed his brother that was at his
3 grandmother's house, which is over there, and that the
4 brother, he noticed the brother because the brother came
5 out of a gate that made a very loud noise.

6 MS. SAVAS: Objection. Misstatement of evidence,
7 Your Honor. It's a misstatement of his testimony.

8 THE COURT: I'm going to give her a little leeway.
9 I mean, I think they were talking about the gate and
10 everything. There was some evidence of that.

11 MS. SAVAS: Thank you, sir.

12 THE COURT: You'll have a response.

13 MS. SAVAS: Yes, sir.

14 MS. BROWN: He came out of the grand -- his brother
15 came out of the gate and he noticed that because he heard
16 that loud noise. And I asked him. I said, How is that
17 possible if you had headphones on?

18 Well, I can hear with the headphones. And I think
19 he said even if you bring headphones in here now I can
20 show you. Okay.

21 Now, he also testified that he then looked down and
22 he saw something like a firecracker. So now we are still
23 here, according to him. He looked down and he saw
24 something like a firecracker, which is now the shots, and
25 he started crawling backwards.

1 If he's crawling backwards he's not going to get in
2 the bush that's over here. I told you that if you just
3 follow these pictures you will be able to determine what
4 happened. He could not have been standing where he told
5 you because if he was crawling backwards he would be in
6 his aunt's door, not in the bushes where the blood was.

7 Now, he also testified that after the shots two
8 individuals came and apologized. One jumped out of white
9 Crown Vic. Jumped out, got back in and left. The other
10 came from across the street. He said that it was dark,
11 there were no lights. He could not see who came up and
12 apologized to him. In fact, if you remember he even
13 said, I don't know who shot me. Madam Solicitor, you
14 told me.

15 Now, Nicholas testified that he never interacted
16 with Rhajon. They don't know each other. He visited his
17 aunt's house often, in fact, almost every day, and his
18 grandparents, but he had never seen the people across the
19 street. In fact, Rhajon's family testified to the same
20 thing. They had never seen Nicholas Washington before
21 December 26 of 2014.

22 Your Honor is going to talk to you about the
23 credibility of witnesses. You can believe some of what
24 they say, all of what they say or nothing at all. It's
25 up to you. You determine the facts in this case.

1 So let's consider the statements of the State's
2 star witness, Nicholas Washington. He testified that he
3 did not hear anyone across the street say anything to him
4 because he had the headphones on, but we know he heard
5 the gate clink, make that noise.

6 He testified that he didn't see anyone trying to
7 get his attention or waive, but he also testified that he
8 saw the lights go off and then on and off.

9 Nicholas, about six-four, 265 pounds told you that
10 on December 26, 2014 he had on black Levi's and a navy
11 blue polo shirt. I asked him, Well, what kind of weather
12 was it in December? And you remember he said, Well, it
13 wasn't that cold. It doesn't get very cold here in
14 December. But when his mother testified, Katina
15 Washington, thereafter, she said her son had on a navy
16 blue sweater, not a polo shirt in December. And if you
17 recall, Rhajon on the dash cam when he was sitting in the
18 back of that car he had on a sweater, and then Ferantez
19 testified that it was cold.

20 Nicholas testified that he is a good guy and he
21 told you he took \$650 out of his pocket as he was being
22 hauled away in the ambulance and that he gave it to his
23 momma. I think it was to pay a bill or something. I
24 don't recall exactly. But then Katina Washington, his
25 mother, came up here and said, Nicholas didn't give me

1 any money.

2 Nicholas testified that he called his girlfriend
3 while he was lying on the ground but his mother said she
4 didn't know where the phone was. In fact, we still don't
5 know where the phone is.

6 I asked Nicholas about his headphones, and I said,
7 Well, what happened to it?

8 He said, It fell on the ground.

9 You seen many photos in this case. Have you seen
10 any photos of headphones on the ground? Have you seen
11 photos of a cell phone that he had in his hand at the
12 time of the shooting on the ground? Now, either they
13 didn't exist or they were moved. You make that
14 determination. And if something was moved, if anything
15 was moved, what else?

16 We know that after the shooting Nicholas testified
17 that he had 13 members that came and rushed to his aid,
18 surrounded him, and we know that Rhajon and Ferantez said
19 that they observe an aunt go in and out of the house
20 before law enforcement arrived.

21 Nicholas testified that he was on the phone, he was
22 talking to somebody by the name of Jay. I asked him that
23 specifically. But then when I asked him about Jay he
24 didn't know who Jay was. I don't know a Jay. He wrote
25 that in his statement.

1 He testified that he never told MUSC that the night
2 of the incident he was standing on the sidewalk and
3 someone just came by him and shot him in the leg. Now, I
4 specifically asked him about that statement because I saw
5 his medical records. I saw it in there. And I said, Did
6 you tell MUSC that? No, he denied it.

7 So then when Dr. Marc Haro got on the stand I asked
8 him. I said, Did you get any information from the
9 patient, and he read it to you. The patient said he was
10 standing on the sidewalk smoking a cigarette when
11 somebody walked by and shot him in the leg. He said it.
12 It was in his medical records.

13 Now, after questioning Nicholas about all these
14 inconsistent statements he simply said, Listen, I forget
15 stuff fast. So if Nicholas forgets stuff fast what else
16 did he not tell you or what did he forget to tell you
17 about that night?

18 Well, Rhajon and his brother testified, clearly
19 they didn't forget. They remembered. They told you
20 exactly how the events went on December 26 of 2014, and
21 from the very moment that Rhajon fired his weapon he told
22 his mother, he told his brother, Mr. Washington's
23 grandfather, Officer Clater, Officer Perkins, and anyone
24 that would listen to him, I was afraid. He was reaching
25 to his waistband. He has maintained his version of the

1 events from the beginning.

2 A six-four, well over 200 pound male is standing
3 across the street if front of an abandoned home in the
4 dark. The stranger threw down his cigarette, placed his
5 hand behind his back, approaches him and then reached
6 towards his waistband. He then fired his weapon to
7 protect himself. No other reason. They've given you no
8 other reason because there isn't another reason.

9 Now, I've talked to you about constitutional rights
10 at the beginning and he can sit over there and say
11 nothing at all and the law allows him to do that. But we
12 also have another constitutional right and that's the
13 Second Amendment. You have the right to bear arms. You
14 have the right -- the people have the right to keep and
15 bear arms and it shall not be infringed, and why do we
16 have firearms anyway? That's to protect ourselves, and
17 we have every right to do so.

18 Now, Rhajon told anyone that would listen, I was
19 afraid. He said over and over and over again, That guy
20 has a gun. You heard in the dash cam over and over and
21 over again. In fact, you even heard Officer Clater
22 mention to his colleague, Hey, he keeps saying that guy
23 has a gun over there.

24 Now, Nicholas never denied reaching that night. In
25 fact, he testified that he reached in the back pocket,

1 then another pocket and another pocket. Now, although
2 Nicholas' testimony was kind of difficult to follow there
3 is some very common themes. He was consistent on some
4 things. First it was dark. He couldn't see anyone. In
5 fact, the two individuals that ran over to him and
6 apologized he couldn't tell you what they looked like.

7 Second, he was standing on the sidewalk. Well, we
8 all know there's no sidewalk on that side of the street
9 in 2014. In fact, we went through great lengths to show
10 you that in 2016 there now is a sidewalk. There wasn't a
11 sidewalk in 2014, so what sidewalk is he referring to?
12 And if he's on the sidewalk he certainly is not in front
13 of his aunt's house. That's for sure.

14 And another thing, he's reaching. First that
15 pocket, then another pocket, then another pocket. These
16 things came from his testimony not ours.

17 I could sit here and I could go on and on about
18 Nicholas' testimony, things he said in December of 2014,
19 that he said differently this week. I can talk about
20 items that he said in December of 2014 that certainly
21 didn't demonstrate on any of these photos. I can sit
22 here and talk about people that he knew like Jay in 2014
23 that he had no idea who they were this week.

24 But there are some very consistent things that he
25 said, and what are those things? I didn't know Rhajon

1 before December 26. Didn't know him at all. Didn't have
2 a problem with him, no altercations took place. Those
3 things are consistent. No communication took place
4 between us. That's consent. That after the shooting
5 someone came over and apologized. And what did that
6 person say? He testified he was startled, very afraid.
7 That came from Nicholas not our witnesses, and what did
8 his mom say about the person that apologized? He was
9 kind. Not rude. Those are the words that she described.

10 Now, the State's witness testified and they have
11 given you no basis whatsoever for why the shooting took
12 place, nothing at all remotely to suggest malice. And if
13 you were to consider the State's witnesses alone you
14 don't have attempted murder, just on their witnesses.

15 Now, but we get the benefit to offer our side of
16 the story, and our side of the story is that he certainly
17 was acting within his right, that he was defending
18 himself on December 26 of 2014. And self defense is a
19 complete defense, and there are four elements to that.

20 Number one --

21 THE BAILIFF: He can't see that.

22 MS. BROWN: I apologize.

23 (The board was moved.)

24 MS. BROWN: So we have four elements here that we
25 need to talk about. Number one, must be without fault in

1 bringing on the difficulty. And what does that mean?
2 That means -- let's just give an example. You can't go
3 to a gas station and hear someone with loud music and
4 basically decide to get out of your car and be aggressive
5 and tell that person to turn down their loud music and a
6 fight happens. You are the aggressor. You started it.
7 That's not bringing on the difficulty.

8 Now, you must also have been in actual imminent
9 danger of losing your life or sustaining serious bodily
10 injury or had belief at the time that you were, and that
11 a reasonable prudent person would have entertained the
12 same belief, and that you had no other probable means but
13 to act the way that you did. So number one, Rhajon was
14 without fault as relates to this case.

15 The encounter. The evidence shows no altercation,
16 no communication at all. Rhajon was on his property
17 when he noticed a stranger looking in his direction. He
18 did not cross the street. He never left his property.
19 Even when he thought the guy was lurking he stayed on
20 his property.

21 He did want to see the identity of the guy's face
22 so he did look to see what he looked like, but what's
23 wrong, what is illegal about that? What did he do wrong?
24 Anyone who is in that situation would be on high alert if
25 someone is over there. There's nothing illegal

1 whatsoever about the actions that he demonstrated on
2 December 26. He had every right to be on this property.
3 He had every right the look at someone who looked
4 suspicious.

5 Now, Madam Solicitor is going to come up here and
6 she's going to tell you that but for him looking this
7 would not have happened. No. That's not what caused
8 this encounter. What caused this encounter is that
9 six-four, 246-pound individual across the street walking
10 and advancing in Rhajon's direction at the same time when
11 he's reaching, put a hand behind his back and reaching
12 toward his waistband. If that didn't happened we would
13 not have been here. The actions of this gentleman were
14 suspicious but we are not suggesting that that caused
15 this event. No. What caused the event is advancement
16 and the reaching. That did.

17 The second element is that clearly he has to have
18 believed that he was going to be harmed, and I don't know
19 what more he could have said. I was afraid. I was
20 afraid. Ran out and apologized. I was afraid. Over and
21 over again. Family said he looked startled. I was
22 afraid. He had a true belief at that time that someone
23 was going to harm him.

24 An important issue of contention here is at the
25 time that Rhajon fired his weapon you need to look at

1 where was Nicholas. So, now, I gave you Nicholas'
2 account up there. I'm going to give you Rhajon's account
3 now. This, of course, is a more recent photo of Kent
4 Avenue. And, of course, we all know what the differences
5 are. This now has a sidewalk that did not exist.

6 Now, if you remember, I asked Ferantez, which is
7 the brother of Rhajon, when you first saw this gentleman
8 where was he standing, and I want you to mark it on this
9 photo, and he did so. And you guys can take this in the
10 back, obviously, but according to him -- now, I want you
11 to remember this is the aunt's house. This is the
12 abandoned house that don't look abandoned any longer,
13 [REDACTED] and that's the house that Rhajon and Ferantez
14 consistently said he was standing there, [REDACTED]. It's
15 abandoned. It was dark.

16 Look where he marked. He marked, circle here.
17 This is where I first noticed the guy. That's [REDACTED]. But
18 he also said then he started advancing in the street and
19 when the shots happened he crawled back, and when he
20 crawled back where is he? In the bushes. He's here. He
21 advances to the street, he crawls back. Bushes. There's
22 no way if he's over here and he crawls back he's going to
23 get over here. Follow the pictures in this case and it's
24 going to tell you the story.

25 The third element is that a reasonable person would

1 have done the same thing, and I don't have to talk about
2 that long because Ferantez was up here. You can look and
3 tell that he appeared to be reasonable to you. He worked
4 a job. He's been working for five years at MUSC. He was
5 sitting on the porch. He too saw this advancement. He
6 said -- he told you I was afraid and he also said if I
7 had a gun I would have shot and fired my weapon as well.
8 Reasonable person would have done the same.

9 And the last thing is that he had no other probable
10 means to do this but for to make the decision to fire his
11 weapon. If a person is advancing towards you and you see
12 this photo the only other alternative is to get shot.

13 You can't outrun bullets very -- I don't know how
14 successful you would be. That's the only option he had.

15 So now the Judge once again will tell you the law
16 but I want to remind you that the burden is on the State
17 of South Carolina. They have to prove beyond a
18 reasonable doubt which is a doubt that could cause a
19 reasonable person to hesitate to act. Proof that leaves
20 you firmly convinced. And I want to once again apologize
21 in advance that these days get longer sometimes but this
22 is an important day for two people, one of whom is here
23 today. It's very important to him.

24 So now I have to now demonstrate to you the
25 evidence that they have shown through their

1 investigators. The North Charleston Police Department,
2 what have they shown you? We've already explored the
3 testimony of Nicholas and his mother. So let's turn to
4 the investigation because it's important. Rhajon has
5 been charged with serious offenses here so it requires a
6 serious investigation.

7 The testimony will show that the officers -- there
8 were a lot of officers that arrived on scene. In fact,
9 you saw it up here, tons of officers arrived on the
10 scene. You saw it in the video. You heard it through
11 the testimony, and who all came in court and testified?
12 You had the Officer Stanley Tucker, the Officer Rothhaus,
13 Detective Rebecca Bailey, Officer Shawn Perkins, and MPO
14 Michael Cook.

15 Officer Stanley Tucker testified that he was one of
16 the first individuals on the scene. He prepared an
17 initial report and no further investigation was done. In
18 fact, based on the information from the scene he
19 concluded that the case was solved. That was his
20 testimony, not mine.

21 He did not interview witnesses, had not seen
22 Rhajon's statement by the time he came and testified to
23 you on Tuesday. He did not canvas the neighborhood to
24 inquire about potential witnesses. He was not even aware
25 of the eyewitness, Ferantez, that came and testified. He

1 did not search anyone other than Nicholas Washington.

2 He did not see any physical evidence in this case.

3 He didn't even see all the pictures. He testified to

4 that. He testified that he was not the chief

5 investigating officer but he sat here the entire time,

6 except today.

7 He knew nothing about the firearm trace results.

8 He did not know how many people were on the scene because

9 no one -- he didn't take any record of that, and he was

10 the first officer to arrive. He didn't go to the

11 hospital that day. He didn't look for bullets or bullet

12 holes at [REDACTED] even though there was clearly testimony or

13 a witness that said he fired in that direction.

14 He didn't do much at all, but two years later he

15 came in here and he testified that Nicholas had on all

16 black. And I said, How do you know that? Is that in

17 your report? No. He just knew that.

18 He did tell me what was in his report though. The

19 victim was standing in front of a vacant lot and stepped

20 off the property and started crossing the street. Vacant

21 lot, started crossing the street. That was in his

22 report, not mine.

23 Officer Tucker knew this information since December

24 26, 2014, and if so, then why are we here? Isn't that

25 what Rhajon says. And if he knew this information why

1 hasn't there been some investigation to just verify
2 whether or not the account that Rhajon gave was, in fact,
3 true. But the State of South Carolina told you that this
4 is an important case.

5 Officer Rothhaus, he testified. You may remember
6 him. He's the one that drew his firearm on a man that
7 was surrendering. He did nothing more because the role
8 was limited. Because when I asked him if he interviewed
9 witnesses, no. Did he look for witnesses? No.

10 Did you search anyone?

11 No.

12 Did you search any of the homes?

13 No.

14 Did you look to see whether or not there were any
15 bullet holes at [REDACTED]

16 No.

17 Do you know whether or not Rhajon acquired his
18 weapon legally?

19 No.

20 Did you do anything to verify Rhajon's account of
21 the events?

22 No.

23 Did you take any photos?

24 No.

25 The list goes on and on and on. He did nothing,

1 but the State of South Carolina tells you this is an
2 important case.

3 Detective Bailey testified. What did she do? She
4 swore to information that was provided to her by Sergeant
5 Evans. Had no idea what happened but she took an oath
6 based on information another officer gave her. She
7 testified to that, not me.

8 She delivered the search warrant to Kent Avenue.
9 She did not interview witnesses, she did not canvas the
10 neighborhood looking for witnesses. She did not search
11 [REDACTED] or [REDACTED]. She didn't jot down the names of anyone
12 who was on the scene. She didn't review any evidence
13 before coming into this courtroom. She did nothing to
14 help you determine what happened on December 26 of 2014,
15 but the State of South Carolina says this is an
16 important case.

17 Officer Shawn Perkins, he testified. He Mirandized
18 Rhajon. You saw the video. He listened to his account
19 of the events. He actually told Rhajon, if you listen,
20 and you can take all this evidence in the back. He said,
21 You're not going jail. You heard it. I did. He told
22 Rhajon, I understand. The police officers are faced with
23 this type of situation all the time. You heard it. I
24 know I did. After he took Rhajon's statement he never
25 returned.

1 He testified that Rhajon told him that there was an
2 unknown male standing across the street advancing in his
3 direction and that he fired his gun because he was
4 afraid. I asked him. I said, Did you take and maybe was
5 able to do any investigation to just verify what Rhajon
6 told you?

7 No.

8 Do you know who was responsible to do that?

9 No.

10 Do you know who was the chief investigating officer
11 in this case?

12 No.

13 He didn't do -- he didn't interview anyone else.
14 Nothing more. But the State of South Carolina has told
15 you from the beginning, Monday afternoon, that this was
16 an important case.

17 Michael Cook testified. He was the crime scene
18 officer. Now, he did secure the area and he collected
19 evidence and he swabbed Rhajon's mouth and he did the GS
20 kit that we have up here. He did do those things, and he
21 took the pictures.

22 He didn't interview witnesses, did not canvas the
23 neighborhood, and he did pick up the projectile, 15
24 months later that sat at another agency for 15 months,
25 the projectile that came out of Nicholas Washington's

1 leg. But the State of South Carolina told you that this
2 is an important case. And that was the City of North
3 Charleston Police Department. That was their
4 presentation.

5 And we still have no idea who is responsible for
6 interviewing witnesses, looking for witnesses, reviewing
7 the evidence, going to MUSC that day, sketching the
8 incident, recording the names of people who were present
9 on scene, looking for bullet holes, going to [REDACTED] to see
10 whether or not there's any bullets. We have no clue in
11 this very important case.

12 The rest of the State's case involved SLED people.
13 All the experts that came in here and said I touched the
14 evidence and I analyzed it and this is what you have, but
15 we knew that evidence. We knew that on December 26 who
16 fired the weapon. We knew that that day. And sometimes
17 I understand that, that's important because most times
18 you're trying to figure out who did it. You don't have
19 that issue here.

20 The issue here is why, and did anyone do an
21 investigation to determine why this event took place?
22 Any witnesses that they put up at all about why this
23 happened? They did nothing.

24 You heard Officer Tucker. He considered this case
25 resolved that night. Why? Because he didn't even take

1 the time to listen to Rhajon's statement before coming
2 into this courtroom.

3 The State of South Carolina has a tremendous burden
4 but with that tremendous burden they also have a
5 tremendous amount of power. They have the authority to
6 look at a case and determine whether or not the case
7 meets the elements of a crime, and when investigating
8 officers are unknown, when witnesses have not been
9 interviewed, and when areas have not been canvassed or
10 searched, and when people on scene names are not
11 reported, and when someone tells you the direction in
12 which a bullet was fired and you don't go there and look,
13 when victims' statements have been inconsistent from the
14 time the incident happened to the time he gets to MUSC
15 that tremendous authority has been abused.

16 When eyewitnesses have to be brought into this
17 courtroom from the defense, why is that? Didn't follow
18 narrative. Defendants are not required to prove their
19 innocence. The State of South Carolina is required to
20 prove their guilt.

21 Rhajon and his witnesses testified. He's quiet, a
22 kind man. He would only fire his weapon if, in fact, he
23 believed he was going to be harmed, no other reason, and
24 they didn't give you one. The State of South Carolina
25 and its officers, if they had done their job --

1 MS. SAVAS: Objection. Attacking counsel.

2 THE COURT: Sustained. Keep to the facts.

3 MS. BROWN: You may recall immediately after Rhajon
4 raised his arms he said, Please give me a fair chance. A
5 fair chance is all I want. And I think you need to hear
6 from him.

7 (A portion of State's Exhibit Number 1, the dash
8 cam video, was played.)

9 MS. BROWN: Just give me a fair chance. He said
10 that from the very day that he surrendered his hands, and
11 you sat with us all week. You've heard the evidence
12 here. You reach the conclusion whether or not this
13 system has been fair, equitable, just. But you all are
14 here because you bridge the gap between a lackluster
15 investigation or an overzealous agency.

16 You bring balance to the system that we call
17 judicial and criminal justice. You can write a wrong.
18 Each of you can tell the State of South Carolina today in
19 this very important case that they have failed to treat
20 it as such by returning a verdict of not guilty on all
21 accounts.

22 And, you know, Madam Solicitor will get up here and
23 I'm not going to be able to talk to you again. She is
24 going to tell you the fact that he fired a weapon that's
25 enough. No, it's not. People fire their weapons all the

1 time. People get shot all the time. People get shot
2 sometimes. It doesn't make it criminal, not each and
3 every time, especially when we have the right to fire our
4 arms to protect ourselves. The fact that he fired a
5 weapon alone does not mean he's guilty of a crime. Just
6 look at the evidence.

7 Now, once again Madam Solicitor told you this case
8 is important to two people and I want to remind you once
9 again which one is here. I thank you so very much for
10 the time that you've given the defense, the time that
11 you've given the State of South Carolina, the time that
12 you've taken to listen to this evidence, and we ask that
13 you do what the jurors are supposed to do, which is reach
14 a true, just verdict, and in this case the only verdict
15 the evidence has demonstrated is that he is not guilty of
16 on all accounts. Don't fall for the pitfalls if we can't
17 get him on attempted murder. Not guilty on all accounts.
18 That's what you have to do. Thank you again.

19 THE COURT: We are going to take a recess. Ladies
20 and gentlemen, we are going to take about a 10-minute
21 recess where you can get some water. I want you to stay
22 alert during all this, so take about 10 minutes. Do not
23 discuss anything about the case while you are there.
24 Thank you.

25 (WHEREUPON, the jury leaves the courtroom at

1 approximately 10:45 a.m.)

2 THE COURT: All right. Court will be in recess for
3 10 minutes.

4 MS. CHISOLM: Thank you, Your Honor.

5 (WHEREUPON, a brief recess was taken.)

6 THE COURT: Let's bring our jury in.

7 (WHEREUPON, the jury enters the courtroom at
8 approximately 10:58 a.m.)

9 THE BAILIFF: All jurors present, Your Honor.

10 THE COURT: All right. Thank you. You may be
11 seated.

12 Madam Solicitor?

13 MS. SAVAS: Thank you, Your Honor. May it please
14 the Court.

15 THE COURT: Yes, ma'am.

16 MS. SAVAS: Good afternoon, again, ladies and
17 gentlemen. Before I go into my argument I'm just going
18 to briefly address a few things that we've heard from the
19 defense, just very quickly.

20 It is important to -- as y'all have and we are
21 greatly appreciative, to stay focussed on what the issues
22 are in this case. Often times there are a lot of things
23 that come in and out as distractions. If you are
24 distracted enough of what's going on over here you lose
25 sight of what the actual straight and narrow focus should

1 be. Okay?

2 Just a few points. It is very clear in this case
3 in the State of South Carolina there is nothing wrong
4 with owning a gun. That is not an issue. The State does
5 not have an issue. He is not charged with unlawful
6 carrying of a firearm or a stolen firearm or nothing.
7 None of that is an issue. Distraction. Okay?

8 The firearm charge comes from his confession and
9 account that he shot someone with that firearm. Nothing
10 else matters about any firearms.

11 Second, the weather. It doesn't matter. It
12 doesn't matter if it's hot, if it's cold, if it's
13 snowing, if it's raining, if it's a hurricane. It
14 doesn't matter.

15 The cell phone. You have the dash cam and you can
16 play it in the back. There's also two views, as you saw.
17 We played the view showing Rhajon in the backseat of the
18 cop car during his Miranda. There's that view. Then, of
19 course, you have the view of the street. Okay. So it's
20 a button on there and y'all watch it again if you so feel
21 inclined. There's two views. But you will hear someone
22 tell an officer, Tell Nicholas I need that cell phone.

23 My cell phone? Why do you need my cell phone? My
24 cell phone.

25 Give me the cell phone.

1 There is the cell phone.

2 Headphones. You heard Nicholas say that his
3 grandma had them. He said that when he stood here --

4 MS. BROWN: Objection, Your Honor.

5 THE COURT: What's your objection?

6 MS. BROWN: That's not in the evidence.

7 THE COURT: Overruled.

8 MS. SAVAS: Thank you, Your Honor.

9 He said that. Okay. The reason they are not in
10 the crime scene photos is because the crime scene came
11 after the victim was removed from the scene. That's how
12 there's photos of his pool of his blood all over the
13 leaves. That's not an issue.

14 It doesn't matter if he had headphones on or a cell
15 phone on, or any of that. Distractions. That is his
16 account of the story, that is what happened. It doesn't
17 matter, because he shot him. That's the focus.

18 Where he said that he was standing, defense argued,
19 he told MUSC. MUSC is not an officer. At MUSC that poor
20 child has his leg blown up and was in a stretcher in the
21 ER and about to be taken to the OR. So he testified that
22 what he said in that statement was the truth, was
23 consistent, and what he said in his hospital records are
24 simply what you tell someone when you are lying on the
25 stretcher with your leg blown off that this is what

1 happened. I was standing in the yard.

2 Dr. Haro read it, in the yard. Sidewalk also in
3 there. It doesn't matter. That was the doctor who was
4 about to perform surgery to save his leg, and then he put
5 the rod in it. Distraction. Focus. Rhajon shot him,
6 admitted to it.

7 This we'll touch on briefly, North Charleston
8 Police Department. We had several people here testify.
9 You saw Officer Tucker here all week. Unfortunately,
10 he's not able to be here today because he had something
11 very important that he couldn't get out of at his job.
12 He is still an officer.

13 The reason that -- and every officer testified.
14 They do a portion of their job. So much of what happens,
15 there's so much going on, it's teamwork. Detective
16 Bailey said it. Nearly every officer testified it's
17 teamwork. When you get on the scene you've got several
18 officers. The sergeant says, You do this, you do this.
19 Crime scene comes, they do their role.

20 Rothhaus came out, that officer that testified he
21 detained the suspect. He didn't do nothing. He detained
22 the suspect who just shot someone. Okay. And I'll go
23 through and discuss again what they did but it's
24 important. It's a team effort. And the reason why the
25 officers don't know what other people did and we never

1 showed them is because you do not taint testimony, unlike
2 what happened with the defense's witnesses.

3 The defense's brother retained counsel who has been
4 sitting here every step of the way. The defense stated
5 that you are allowed --

6 MS. BROWN: Objection, Your Honor.

7 THE COURT: Overruled.

8 MS. SAVAS: And the Judge will charge you, you are
9 allowed to take the credibility of any witness before
10 you. You can assume all of their testimony is believable
11 or parts and pieces. Bias is important to take into
12 account. Bias. Okay. Bias that their attorney has been
13 sending questions, assisting, doing everything with the
14 defense every step of the way. Complete bias.

15 Tainted testimony. Not one person on the State's
16 case said they saw anything that they weren't supposed to
17 see, they weren't a part of each other's testimony.
18 That's the reason they were all outside and coming back
19 and forth, and I'll get into that, too.

20 Unfortunately, Nicholas isn't here today. Nicholas
21 sat before you and said he doesn't want to be here, it
22 makes him very uncomfortable. It's true. You heard him.
23 It is very uncomfortable. He is scared. He is scared
24 because he was shot by this man here.

25 He did his part. He told his truth and that is all

1 that is required of him, and that is fine. That is his
2 job. He does not need to continue to sit here to rehash
3 that horrific night where he was shot and nearly killed.
4 He does not need to sit there. That is the State's job.
5 That is my job, is to put forward the case, not the
6 victim to sit here through this again, and again, and
7 again when he lives with it every single day, and I can
8 promise that he does. That is fine.

9 He testified. He told his truth. Make note that
10 statement was consistent with everything he said the
11 night it happened. Consistency. Believability.

12 The fact that good people can do wrong doesn't make
13 them any less good but it also doesn't make their wrong
14 any less wrong. We are not here today saying Mr. Sanders
15 is a bad person. I have never said that, nor have I ever
16 implied it. He's not a bad person. I don't think he
17 comes from a bad family. I didn't treat them that way.

18 What we are here about is whether what he did was
19 wrong, and it was, and it's unfortunate for everyone
20 involved. It's unfortunate for the families that have to
21 continue to live across the street together, it's
22 unfortunate for both of these young man's lives and it's
23 unfortunate for the community.

24 So, yes, let's be clear. I did say this is an
25 important case for the victim and the defendant, but also

1 the community, which is what the 12 of you represent, the
2 community. Because the decisions that are made today in
3 that jury room by the 12 of y'all are the decisions that
4 will then be told to the community. Because how you
5 render your verdict today is the message that is sent to
6 the community. It is not needed to know why.

7 I sat in Nicholas' and Ms. Katina's living room on
8 their couch, and they are a good family. And one of the
9 discussions was we don't even know why things happen to
10 us in life. We don't get those answers sometimes. When
11 bad things happen to good people we don't know why. They
12 just happen. But what's important is that you get up the
13 next day and you say that I'm going to have a tomorrow,
14 and thank God that Nicholas Washington has a tomorrow and
15 you did see him here today because there is no doubt that
16 this boy could have died and we would have been here on
17 murder charges. But thank God that we are not. We are
18 here on attempted murder because of bad and wrong
19 decisions, and those decisions are illegal.

20 We don't know why. I will not try to tell you why.
21 Ms. Brown is correct. I will not for one minute try to
22 tell you why because, you know, it's not important. It
23 doesn't matter. Those are going to be the questions that
24 are going to be unresolved.

25 But what we do know and what only the law requires

1 is that he took those actions. That is it. You may walk
2 out of here asking why. The only person is him. He only
3 knows why, and it is unclear because that story has
4 changed and that story is inconsistent.

5 Dr. Marc Haro was our first witness that testified
6 for the State. He was declared an expert in orthopedic
7 surgery as he is clearly very well capable at his job at
8 MUSC. And he testified that unfortunately Nicholas
9 sustained serious bodily injury, great bodily injury, and
10 that it's a serious permanent disfigurement in his
11 medical opinion, and that's because the bullet in his leg
12 went through and got him in the shin and it's not clear
13 there are -- we don't have the gruesome photos but we
14 have what Nicholas lives with today. Okay?

15 The bullet tried to come out there. These are all
16 scars from the surgery. He had that metal rod placed in
17 his leg forever. It is permanent. Through his leg. He
18 told you it makes him walk a little -- I think he said a
19 limp or something. He's a very funny person for having
20 such a sense of humor about all of these horrible things
21 that happened to him. But it's permanent.

22 And, of course, without any doubt gunshot wounds
23 cause death. Medically proven, common sense. We know
24 this. The defendant admitted on the stand to me he's
25 fully aware that shooting someone can cause them to die.

1 Dr. Haro also testified the victim couldn't walk.
2 So this elaborate story of the brother, Ferantez, that
3 sat up there that he apparently was on this yard and went
4 all the way to these trees didn't happen. He can't walk.
5 The victim testified he couldn't even crawl. He was
6 pulling his body up. The doctor medically proved that.

7 Officer Tucker, our case agent that was sitting
8 with us this week, he was one of the main responding
9 officers. He was the case agent here. It was an
10 immediate response time, about less than five minutes
11 they came to that scene. And he described what he
12 observed in that scene, and he said the defendant was
13 wearing a hoodie across the street. They identified him,
14 and that's when Officer Rothhaus went over to him and
15 detained him.

16 And he saw the victim lying in a pool of his blood.
17 And he was by two trash cans, the recycle bin and the
18 garbage can. And on that dash cam the defendant even
19 pointed out where the crime scene tape was. It was on
20 the right side of those garbage cans, on the right side
21 of those trees.

22 The pool of blood, the blood stain s on the leaves,
23 it's in the front of his aunty's house. Not this vacant
24 house. We briefly mentioned this vacant house. It
25 doesn't matter. It doesn't matter if someone lives there

1 or Ms. Prissy lived there, she was on or off, or they
2 only lived there a year, didn't know where she was. It
3 doesn't matter not one bit. Focus. He shot Nicholas.

4 And he saw that the victim had a gunshot wound to
5 his leg he said. There was no weapon on the victim.
6 There wasn't one found in the trash can. You can see his
7 head looking in it. There wasn't one in the bushes,
8 there wasn't one in the leaves, there wasn't one anywhere
9 near there. Ms. Katina said, We never took a gun. She
10 was astounded that I asked that question.

11 You hear them on the dash cam, That boy ain't got
12 no gun. They say that on the dash cam.

13 Nicholas never owned a firearm at that time, never
14 had a weapon on him of any kind because there was no
15 weapon. That's not an issue here either. The defendant
16 said he never saw a weapon. The brother said he never
17 saw a weapon. They didn't even see an object that looked
18 like a weapon. All they are saying is someone reached
19 around them in some direction in the dark. No weapon,
20 which then leads to the next claim.

21 There's no need to do a search warrant on a house
22 when there's no evidence that needs to be gathered from
23 somewhere. The search warrant was done on the suspect's
24 home. We don't collect needless evidence. There's no
25 need when you have a confession and everything is

1 corroborated on scene.

2 And just quickly, there was a thorough
3 investigation. You saw how many officers there were and
4 that determination was made and that arrest was made at
5 that time. The issues of self defense, I want a fair
6 chance, this is Mr. Sanders' fair chance. This is trial.
7 We are here. That's when those issues come up. Not with
8 officers on the scene. Here. The law.

9 Officer Tucker told you that Detective Bailey did
10 the search warrant, Officer Rothhaus detained the
11 suspect, and Officer Perkins Mirandized Mr. Sanders.
12 They secured the scene at that time and put crime scene
13 tape up. No, there's not a list of every single person
14 in the neighborhood.

15 There is a list though called the crime scene log,
16 and those crime scene logs, once the tape is up they
17 write down all the officers that came in and out. Once
18 that tape is up the scene is not tampered. There is no
19 issue of tampering of evidence, not an issue brought up
20 by the defense. It's not an issue. Distractions.

21 Witness statements were taken. Officer Cook came
22 over and did the crime scene collection. And at that
23 point in time between Mr. Sanders' confession, the blood
24 stains, the shell casings, the evidence, the post Miranda
25 statement, all that is packaged together and the arrest

1 was made and here we are. It was sufficient.

2 Yes, it was closed. No, there's not a follow-up
3 investigation. It's a trial. That's the point. There's
4 no need for a follow-up investigation after that was at
5 the scene. No need.

6 Officer Rothhaus testified that this -- that the
7 suspect was across the street in the hoodie and he
8 detained him without any issues. Not an issue.

9 Detective Bailey testified the search warrant was
10 done on [REDACTED], Mr. Sanders' home. That
11 information is relayed by officers on scene. That is
12 standard procedure. They have a lot of officers out.
13 The one that happens to be in the office, the detective,
14 they type up the search warrant. They move about, they
15 then go to the scene. Standard procedure. It's not an
16 issue. There was no issue.

17 Let's be clear, at all, on whether any evidence was
18 tampered with, that there were any issues. The defense
19 consented to all of the evidence, mostly all the
20 evidence, except for the victim's bullet from his leg
21 coming in. You'll take these stipulations back. These
22 are marked into evidence and you'll see that. Just in
23 case there's any questions about who touched what, things
24 like that, I read those to y'all the other day. Not an
25 issue. Distractions.

1 Officer Perkins. Officer Perkins said that he did
2 Mirandize the defendant. That was the officer that is on
3 the dash cam reading the defendant his rights. He waived
4 them without any incident. That happened. You can watch
5 them in the jury room again.

6 He read them off of his Miranda card. The
7 defendant waived them. He waived them and did confess.
8 He confessed to Officer Perkins that there was no prior
9 physical altercations, there was no verbal altercation.
10 He never said that the victim threatened him at any time.

11 Officer Cook testified next. He was on-call for
12 crime scene forensics. He came over and responded to the
13 scene at that time when he received that call. When he
14 came the crime scene tape was up. There were those
15 little cards where the shell casings were located at.
16 Not an issue.

17 The photos. He said that the lighting is very
18 bright because it came from his flood lights that they do
19 and the other patrol cars. It wasn't -- you know, that
20 wasn't how light was that day. And he located the four
21 shell casings.

22 This was the lighting that was very bright. The
23 defendant testified it was about this kind of darkness.
24 Everybody said it was dark out there.

25 There's other pictures. Now, you get all these.

1 These pictures go back with you in the jury room so you
2 can see everything, but you can see that these were the
3 four shell casings. This is where the defendant was
4 standing when he shot Nicholas. That's not an issue.

5 And then he continued to take pictures of the
6 street -- of the house across the street where the victim
7 was. The victim testified that he came out of this
8 house. This is his aunty's house. And this is his
9 grandma and grandpa's house. He came out of this house,
10 smoked his first cigarette there and then moved over
11 there. Okay?

12 I'll go into that in the closer views. It's very
13 important to notice and to recall what you heard from the
14 stand not what I say or the defense says in closings. It
15 is what you recall the victim, himself, testifying to.
16 Don't let it get misconstrued.

17 Then he said that he saw his little brother, 14
18 year old, and his little cousin coming out of the house
19 and going to his grandma and grandpa's house, and in the
20 grandma's house there is where his mom was, Ms. Katina,
21 and she testified to that.

22 This is that house, this sidewalk, yard. This can
23 be considered a sidewalk. It's concrete like that. This
24 other photo everybody admitted it's not accurate. It's
25 not necessary to use. It's inaccurate. These are the

1 accurate photos from that night.

2 He walked over here, came over near to these
3 bushes. Lots of together about the bushes, where they
4 were, this photo versus that photo. As you heard
5 Nicholas say that this is the same bush. Okay. That's
6 not an issue. This is the same bush. These are those
7 trash cans. Okay. This is that side yard for the next
8 house there. These are the leaves. This is the only
9 bush. Okay. In any picture the only bush, it got bigger
10 these days because it grew, but the only bush, here.

11 Those are the leaves where Officer Cook took
12 photos. Photo, blood stains. Photo, blood stains.
13 Leaves. He pointed out to these little blood stains.
14 Blood stain on more leaves. This is the bush. This is
15 the left, this is the aunty's house. No trail of blood.
16 Forensic evidence, physical evidence; blood, blood, blood
17 on the scene.

18 No trail. No one crawled. No leaves are dragged.
19 If you're shot in the leg -- he was sitting in the pool
20 of blood, as Officer Tucker testified to, his own pool of
21 blood. He couldn't crawl. Lie. Lie.

22 The right-hand side, as seen on that dash cam,
23 crime scene tape. They secured the scene. It wasn't
24 accessible over here. Distractions.

25 Officer Cook then did a search warrant of the

1 defendant's bedroom. As he had indicated, that's where
2 he put the gun after he shot Nicholas and right before he
3 ran then back outside again.

4 They found the gun Rhajon shot Nicholas with lying
5 on his dresser. This is the gun. Rhajon identified it.
6 This is his gun. This is his gun that he used to shoot
7 Nicholas in open fire at least four times across the
8 street. This is it.

9 Officer Cook testified that he collected all that
10 evidence on scene and then -- he then went to the
11 sheriff's office. Now, he went and got from the
12 sheriff's office the bullet that Dr. Haro testified to
13 removing from Nicholas' leg. It's really little. It's
14 in here. Y'all can see it.

15 This bullet was in Nicholas' leg, and they removed
16 it on the operating room table and they gave it to public
17 safety at MUSC. They didn't know which agency it came
18 from. Standard practice when that happens, often as it
19 does, they give it to the county. We are in Charleston
20 County, they give it to the county sheriff's office.

21 It was then retained by Officer Cook at my
22 direction. It's not an issue, did it for preparation of
23 trial. I have the burden. I have to prove everything.
24 Even though he admitted to shooting, so it's not an
25 issue, Nicholas wasn't shot by someone else, this was

1 Rhajon's bullet from Rhajon's gun and Rhajon shot
2 Nicholas, it's not an issue. I have the burden. I have
3 to be thorough. We sent it to SLED for testing.
4 Standard.

5 You then heard from SLED, and a lot of it is a lot
6 of science that sort of gets jumbled around a lot but you
7 have the reports admitted into evidence you can take back
8 with you to show what their conclusions were. And
9 Officer Riley then testified that he was the one from the
10 sheriff's office who took that and gave it to Cook.

11 You had Michelle Eichenmiller from SLED. She was
12 our firearm's ballistic expert. And she testified that
13 she took the victim's leg -- the bullet from his leg and
14 that it's typically too difficult to tell exactly where
15 it came from once it's disfigured in someone's body, and
16 the corrosion and things of that nature, but she did know
17 that it was a nine millimeter. Again, it's not that big
18 of an issue. The defendant admits that he shot him.
19 That's his bullet.

20 Then you heard Ms. Nates. She was our SLED gunshot
21 residue expert. Officer Cook talked about what the
22 gunshot residue is on the hands. That's there as well
23 for y'all to look at. Not an issue. Gunshot was
24 obviously found on Rhajon's right and left hands since he
25 shot Nicholas.

1 Ms. Bartman, she was the SLED DNA expert. She
2 testified that she did compare the DNA that Officer Cook
3 took from the buccal swabs inside someone's mouth and she
4 compared them to the touch DNA on the gun. It matched,
5 obviously. We have that confession. That's not an
6 issue. We all know that Rhajon shot Nicholas. But it's
7 important to put that up as a matter of thoroughness.
8 That's just necessary. Sometimes it does get long, but
9 it's necessary.

10 I'd like to talk about Ms. Cynthia, Ms. Sanders,
11 Rhajon's mom. She is a good woman. There was no issue
12 with Ms. Sanders. She's his mother. She is a good and
13 honest lady. And Ms. Sanders is very observant about the
14 lighting outside, and she said and testified that [REDACTED]
15 and 2314, so that's Nicholas' aunty's and his grandma's
16 house, their porch lights were on, because they are
17 always on. Ms. Sanders said that. Ms. Sanders is not
18 lying.

19 She also said that she expresses a lot of concern.
20 She's close with her sons. Never expressed a single
21 concern about the neighbors across the street. There was
22 no issues, not anyone coming and going from the home.
23 They often have people coming and going. We know that.

24 Nicholas and his family go to his aunty's and
25 grandmother's house nearly every single day. There were

1 no concerns with those people there, not that day, not
2 ever until Rhajon started. She's, in fact, cordial with
3 the neighbors. There's good people. It's not an issue
4 here. She did say that Rhajon has matured a lot. It
5 wasn't -- it's an immaturity thing, is what she's saying.

6 Mr. Fernandez Sanders, the brother, he's a pretty
7 decent guy. Claims he's the older brother, he's a
8 protective older brother, and as a protective older
9 brother he's doing everything in his power to protect his
10 brother including lying on the stand. It's just what
11 happened. The statements changed. The statements
12 changed. The statements didn't say that the guy was
13 looking across the street to officers that night. We
14 never heard that until they coached him to do that on the
15 stand.

16 MS. BROWN: Objection, Your Honor.

17 THE COURT: Don't refer to what counsel did.

18 MS. SAVAS: Yes, sir.

19 THE COURT: Sustained.

20 MS. SAVAS: It's a desperate situation. Bias,
21 motive to lie. Ms. Sanders didn't lie. She said the
22 porch lights were on. Ferantez, the porch lights were
23 off. Mr. Ferantez was already outside. He was out there
24 for a good few hours. He said he was out there from
25 about four o'clock when he got home after picking his

1 brother up from work that day. He already saw Nicholas
2 outside. He didn't have an issue. No issue.

3 Nicholas is already standing outside smoking a
4 cigarette. Ferantez is on his phone just hanging out on
5 his porch. He never said that he was afraid of him that
6 night. He never expressed any concern to anyone. He was
7 just hanging out.

8 He knew people across the street had people over.
9 He said that. I asked him, Did you know that they had
10 people over?

11 Yeah. I saw people coming in and out all day.
12 They always do.

13 Wouldn't it be reasonable to assume that that man
14 in that front yard by them bushes are with the people
15 across the street? That's reasonable. He had no issue.
16 Ferantez had no issue with Nicholas. None whatsoever.
17 Never expressed one, never had one.

18 He doesn't own a gun. Ferantez lives at that same
19 house with Rhajon. He doesn't bring a gun out on the
20 porch. Rhajon said he brings a gun, a fully loaded gun
21 on his porch every single time he goes outside.

22 Now, is that unlawful? No. He's not on trial for
23 that. But it's strange. It 's very, very strange that
24 you feel the need to bring a gun out every single time
25 you stand on your porch, yet your brother doesn't, who

1 also lives there, but your momma doesn't, who also lives
2 there. And your brother is on the porch without any
3 issue because you came out with a fully loaded gun and
4 you wanted to get hard and you walked down and you were
5 looking for trouble. The brother had no issues with the
6 victim already out there. Rhajon had an issue.

7 He also testified that he never told Rhajon to
8 shoot his gun. He said that no one told Rhajon to shoot
9 his gun --

10 MS. BROWN: Objection, Your Honor. It's not in the
11 record.

12 MS. SAVAS: It was --

13 MS. BROWN: He did not testify to that.

14 THE COURT: I thought I heard it. Overruled.

15 MS. SAVAS: Thank you, sir.

16 He said that from that chair. I never told him to
17 shoot the gun. No one told him to shoot the gun. That
18 decision was a wrong one made solely by Rhajon.

19 Ferantez never expressed a concern for his safety
20 or for his life until he testified, inconsistently
21 testified on the stand in this desperate hour to protect
22 his brother. Never once was that ever mentioned. But
23 what he did say, in his very candid calls and candidly on
24 the stand, was that this was a lesson for his brother to
25 learn because sometimes things happen and you do things

1 and you need to learn your lesson, all that that implies.
2 He didn't tell him to shoot him but he needs to learn his
3 lesson because it's wrong and he knew it was wrong.

4 Ms. Katina. Ms. Katina is a good mom. Ms. Katina
5 has five children. Ms. Katina has instilled work ethic
6 in her children and her son, Nicolás, and he is a good
7 man. He is a kind man, and he is a funny man as y'all
8 saw, and he works two full-time jobs. Two full-time
9 jobs. That means he just doesn't come home at three,
10 four o'clock and sit on the porch with a gun. That means
11 after that he changes, showers, and goes to his other job
12 at night because he wants to, because that's what his
13 decisions are in life, is being a hard worker and keeping
14 his own business to himself, minding his own and taking
15 care of his family.

16 That money, about where it came from, it went to
17 his momma's light bill. He said that. He paid his
18 momma's light bill with his last hundred dollars after
19 his birthday money. He spent his birthday money to pay
20 momma's bill to help because he's a good son. That's the
21 kind of man Nicholas is.

22 He's taking care of his own girlfriend and
23 unfortunately their mischarge and then her child and he
24 still takes care of his own momma and his family. That's
25 a good man. He did not deserve to get shot. Not one

1 minute. He sat there and said, I never in my life would
2 have imagined I would have gotten shot. You know why?
3 Because he doesn't mess around with stuff like that. He
4 steers clear. He makes those choices in life to steer
5 clear, not to start trouble, and his momma said that.
6 Ms. Katina said that on the stand.

7 And you know what else she said? She said that
8 Ferantez, as they were walking out the brother with the
9 dreads, as she described him, ran across and said, I told
10 you not to shoot him.

11 Now, Ms. Katina does not have any motive to lie.
12 Her son is not on trial. They were the victims here.
13 Okay? Victims. It doesn't matter what was said or not
14 said. The fact remains her son was shot.

15 You know what else she said? Her little brother --
16 her little son, the younger son was with her little
17 nephew, the two children that Rhajon claims he didn't
18 see, I didn't see them when I was shooting five times
19 across the street, I didn't see them, but Ms. Katina
20 said, and Nicholas, that they came out across from the
21 aunty's house, go through the gate, Nicholas heard the
22 gate and they go inside. Even if that gate didn't make a
23 sound, he heard something else, it doesn't matter.
24 Ms. Katina said she heard her younger son run inside and
25 say, Momma, Nick has been shot.

1 A mother would never forget those words and never
2 forget where they came from. Never. Nor would she lie
3 about having to hear something so horrific about her son
4 possibly being dead because he was trying to be a good
5 boy and not show them that they were smoking a cigarette,
6 a cigarette. Now we're getting killed over cigarettes.

7 She wrote that down in her statement that day, and
8 she testified to that. None of that changed. None of
9 her statements changed. She never hid a gun. Nicholas
10 never had a gun. She called 911 and she rode with her
11 son in the ambulance not knowing if he was going to live
12 or die, and took him to the hospital. So, no, maybe she
13 doesn't remember whether he had headphones on because you
14 know why? There was pure chaos going on because her baby
15 almost died. Pure chaos.

16 Rhajon testified; inconsistencies with his
17 testimony. Inconsistencies with what he said on the
18 stand, just like his brother, after there's been time to
19 think about the story, make up rather than what you said
20 came to be the night that you were in the back of that
21 patrol car.

22 Suspicious behavior. This is important. This is
23 important. Suspicious behavior as described by Rhajon is
24 a man standing in a yard who's allowed to be in smoking a
25 cigarette and not responding to his alleged attempts to

1 get his attention. That's suspicious. A boy wearing a
2 hoodie reaching around, that's suspicious.

3 Rhajon was sitting on the porch wearing a hoodie
4 smoking a cigarette. Okay, Rhajon. Then you are
5 suspicious. It doesn't make any sense. It's not
6 suspicious. That is not suspicious. If you don't know
7 what they are, okay, you don't know who they are. Your
8 brother was sitting there, he didn't know he was. He
9 didn't have a problem with him.

10 It's a go-to and it's sad and it's pathetic. It's
11 a go-to. It's a go-to to attack things that you don't
12 have issues with. Distractions. It's a go-to to say
13 that a boy in a hoodie walking around at night is
14 suspicious. That's a go-to. That's not truth. That's a
15 go-to.

16 And it's very important because whatever verdict
17 that you render today is the message that you are sending
18 to the community. So if you say that, yeah, I agree he
19 looks suspicious, I would shoot, too, then it's okay to
20 shoot anybody that you don't know walking across the
21 street in a neighborhood smoking a cigarette, walking the
22 dog, walking the baby, walking by themselves listening to
23 music. That's the message that would be sent throughout
24 the community, that it's okay. It's not okay. It's not
25 suspicious.

1 Wearing all black. He came from Wal-Mart. It
2 doesn't matter. I don't care if he was wearing a dress.
3 It doesn't matter. It really doesn't matter.
4 Distractions.

5 What it does prove is he couldn't actually see that
6 clear. You know why? Pitch black dark. Pitch black
7 dark. I can't see. I can't see his face. All I see is
8 the light of a cigarette. Okay. I can't see if he had
9 something in his hands. I can't see headphones. I can't
10 see what his face looks like. I actually don't know what
11 direction he looked in. Then how do you know what you
12 saw, that what he was reaching for, and reaching this and
13 that? You cannot see. He did not see him reach for his
14 waistband. You can't tell across the street when it's
15 pitch black.

16 Everything that the defense has put up was to prove
17 how dark it was that night. You know what that goes to
18 show? You can't see in the dark. They tried to say the
19 porch lights were out, it was darker than it was, you
20 can't see. You didn't have a reason to shoot.

21 He said he was picking up his pants. So he was
22 picking up his pants and he was going to pick them up
23 again, are you going to shoot him? He doesn't remember
24 how many times he shot at someone because he kept pulling
25 the trigger (clapping sounds made). That's what it

1 sounded like. But to the victim (clapping sounds made).

2 You know why? Because he was the kid hit. He knows.

3 We don't know where the bullets went except for in

4 Nicholas' leg. That's the only one that matters.

5 Bullets go everywhere. If you've ever fired a gun before

6 bullets go all sorts of places. You know, no, it's not

7 important. It would be important if he killed or hurt

8 someone else. Yeah, of course.

9 I asked him that; Do you know if it went in the
10 window with your neighbors there?

11 No, I don't know.

12 Did it go in a car?

13 No, I don't know.

14 Did it hit the children playing in the yard?

15 I don't know.

16 You don't know because you were careless and you
17 were reckless and it was wrong, but you do know you hit
18 Nicholas in the leg and he almost died. He didn't crawl
19 from 20 feet away. It doesn't even matter.

20 Rhajon says I never really had a conversation with
21 Nicholas prior. I don't know him. In fact, he said he
22 never had a conversation, never had a conversation that
23 day. He said they never had a physical altercation. No
24 threats were made by anyone from that nice family. They
25 had no issues.

1 He initiated the contact. He said, I thought he
2 was suspicious then I started going down there. Why
3 would someone think someone's suspicious and then you
4 would go down and try to talk to them? He wouldn't even
5 clarify for me on cross-exam where he walked down towards
6 because he's going to keep arguing.

7 But it doesn't even matter if he walked this way to
8 the left, to the right. He walked from his home off the
9 porch, apparently flailing his hands and saying, What are
10 you doing here? Are you okay?

11 He didn't look like he was in distress. He was
12 minding his own business. They said he was minding his
13 own business.

14 He went down there. You know why? Because he was
15 the one with the gun. He went down there because he was
16 hard and he went down, Who are you? What are you? Why
17 aren't you answering me? You don't answer me. You don't
18 answer me. Fine. I'll show you. Shoot him.

19 The other very, very confusing thing that you
20 should ask yourselves, if Nicholas, this -- what did they
21 say 6-4? I'm 5-1, so 6-4 person that you find so
22 suspicious and you already have this threat that is so
23 scary in your head you have to kill someone and take
24 someone else's life you go in and you unarm yourself and
25 then you go back across the street?

1 I don't care if there was family around or not
2 around. You were so afraid of taking someone's life from
3 across the street you go inside, put your gun away and
4 then you go back outside to see if he's okay? That
5 doesn't make any sense.

6 How on earth is someone so deathly afraid that they
7 go over there unarmed? He testified he didn't know
8 whether Nicholas put that gun away or not. Now, there
9 was no gun but he said he didn't know if he had a gun or
10 not and he didn't know if he took it off him or not. Why
11 on any reason would you go do that? But that's another
12 lie. That's a lie only Rhajon knows. That's a lie that
13 will be unanswered, but what it proves is that he wasn't
14 actually that scared because if someone was so scared to
15 death they would stay inside and call the police and lock
16 the doors. They would not go back outside.

17 Rhajon sat on the stand and told me that he knows
18 that shooting someone could kill them. The last question
19 -- I think I'll stay here. The last question that I
20 asked him is did Nicholas threaten you. He leans over
21 into the microphone and he says, No, ma'am. He said
22 that.

23 Did Nicholas threaten you?

24 No, ma'am.

25 Only until words put it in his mouth on redirect.

1 You felt afraid? You felt afraid? Right, right, right?

2 Yeah, yeah.

3 Recanted answer. No, ma'am.

4 You can believe all or parts of someone's
5 testimony. Parts. No, ma'am.

6 Also, sulking around. He wasn't sulking the day he
7 decided to shoot Nicholas. As I said, he walked down
8 with confidence and approached someone he says he thought
9 was suspicious. He wasn't sulking like he is today.

10 Don't let it fool you. Okay? Distractions.

11 Lastly, you heard from Nicholas Washington himself,
12 who was thankfully here to actually testify. Nicholas is
13 22 years old. He's a good kid and works two full-time
14 jobs, never been in trouble. Helps his mom. Makes the
15 right life choices. He visits his family across the
16 street almost every day, and he smokes cigarettes.
17 Sounds like about the worst thing he's done which we all
18 know ain't really that bad. He was trying to hide it
19 from momma and his momma already knew.

20 So, yeah, when defense said the reason we are here
21 is because he went out and smoked cigarettes, yeah, he
22 decided to smoke a cigarette and that gave Rhajon reason
23 to shoot him? He said that he went off the porch and lit
24 that first cigarette and he noticed that that porch light
25 across the street was on. He saw Ferantez sitting there,

1 sitting on that porch.

2 He lit that first cigarette about here, put it out,
3 tried to call his brother. Do you remember that? He was
4 making those phone calls because he gave his mom the last
5 of his money and he wanted a little money to hold over
6 the weekend so he could do something. They didn't have
7 any money. Remember? He said, click, hang up, didn't
8 have any money.

9 He made another phone call, went to about right
10 over here. He's smoking that cigarette, listen to -- and
11 he did say. He said Kevin Gates. He is a rapper. He
12 knew the song. And there is that trash can, and that's
13 where he was standing.

14 And he described it as a fire ball coming at him
15 but he first thought it was fire crackers. Fire
16 crackers. Because there was no reason to be shooting
17 somebody. He's never in those situations. The boy
18 thought it was fire crackers. He was still trying to
19 kill him. And a fire ball came to his leg and he fell
20 and went numb and hit the ground. He tried to get up and
21 he couldn't get up. But as he's trying to get up he
22 heard two more shots, two more.

23 He never saw anybody waiving. That was never said
24 to the officers. We heard it in the testimony when they
25 testified at the trial. Never mentioned before.

1 He saw his little brother and his little cousin
2 come out of his aunty's house and run over, as kids do,
3 playing in the yard going to grandma's, who is next door.
4 That's when he heard the gate close. Bang, bang. Bang,
5 bang. Everybody ran inside.

6 He did look up just before that, and you know what
7 he saw? All of a sudden that porch light that was on
8 across the street was off. That's suspicious. It's
9 still dark out, people were still outside. Who turned
10 off the porch light? Why did they turn off the porch
11 light? You are going to do something that you know you
12 shouldn't be doing and you didn't want anybody to see it.

13 He has no reason to lie. The victim already knows
14 he got shot. He doesn't want part of this. He has no
15 reason to lie. He's not seeking vengeance. You saw that
16 boy on the stand. He was an innocent, unarmed young man
17 trying to hide a cigarette from his mom.

18 I'm going to quickly run back through now the self
19 defense. This is what they are claiming. Okay. I want
20 to take everything that we just discussed and I just want
21 to refocus. Okay. Just refocus.

22 Self defense must prove four things; without fault,
23 there was imminent danger, or that they believed it. If
24 they believed it then a reasonable person would also
25 believe that they were in that danger in order to kill

1 someone, and that there's no other way possible to avoid
2 that danger.

3 Here Rhajon was clearly at fault. We know this.
4 He admitted that he initiated the confrontation. He said
5 the victim was minding his own business, and with his
6 loaded gun, the back of his waist he approached him. He
7 was the one hollering not Nicholas. That means you have
8 fault because you have now initiated a problem.

9 The simple act of going towards, walking, the
10 simple act of trying to flag someone down, you wanted to
11 start the dialogue, that is uncontested in this case. He
12 is with fault. So now, as I said earlier, the State only
13 needs to disprove one. You have to have all four green
14 lights go in order to claim self defense. First one,
15 already not there. Already disproved. He admitted
16 himself with his own testimony with fault.

17 No imminent danger. You cannot have imminent
18 danger of losing your life or great bodily injury. He
19 was not in imminent danger. There was no conversations,
20 there was no threats. There was nothing. No prior
21 altercations, absolutely nothing. And the defendant sat
22 in that chair, and as I said earlier when I asked him,
23 Did Nicholas threaten you?

24 And he says, No, ma'am.

25 His words. That cannot be changed.

1 Reasonable person. What is determined as
2 reasonableness? As I said, it's the 12 of you. It's not
3 reasonable, absolutely not reasonable to shoot someone
4 smoking a cigarette and pulling up their pants. You are
5 not entitled to a license to kill.

6 You are entitled to a gun. Fine. Not an issue
7 here. You are not allowed to open fire across the street
8 in a residential neighborhood with children in the yard
9 because you don't know someone, you don't like the fact
10 that they didn't answer your question. That is not
11 reasonable in our community.

12 If you come back with a not guilty verdict on these
13 charges what you are telling the community is that it's
14 absolutely acceptable to continue this vicious cycle, to
15 continue these senseless crimes, to say that it is okay
16 to shoot for no reason across the street. That is what's
17 plastered all over through the community. That is not
18 reasonable because the 12 of you in this box know that.

19 A reasonable person -- at this point even if you
20 believe that he thought maybe he was in that danger you
21 12 have to decide that that was reasonable.

22 How many times do we see these senseless acts of
23 violence happen? It's not okay. It is not okay to shoot
24 someone for no good reason. Guilty.

25 It is very important in our community for that

1 message, for that common sense, for that reasonableness
2 to be determined by the 12 of you, and there's a reason
3 that everybody is from different lifestyles, different
4 places. It's different. It's 12 unique people. That's
5 reasonableness. So even if you may believe for some
6 reason that he thinks he was in that danger it's not
7 reasonable danger. It doesn't matter what he actually
8 thought then. It's what's reasonable.

9 Ways to avoid it. Ferantez testified he had a cell
10 phone in his hand. He could have called 911. He said he
11 had time to go turn a light on, to do all these things.
12 He could have called 911. You know what else he could
13 do? Walk inside the house, lock the door, call the
14 police for suspicious behavior.

15 You know what you don't do? Walk towards it,
16 initiate it, confront it, take your gun and shoot
17 someone. Plenty of ways to avoid this entire thing
18 happening. Lessons learned. There are obvious ways.
19 That's just clear. Fails that, too.

20 Does not meet any single one of these. It is not a
21 self defense case, ladies and gentlemen. Do not let it
22 fool you. Merely because someone hollers and screams
23 self defense doesn't mean it's so in the eyes of the law.
24 That's a go-to. Okay. Doesn't make it right. It's not
25 self defense.

1 If you even believe one of those, even if you
2 believe one of those you have to have all four, and if I
3 disprove one it doesn't exist. You cannot use it.
4 Guilty. It's not an excuse.

5 Attempted murder again. Intent to kill. With the
6 intent to kill and malice aforethought. Intent to kill
7 another person. Rhajon testified he knows that shooting
8 someone causes death. That's common sense. We know
9 that. The doctor testified to that as well. He knows
10 that. That's your intent to kill.

11 The knowledge of pulling your trigger. Knowing
12 that when you pull that trigger you could take someone's
13 life, that's intent to kill, ladies and gentlemen. It's
14 that easy. With the intent to kill that person.
15 Shooting at a person. He shot Nicholas at least four
16 times. He shot him after he fell.

17 I described malice earlier. It's a recklessness of
18 the lives and safety of others. Okay? You don't have to
19 have hatred in your heart. You don't. I don't think he
20 does. You don't have to have it.

21 Reckless disregard, that's malice. Four shots,
22 residential neighborhood, children in the yard, neighbors
23 across the street, others on the porch, opened fire,
24 opened fire, opened fire five times, four times across
25 the street and start all out chaos. There were people on

1 his porch. He had his family sitting there, too. That
2 is the most simplest form of recklessness.

3 I don't think you get any more reckless than firing
4 a weapon with no reason to places that it could go all
5 over when there's people there. It is reckless conduct
6 and behavior. That is the very definition. This is the
7 best example of recklessness. Guilty of attempted
8 murder. That will bring you to a guilty verdict on
9 attempted murder, that right there.

10 If for some reason the ABHAN, assault and battery,
11 if for some reason you don't believe that it's attempted
12 murder, if you are not -- that's not what you think, you
13 can and you should, you most certainly should, without a
14 doubt, unlawful injury to another person, great bodily
15 injury likely to produce death or great bodily injury.
16 That's not even at issue in this case, Ladies and
17 gentlemen.

18 Let me say it again. That is not at issue in this
19 case. He confessed. He confessed to the cops. He
20 confessed to you right here on the stand. It's not at
21 issue. He is most certainly guilty of that. He
22 confessed that he shot and wounded Nicholas. It's not
23 an issue.

24 Great bodily injury. Dr. Haro testified to that.
25 It's a substantial risk of death or serious permanent

1 disfigurement or impairment. As I mentioned, Dr. Haro
2 said that, permanent rod in his leg. Substantial risk of
3 death. Getting shot kills people. We know this.

4 Means likely to produce death or great bodily
5 injury. So you did it with those means to do that with
6 that weapon. Gunshot wound, that's the means. Okay?
7 The gun. He is most certainly -- he is guilty of ABHAN.
8 It's no an issue. It's not -- he confessed. We know he
9 shot him.

10 Possession of a weapon during a violent crime.
11 That is simply, again, ladies and gentlemen, find him
12 guilty of one of those two you must also find him guilty
13 of this charge. He had the weapon. It's a Taurus. It's
14 that black firearm. He is certainly guilty of that.

15 Reasonable doubt. This is not -- the Judge will
16 charge you on the definitions of reasonable doubt. Okay?
17 It is the standard that I must prove to you in this case.
18 And not all doubt, it does not overcome all doubt. Okay?
19 There are few, very few things for certainty in life that
20 we actually know beyond all doubt. The only person that
21 knows beyond all doubt why this happened is Rhajon. You
22 don't need to know that. That's not the burden. Don't
23 get hung up on it.

24 It's just something that means you're firmly
25 convinced, and State has done that sufficiently and

1 thoroughly throughout this entire week by the defendant's
2 words himself proven that he should be found guilty of
3 attempted murder or assault and battery of a high and
4 aggravated nature, including the weapons charge.

5 And I just want to leave you with what I opened
6 with. Okay? I'm not saying he's a bad kid but the fact
7 that good people can do wrong doesn't make them any less
8 good. It also doesn't make the wrong any less wrong.

9 Ladies and gentlemen, I respectfully request that
10 you render a guilty verdict on attempted murder or the
11 assault and battery of a high and aggravated nature, and
12 the weapons charge. Thank you.

13 THE COURT: All right. Thank you, ladies and
14 gentlemen. We are going to take another short break
15 before I charge you the law on this matter. Please do
16 not discuss anything about the case while you are in your
17 jury room, and we will take a short 10-minute recess.
18 Thank you.

19 (WHEREUPON, the jury leaves the courtroom at
20 approximately 12:02 p.m.)

21 THE COURT: Thank you. Court is in recess for 10
22 minutes.

23 (WHEREUPON, a brief recess was taken.)

24 THE COURT: Let's bring our jury in.

25 THE BAILIFF: Yes, sir.

1 (WHEREUPON, the jury enters the courtroom at
2 approximately 12:14 p.m.)

3 THE BAILIFF: All jurors present, Your Honor.

4 THE COURT: Thank you. You may be seated.

5 All right, ladies and gentlemen. All of the
6 testimony and other evidence to be presented in this case
7 has now been presented to you. The attorneys have made
8 their closing arguments and now is the time where I will
9 charge you the law that is to be applied in this
10 particular case.

11 I remind you that during this trial you and I have
12 certain duties to perform and as the trial judge it is my
13 responsibility to preside over the trial of this case and
14 I also have the duty to rule on the admissibility of
15 evidence that has been offered during this trial.

16 You are to consider only the competent evidence
17 before you and if there was any testimony ordered
18 stricken from the record in this case during this trial
19 you must disregard that testimony because you are to
20 consider only the testimony that has been presented from
21 the witness stand and any other exhibits that have been
22 made a part of the record in this case and any
23 stipulations of counsel.

24 Now, ladies and gentlemen, I have the additional
25 duty to charge you the law that is to be applied in this

1 particular case and I am the sole judge of the law in
2 this case. And it is your duty as jurors to accept and
3 apply the law exactly as I now state it to you. If you
4 already have some idea as to what the law is or what the
5 law ought to be and it does not agree with what I now
6 tell you the law is you must abandon that idea because,
7 ladies and gentlemen, you are sworn to accept the law and
8 apply the law exactly as I now state it to you.

9 Now, ladies and gentlemen, in every case tried
10 before a jury the jury becomes the sole and exclusive
11 judges of the facts in a case, and as the trial judge I
12 cannot intimate, state, comment or make any statement to
13 a trial jury about the facts in a case.

14 Since you are the jury you are the sole judge of
15 the facts and you are not to infer by anything that I
16 have said during the process of this trial in ruling upon
17 the admissibility of evidence or otherwise, or anything
18 that I now state during the course of these instructions
19 that I have any opinion about the facts in this case.

20 The law does not allow me to have an opinion about
21 the facts. This is a matter solely for you, the jury, to
22 determine, and as jurors it is your duty to determine the
23 effect, the value, the weight and the truth of the
24 evidence presented during this trial.

25 Now, ladies and gentlemen, the indictments in this

1 case allege three different offenses against the
2 defendant. The charges are under indictment
3 2015-GS-10-2864 attempted murder, under indictment
4 2016-GS-10-3318 assault and battery of a high and
5 aggravated nature, and under indictment 2015-GS-10-2685
6 possession of a weapon during the commission of a
7 violent crime.

8 Now, ladies and gentlemen, each indictment charges
9 a separate and distinct offense and you must decide each
10 charge separately from the evidence and the law that is
11 applicable uninfluenced by your decision as to any other
12 charge in the indictment, and the defendant may be
13 convicted or acquitted on any or all of the offenses
14 charged; however, the defendant if he is found not guilty
15 on the attempted murder or the assault and battery of a
16 high and aggravated nature he cannot be found guilty of
17 possession of a weapon during the commission of a violent
18 crime because there would be no violent crime. You will
19 be asked to write a separate verdict of guilty or not
20 guilty for each indictment.

21 Ladies and gentlemen, I remind you the fact that
22 the defendant was arrested, charged and indicted is not
23 evidence in this case and cannot be considered by you as
24 evidence of guilt nor does it create any presumption or
25 inference of guilt. The indictments are simply the

1 formal written instruments which contain the charges made
2 against the defendant. They are the formal documents by
3 which this case is brought into court.

4 Now, ladies and gentlemen, the defendant has pled
5 not guilty to the charges in these indictments and that
6 plea puts the burden on the State to prove the defendant
7 guilty. Ladies and gentlemen, a person charged with
8 committing a criminal offense in South Carolina is never
9 required to prove himself innocent.

10 I charge you that's an important rule of law that
11 the defendant in a criminal trial no matter how serious
12 the charge might be will always be presumed to be
13 innocent of the crime for which the indictment was issued
14 unless guilt has been proven by evidence satisfying you
15 of that guilt beyond a reasonable doubt.

16 Now, the presumption of innocence does not end when
17 you begin your deliberations but it accompanies the
18 defendant throughout this trial until you reach a verdict
19 of guilt based on evidence satisfying you of that guilt
20 beyond a reasonable doubt.

21 Presumption of innocence is like a robe of
22 righteousness that is placed about the shoulders of the
23 defendant which remains with the defendant until it has
24 been stripped from the defendant by the evidence
25 satisfying you of the defendant's guilt beyond a

1 reasonable doubt.

2 The presumption of innocence is not a mere legal
3 theory. It's not just a legal phrase that we use but it
4 is a substantial right to which every defendant is
5 entitled unless you, the jury, are satisfied from the
6 evidence presented of the defendant's guilt beyond a
7 reasonable doubt.

8 Now, ladies and gentlemen, the State has the burden
9 of proving the defendant guilty beyond a reasonable
10 doubt. Some of you may have served as jurors on civil
11 cases where you were told that it is only necessary to
12 prove that a fact is more likely true than not true such
13 as by the greater weight or the preponderance of the
14 evidence. In criminal cases, however, the State's proof
15 must be more powerful than that. It must be beyond a
16 reasonable doubt. And proof beyond a reasonable doubt is
17 proof that leaves you firmly convinced of the defendant's
18 guilt. It is the kind of doubt that would cause a
19 reasonable person to hesitate to act.

20 Ladies and gentlemen, there are very few things in
21 this world that we know with absolute certainty, and in
22 criminal cases the law does not require proof that
23 overcomes every possible doubt. If based upon your
24 consideration of the evidence you are firmly convinced
25 the defendant is guilty of the crimes charged you must

1 find the defendant guilty. If on the other hand you
2 think that there's a real possibility that the defendant
3 is not guilty then you must give the defendant the
4 benefit of the doubt and find him not guilty.

5 Now, ladies and gentlemen, there are two types of
6 evidence that are generally presented during a trial,
7 direct evidence and circumstantial evidence. Direct
8 evidence is the testimony of a person who claims to have
9 actual knowledge of a fact such as an eyewitness. It is
10 evidence which immediately establishes the main fact to
11 be proved.

12 Circumstantial evidence is proof of a chain of
13 facts and circumstances indicating the existence of a
14 fact. Crimes may be proven by circumstantial evidence
15 and the law makes no distinction whatsoever between the
16 weight or value to be given to either direct or
17 circumstantial evidence.

18 However, to the extent that the State relies on
19 circumstantial evidence all of the circumstances must be
20 consistent with each other and when taken together point
21 conclusively to the guilt of the accused beyond a
22 reasonable doubt. And if the circumstances merely
23 portray the defendant's behavior as suspicious the proof
24 has failed. And the State has the burden of proving the
25 defendant guilty beyond a reasonable doubt and this

1 burden rests with the State regardless of whether the
2 State relies on direct evidence, circumstantial evidence
3 or some combination of the two.

4 Now, ladies and gentlemen, necessarily you must
5 determine the credibility of witnesses who have testified
6 in this case. And credibility simply means believability
7 and it becomes your duty as jurors to analyze and to
8 evaluate the evidence and determine which evidence
9 convinces you of its truth.

10 In determining the believability of witnesses who
11 have testified in this case you may believe one witness
12 over several witnesses or several witnesses over one
13 witness. You may believe a part of the testimony of a
14 witness and reject the remaining parts of the testimony
15 of that same witness. You may believe the testimony of a
16 witness in its entirety or reject the testimony of a
17 witness in its entirety.

18 You may consider whether any witness has exhibited
19 to you any interest, bias, prejudice or other motive in
20 this case. You may also consider the appearance and the
21 manner of the witness while on the witness stand.

22 Now, ladies and gentlemen, the rules of evidence
23 ordinarily do not permit witnesses to testify to opinions
24 or conclusion. An exception to this rule is that for
25 what we call expert witnesses, and an expert witness who

1 by education and experience has become an expert in some
2 art, science, profession or calling may state an opinion
3 as to relevant and material matter in which the witness
4 claims to be an expert and may also state the reason for
5 the opinion.

6 Now, ladies and gentlemen, you should consider any
7 expert opinion received in evidence in this case and like
8 any other evidence give it the weight that you think it
9 deserves and if you decide that the opinion of an expert
10 witness is not based on sufficient education and
11 experience or if you conclude that the reasons given in
12 support of the opinion are not sound or that the opinion
13 is outweighed by other evidence you may disregard the
14 opinion entirely, and an expert witness's testimony is to
15 be given no greater weight of that -- than that of other
16 witnesses simply because the witness is an expert.
17 Further, you are not required to accept an expert opinion
18 even though it is not contradicted.

19 Now, ladies and gentlemen, the defendant has
20 presented evidence of his good reputation and character
21 to show that it would be inconsistent with the defendant
22 committing the crime. The weight you give to that
23 testimony like all other testimony in this case is for
24 you to decide in your good judgment. You may consider
25 the testimony of the defendant's good character along

1 with all other evidence in deciding whether or not the
2 defendant committed the crime.

3 Now, ladies and gentlemen, an attempt is an effort
4 to accomplish a crime which does not succeed. An attempt
5 includes a specific intent to do a particular criminal
6 act along with an act falling short of the act intended
7 and the State must show mere preparation and intent.
8 There must be some overt act committed in the effort to
9 commit the crime.

10 An intent means intending the results which
11 actually occurred, not accidental or involuntarily. An
12 intent may be shown by acts and conducts of the defendant
13 and other circumstances from which you may naturally and
14 reasonably infer intent.

15 Ladies and gentlemen, the defendant is charged with
16 attempted murder. In order to prove this crime the State
17 must prove the defendant attempted to kill another person
18 with malice aforethought either expressed or implied.
19 And malice is hatred, ill will or hostility towards
20 another person. It is the intentional doing of a
21 wrongful act without just cause or excuse or with an
22 intent to inflict an injury or under circumstances that
23 the law will infer an evil intent.

24 Malice aforethought does not require that malice
25 exists for any particular time before the act is

1 committed but malice must exist in the mind of the
2 defendant just before and at the time the act is
3 committed; therefore, there must be a combination of the
4 previous evil intent and the act.

5 And malice aforethought may expressed or inferred,
6 and these terms express or inferred do not mean different
7 kinds of malice but merely the manner in which the malice
8 may be shown to exist. That is either by direct evidence
9 or by inference from the facts and the circumstances
10 which are proved, and expressed malice is shown when a
11 person speaks words which express hatred or ill will for
12 another or which the person prepared beforehand to do the
13 act which was later accomplished. For example, lying in
14 wait for a person or any other act or preparation going
15 to show that the deed was within the defendant's mind
16 would be expressed malice.

17 Malice may be inferred from conduct showing a
18 total disregard for human life. If facts are proved
19 beyond a reasonable doubt sufficient to raise an
20 inference of malice to your satisfaction this inference
21 would simply -- as an evidentiary fact to be considered
22 by you, the jury, along with other evidence in this case
23 and you may give it the weight that you decide that it
24 should receive.

25 Now, ladies and gentlemen, assault and battery of a

1 high and aggravated nature is an unlawful act of violent
2 injury to the person of another accompanied by
3 circumstances of aggravation. An assault occurs when a
4 person unlawfully attempts or offers to commit a violent
5 injury upon another person and had the present ability to
6 complete the attempted injury.

7 An assault is the intentional creation of a
8 reasonable fear of immediate bodily harm and it is not
9 necessarily that the attempted injury or harm actually
10 took place. For example, if I walked up to you and you
11 were within my arms reach, I draw back to hit you, that
12 is an assault.

13 A battery is the unlawful touching of another
14 person by a person who has committed the assault, and an
15 unlawful touching can be caused by a part of the accused
16 body or by any object the accused puts in motion, and a
17 battery is the completion of the assault by using and
18 applying force to another person however slight in a
19 rude, angry or resentful manner without legal
20 justification for doing so. Using my earlier example, if
21 I carried through with the assault by hitting you then
22 that would be a battery.

23 And the State must also prove circumstance of the
24 aggravation. Circumstances of aggravation include the
25 use of a deadly weapon, the intent to commit a felony,

1 the infliction of serious bodily injury, a great
2 disparity between the ages or physical condition of the
3 parties, a difference in the genders of the parties, the
4 taking of indecent liberties or familiarities with a
5 female through the use of force, purposeful infliction of
6 shame and disgrace and the resistance of lawful
7 authorities. These are only examples of circumstances of
8 aggravation.

9 Now, ladies and gentlemen, the defendant is also
10 charged with possession of a weapon during the commission
11 of attempt or to commit a violent crime. The State must
12 prove beyond a reasonable doubt that the defendant was in
13 possession of a firearm or visibly displayed what
14 appeared to be a firearm during the commission of a
15 violent crime.

16 A firearm means a machine gun, automatic rifle,
17 revolver, pistol or any weapon which is designed to or
18 may readily be converted to expel a projectile.

19 In order to find the defendant guilty of a
20 possession during the commission of a violent crime you
21 must first find the defendant guilty of either committing
22 a violent crime or attempting to commit a violent crime.
23 An attempted murder and assault and battery of a high and
24 aggravated nature are violent crimes. The State must
25 also prove beyond a reasonable doubt that the weapon

1 furthered, advanced or helped in the commission of the
2 crime.

3 Now, ladies and gentlemen, the defendant has raised
4 the defense of self defense and self defense is a
5 complete defense, and if it is established you must find
6 the defendant not guilty.

7 The State has the burden of disproving self defense
8 by proof beyond a reasonable doubt and if you have a
9 reasonable doubt of the defendant's guilt after
10 considering all of the evidence, including the evidence
11 of self defense, then you must find the defendant not
12 guilty. On the other hand, you have -- if you have no
13 reasonable doubt of the defendant's guilt after
14 considering all of the evidence, including the evidence
15 of self defense, then you must find the defendant guilty.

16 The following elements are required to establish
17 self defense. One, without fault. First the defendant
18 must be without fault in bringing on the difficulty. If
19 the defendant's conduct was the type which was reasonably
20 calculated to and did provoke a deadly assault the
21 defendant would be at fault in bringing on the difficulty
22 and would not be entitled to an acquittal based on self
23 defense. Two, imminent danger. The second element of
24 self defense is the defendant was actually in imminent
25 danger of death or serious bodily injury or that the

1 defendant actually believed he was in imminent danger of
2 death or serious bodily injury.

3 If the defendant was actually in imminent danger it
4 must be shown that the circumstances would have warranted
5 a person of ordinary firmness and courage to strike the
6 fatal blow to prevent death or serious bodily injury and
7 if the defendant believed he was in imminent danger of
8 death or serious bodily injury it must be shown that a
9 reasonable, prudent person of ordinary firmness and
10 courage would have had the same belief.

11 And in deciding whether the defendant actually was
12 or believed he was in imminent danger of death or serious
13 bodily injury you would have to consider all of the facts
14 and circumstances surrounding the crime, including the
15 physical condition and characteristics of the defendant
16 and the victim, the relative size, ages and weights of
17 the defendant and the victim may be considered in
18 deciding the apparent or actual need for force in self
19 defense and the amount of force needed.

20 Number three, the final element of self defense is
21 that the defendant had no other probable way to avoid the
22 danger of death or serious bodily injury other than to
23 act as the defendant did in this particular instance. A
24 person cannot be required to -- as to degree of force. A
25 person cannot be required to make an exact calculation as

1 to the degree or amount of force which may be needed to
2 avoid death or serious bodily injury; therefore, in self
3 defense the defendant has the right to use the force
4 necessary to avoid death or serious bodily injury and the
5 force used in self defense does not have to be limited to
6 the degree or amount of force used by the victim.

7 The defendant has the right to use so much force as
8 appeared to be necessary for complete self protection in
9 which a person of ordinary means and firmness would have
10 believed to be needed to prevent death or serious bodily
11 injury. And if the defendant is justified in defending
12 himself or others in firing the first shot then the
13 defendant is also justified in continuing to shoot until
14 it is apparent that the danger of death or serious bodily
15 injury has completely ended.

16 Now, ladies and gentlemen, there are two possible
17 verdicts for each charge which you may find in this case.
18 Under indictment 2015-GS-10-2684 attempted murder, not
19 guilty or guilty. If the defendant is found not guilty
20 you would proceed to the next question, and if the
21 defendant is found not guilty you would proceed to the
22 last question -- is found guilty you would proceed to the
23 last question.

24 Under indictment 2016-GS-10-3318 assault and
25 battery of a high and aggravated nature, not guilty or

1 guilty. And if the defendant is found not guilty you
2 would stop your deliberations. If the defendant is found
3 guilty proceed to the last question. And under
4 indictment 2015-GS-2685 possession of a weapon during the
5 commission of a violent crime, not guilty or guilty.

6 Now, ladies and gentlemen, there is no significance
7 whatsoever in the order of not guilty or guilty which I
8 state the possible verdicts. It's simply that one must
9 be stated first.

10 And, ladies and gentlemen, your verdict must be a
11 unanimous one. All 12 of you must agree on the verdict
12 and your decision must not be based on sympathy, passion,
13 prejudice, emotion or any other consideration not in
14 evidence in this case.

15 Mr. Foreman, when the jury agrees on the verdict
16 you will write the verdict on the verdict form which I
17 will provide for you. You'll sign your name as
18 foreperson then knock on the jury room door and inform
19 the bailiff that you have reached a verdict and you will
20 then be brought back into the courtroom for the
21 publication of your verdict.

22 Now, ladies and gentlemen, I ask that you go to
23 your jury room. I think they are going to take you down
24 the hall to another room where I believe your lunch is
25 waiting for you.

1 Ladies and gentlemen, please do not begin your
2 deliberations until you have been instructed to do so. I
3 still have some matters to take up with the attorneys
4 before you begin your deliberations. All right? Thank
5 you, ladies and gentlemen.

6 (WHEREUPON, the jury leaves the courtroom at
7 approximately 12:41 p.m.)

8 THE COURT: All right. Are there any objections to
9 the charge that was given that need to be placed on the
10 record at this time from the State or the defense?

11 MS. SAVAS: Nothing from the State, Your Honor.

12 THE COURT: Okay. Thank you.

13 Yes, ma'am?

14 MS. BROWN: Yes, Your Honor. We have several
15 objections to the charges that were given to the jury
16 panel. During a jury conference in the chambers we
17 talked about several jury charges that we asked you to
18 consider. We believe we provided you one dealing with
19 the issue of appearances. Let me look at the exact
20 language, Your Honor.

21 (PAUSE.)

22 MS. BROWN: The language that we proposed in our
23 self defense charge was a defendant in a self defense
24 case has the right to act on appearances. A defendant
25 must have believed he was in imminent danger not that he

1 was in -- actually in such danger because he had the
2 right to act on appearances, and under the circumstances
3 that appeared to him he believed he was in such danger
4 and a reasonable prudent man of ordinary firmness and
5 courage would have entertained the same belief.

6 That information was not included in the self
7 defense charge. We believe that there was certainly
8 evidence given during the course of this trial that
9 warrant that charge to be included and it is my
10 understanding that it was not, in fact, included, Your
11 Honor. We also object to --

12 THE COURT: You want to respond to that?

13 We will do them one at a time.

14 MS. BROWN: It's still part of the self defense.

15 THE COURT: Oh, okay. Okay.

16 MS. BROWN: We would also --

17 THE COURT: I thought this was just on the
18 appearance charge.

19 MS. BROWN: Yes, but it was also --

20 THE COURT: I'm going to let her respond and then
21 I'll --

22 MS. BROWN: Sure.

23 MS. SAVAS: Yes. Thank you, Your Honor. In
24 regards to the appearance charge, Your Honor, the State
25 would just like to say that we agree with the charges as

1 given, and the appearance charge is not applicable in
2 this case. In the cases in South Carolina in State vs.
3 Starnes, in State vs. Fuller, in State vs. Nichols when
4 appearance charges were granted in those specific cases
5 there was -- because of a shiny object or at least a
6 physical object that the defendant had claimed to have
7 seen at the time of the act, and in this case the
8 defendant testified and there was evidence to prove
9 sufficiently that there was no mistake of an object.
10 There was no appearances made.

11 The defendant testified on the stand that he did
12 not see anything in his hand nor his pockets. It was
13 merely that they were reaching. He merely reached to his
14 waist. There was nothing presented as a weapon nor
15 mistake for a weapon and the mere act of reaching does
16 not give rise to the level of appearance charges and the
17 courts have already ruled regarding that matter, sir.

18 THE COURT: Okay. I have denied your motion and
19 therefore you are protected on the record.

20 MS. BROWN: Thank you. The next charge that was
21 not included in self defense, I don't believe I heard it,
22 was if the defendant was on his own premises he had no
23 duty to the retreat before acting in self defense. The
24 defendant has no duty to retreat if by doing so increases
25 his danger of being killed or suffering serious bodily

1 injury.

2 Also -- that's still part of the same line, and I
3 don't think I heard this, there is no burden upon the
4 defendant to prove self defense. The defendant is not
5 required to prove any element of self defense. The
6 burden is on the State to disprove self defense beyond a
7 reasonable doubt. And that's the objections relating to
8 the self defense charge.

9 THE COURT: Okay. Yes, ma'am?

10 MS. SAVAS: Yes, Your Honor. Thank you. Just
11 briefly, in address to the duty to the retreat, that is
12 in regards specifically to Castle Doctrine which the
13 defendant did not request a stand-your-ground hearing.
14 Those are when incidents occur between the two parties on
15 the defendant's land. That is clearly not the case here,
16 as there's sufficient testimony in evidence to show the
17 victim was not on his property, therefore it's not
18 applicable in this case either.

19 THE COURT: All right. I agree and I did not put
20 it in there for that particular reason. As to the other
21 one, the State has the -- I stated the State has the
22 burden of disproving self defense by proof beyond a
23 reasonable doubt. If you have a reasonable doubt that
24 the defendant's guilt after considering all the evidence.
25 So I think what you wanted to have in there was in there.

1 MS. BROWN: No, Your Honor.

2 THE COURT: The State has the burden of disproving
3 self defense by proof beyond a reasonable doubt.

4 MS. BROWN: What I did not hear is the first two
5 sentence before that one which is --

6 THE COURT: The defendant has raised the defense of
7 self defense. Self defense is a complete defense and if
8 it is established you must find the defendant not guilty.
9 The State has the burden of disproving self defense by
10 proof beyond a reasonable doubt.

11 MS. BROWN: Okay. And I want to just make note my
12 objection is the sentence that has been omitted is there
13 is no burden upon the defendant to prove self defense.
14 The defendant is not required to prove any element of
15 self defense. That's the charge that I have in front of
16 me and I don't -- I believe those two sentences were
17 omitted from the charge that was --

18 THE COURT: And I think that is sufficient to state
19 that the State must disprove it. So I'm satisfied with
20 the charge.

21 MS. BROWN: Certainly.

22 THE COURT: Okay.

23 MS. BROWN: May I go to the next one?

24 THE COURT: Yes, ma'am.

25 MS. BROWN: I do not believe that we had the charge

1 on criminal intent, but before I go any further can you
2 confirm and I won't put this on the record.

3 (PAUSE.)

4 MS. BROWN: Certainly, it's jury charge number four
5 that I presented earlier but I can bring it up. May I
6 approach?

7 THE COURT: Yeah.

8 (A document was handed to the Court.)

9 THE COURT: I think we had something in there.
10 Yes, ma'am?

11 MS. SAVAS: Yes, Your Honor. You did make mention
12 in your charges of specific intent that was in your
13 original charge, sir, and therefore the State would
14 object to adding an additional charge. You did address
15 that under intent.

16 THE COURT: That it was not an accident or --

17 MS. SAVAS: Yes, Your Honor, under the attempt
18 charge second paragraph.

19 THE COURT: All right. I'm satisfied with the
20 charge but you are protected on the record.

21 MS. BROWN: Your Honor, I'd like to read it into
22 the record. May I do that?

23 THE COURT: Yes, ma'am.

24 MS. BROWN: Thank you. The defense has proposed
25 jury charge number four. That charge reads, What does

1 criminal intent mean in the law? Criminal intent is a
2 state of mind which operates jointly with an act or
3 omission or in the commission of a crime.

4 Criminal intent is a mental state of conscious
5 wrongdoing. Criminal intent includes those consequences
6 which represent the very purpose for which an act is done
7 or are known to be substantially certain to result
8 regardless of one's desire.

9 Intent may be shown by acts and conduct of the
10 defendant and have a circumstance for which they may
11 naturally and reasonably infer intent. Criminal intent
12 must be proven by the State beyond a reasonable doubt.

13 Your Honor, that is the charge that I believe is
14 certainly applicable to this particular case and also the
15 burden is on the State.

16 THE COURT: All right. Yes, ma'am?

17 MS. BROWN: I think that during closing that this
18 issue of intent seemed to have been mentioned that the
19 fact that he just shot somebody was more than enough as
20 relates to these particular offenses and, of course, that
21 would be the wrong -- that law would be stated
22 incorrectly. So certainly I think there need to have a
23 clarification to the jury that there is, in fact, a
24 specific intent that needs to exist in order for them to
25 find him guilty.

1 THE COURT: Yes, ma'am?

2 MS. SAVAS: Yes, Your Honor. The charges that you
3 had provided and charged the jury already are more than
4 sufficient in regards to this intent. It had mentioned
5 that under the attempt act of doing a particular criminal
6 act and also it's not accidentally or involuntary. Your
7 charges are sufficient, sir. And I did in my closing
8 statement make a disclaimer that anything I say to defer
9 to Your Honor and that was closing arguments. Thank you,
10 sir.

11 THE COURT: All right. I'm satisfied with the
12 charge. Intending the result which actually occurs not
13 accidental or involuntary. Intent may be shown by acts
14 and conduct of the defendant and other circumstances from
15 which you may naturally and reasonably infer intent. So
16 I'm satisfied with mine, but you are on the record and
17 protected.

18 MS. BROWN: Thank you so much. And the next
19 charge, defendant's jury charge number five was proposed
20 and I believe it was, of course, rejected. The charge
21 itself says, When a person is charged with a crime the
22 law permits the proof of his good character and
23 representation because under some circumstances a person
24 might be entitled to a verdict of not guilty. In taking
25 into consideration his good character and reputation when

1 without it a verdict of guilty might be authorized.

2 Evidence of good character and good reputation may
3 in and of itself create a doubt as to guilt and should be
4 considered by the jury along with all other evidence in
5 determining the guilt or innocence of defendant. The
6 weight you give to the testimony like all other testimony
7 in the case is for you to determine and decide in your
8 good judgment.

9 Evidence of the defendant's good reputation for
10 peace and good order is strongly persuasive of his good
11 character in that respect and is offered for the very
12 purpose stated by the circuit judge to show the
13 improbability that the defendant would have committed or
14 did commit the crime charged. That particular quote or
15 law comes from State vs. Harrison, 343 S.C. 164, 170, 539
16 S.E.2d 71, 73, Court of Appeals 2000.

17 THE COURT: All right. Yes, ma'am?

18 MS. SAVAS: Yes, Your Honor. The State made the
19 objection in chambers to adding in the good character
20 charge; however, we respect that Your Honor did include
21 that. That was, in fact, included just now in these jury
22 charges, sir.

23 THE COURT: Yeah. My charge was, The defendant has
24 presented evidence of his good reputation and character
25 to show that it would be inconsistent with the defendant

1 committing the crime. The weight you give to that
2 testimony like all other testimony in this case is for
3 you to decide in your good judgment. You may consider
4 the testimony of the defendant's good character along
5 with all other evidence in deciding whether or not the
6 defendant committed the crime.

7 I'm satisfied that my charge has fewer words and is
8 probably clearer than the one that you proposed, so I'm
9 satisfied with this one.

10 MS. BROWN: Thank you. Do you want us to go on to
11 the next matter?

12 THE COURT: Is this next matter about what sidebar?

13 MS. BROWN: No. The sidebar is not the next
14 matter. I think this one deals once again in chambers we
15 talked about doing my closing. I would like to mention
16 evidence that's already in the record. I refer to you --
17 I think we even looked at the transcript that I had which
18 was, of course, a rough draft provided during Nicholas
19 Washington's testimony.

20 Mr. Washington testified himself that he was aware
21 of a shooting. His friend was shot in his community. I
22 certainly wanted to provide that information in front of
23 the jury. It was not objected to at the time it was
24 entered. There was no objection raised. It is, in fact,
25 part of this record. It is evidence that's already in

1 the record.

2 I asked to simply state the evidence that exists
3 and I was told I could not do that, I was not to make any
4 reference to the evidence that's already part of the
5 record, and my understanding of that is because it would
6 suggest or infer that the neighborhood is bad.

7 Certainly, we take -- we note the objection that
8 all of the evidence that we have attempted to enter into
9 the record regarding the neighborhood of this community,
10 in fact, where my client lived and formed his opinion
11 was, of course, objected to and then sustained by Your
12 Honor. We think it was certainly critical and important,
13 and more importantly when the State's witness testified
14 to an account that he was aware of and is in the record I
15 think I had every right and I should have been allowed
16 the opportunity to refer to it in my closing.

17 You know, my concern is that we've allowed some
18 information going in front of the jury that just was
19 misstatement of facts and incorrect information but the
20 information that's in the record, and I showed it to Your
21 Honor based on the transcript that we know exists, I was
22 not allowed to do so.

23 THE COURT: Okay. Yes, ma'am?

24 MS. SAVAS: Thank you, Your Honor. The State would
25 just like to preserve all of its objections to that

1 coming in and respect your decision that you have already
2 sustained and ask that that continue to be sustained.

3 THE COURT: Okay. I have ruled on all those but
4 you are protected now.

5 MS. BROWN: Thank you so much.

6 THE COURT: Anything else?

7 MS. SAVAS: Nothing from the State.

8 THE COURT: All right. Let's go have lunch. Have
9 we got your phone numbers? We will call you and I will
10 -- if you kind of be close. The jury may have some
11 questions. I'm sending a copy, with y'all's permission,
12 of the charge, and the verdict form. If y'all can get
13 together and decide, make sure the right evidence goes
14 back to them.

15 MS. SAVAS: Yes, sir. Are they going to deliberate
16 during lunch?

17 THE COURT: They are.

18 MS. SAVAS: Okay.

19 THE COURT: It's going to be a working lunch. It's
20 Friday afternoon.

21 If you can bring the alternates back up here then
22 I'll talk to them.

23 (PAUSE.)

24 THE COURT: I'm not going to send the gun and
25 bullets back. I'm just going to send pictures of

1 everything.

2 MS. CHISOLM: Thank you, Your Honor.

3 MS. SAVAS: Yes, Your Honor.

4 (WHEREUPON, the jury was given the evidence and
5 verdict form and instructed to begin their deliberations
6 at approximately 1:02 p.m.)

7 (WHEREUPON, court was in recess while awaiting a
8 verdict from the jury.)

9 THE COURT: I understand that the jury has a
10 verdict. And I'll put it on the record, they came back
11 with one question that said, What is malice aforethought?
12 I just said, Look at the charge again. I didn't talk
13 with them. I just said, Look at the charge.

14 MS. BROWN: Thank you.

15 THE COURT: And then that went back there for them
16 to look at.

17 MS. SAVAS: That's fine. My second chair is on her
18 way in right now.

19 THE COURT: Okay.

20 MS. SAVAS: Thank you, sir.

21 (PAUSE.)

22 (WHEREUPON, the jury enters the courtroom at
23 approximately 3:02 p.m.)

24 THE BAILIFF: All jurors are present, Your Honor.

25 THE COURT: All right. Thank you.

1 You may be seated.

2 Ladies and gentlemen of the jury, Mr. Foreman, has
3 the jury reached a verdict?

4 THE FOREMAN: Yes, we have.

5 THE COURT: Is it unanimous?

6 THE FOREMAN: Yes, sir, it is.

7 THE COURT: Please pass it to the clerk.

8 (PAUSE.)

9 THE COURT: All right. The verdict form is in
10 order. Please publish.

11 The defendant will now stand.

12 THE CLERK: The State of South Carolina, County of
13 Charleston, the State of South Carolina vs. Rhajon Akeem
14 Reshae Sanders. We, the jury, by unanimous agreement
15 find the defendant, Rhajon Akeem Reshae Sanders, on the
16 charge of attempted murder, guilty.

17 If you find the defendant not guilty proceed to
18 question two. If you find the defendant guilty skip
19 question two and proceed to question three.

20 Question three: We, the jury, by unanimous
21 agreement find the defendant, Rhajon Akeem Reshae
22 Sanders, on the charge of possession of a weapon during
23 the commission of a violent crime, guilty. Signed by the
24 foreperson, dated June 10th, 2016.

25 THE COURT: All right. Ladies and gentlemen of the

1 jury, if this is your verdict, please raise your right
2 hand.

3 (All hands were raised.)

4 THE COURT: Let the record reflect that all jurors
5 have raised their hand.

6 Does the defense request polling of the jury? You
7 may be seated at this time.

8 MS. BROWN: Yes, Your Honor, we do.

9 THE COURT: Okay. Please poll the jury.

10 THE CLERK: When I call out your juror number,
11 please raise your hand to identify yourself. I will then
12 ask you two questions. Please answer with a yes or no.

13 Juror number 366, is this your verdict? Yes or no?

14 JUROR NUMBER 366: Yes. I'm sorry.

15 THE CLERK: Is it still your verdict?

16 JUROR NUMBER 366: Yes.

17 THE CLERK: Juror number 4, is this your verdict?

18 JUROR NUMBER 4: Yes.

19 THE CLERK: Is it still your verdict?

20 JUROR NUMBER 4: Yes.

21 THE CLERK: Juror number 174, is this your verdict?

22 JUROR NUMBER 174: Yes.

23 THE CLERK: Is it still your verdict?

24 JUROR NUMBER 174: Yes.

25 THE CLERK: Juror number 104, is this your verdict?

1 JUROR NUMBER 104: Yes.
2 THE CLERK: Is it still your verdict?
3 JUROR NUMBER 104: Yes.
4 THE CLERK: Juror number 254, is this your verdict?
5 JUROR NUMBER 254: Yes.
6 THE CLERK: Is it still your verdict?
7 JUROR NUMBER 254: Yes.
8 THE CLERK: Juror number 144, is this your verdict?
9 JUROR NUMBER 144: Yes.
10 THE CLERK: Is it still your verdict?
11 JUROR NUMBER 144: Yes.
12 THE CLERK: Juror number 331, is this your verdict?
13 JUROR NUMBER 331: Yes.
14 THE CLERK: Is it still your verdict?
15 JUROR NUMBER 331: Yes.
16 THE CLERK: Juror number 215, is this your verdict?
17 JUROR NUMBER 215: Yes.
18 THE CLERK: Is it still your verdict?
19 JUROR NUMBER 215: Yes.
20 THE CLERK: Juror number 52, is this your verdict?
21 JUROR NUMBER 52: Yes.
22 THE CLERK: Is it still your verdict?
23 JUROR NUMBER 52: Yes.
24 THE COURT: Juror number 173, is this your verdict?
25 JUROR NUMBER 173: Yes.

1 THE CLERK: Is it still your verdict?

2 JUROR NUMBER 173: Yes.

3 THE CLERK: Juror number 375, is this your verdict?

4 JUROR NUMBER 375: Yes.

5 THE CLERK: Is it still your verdict?

6 JUROR NUMBER 375: Yes.

7 THE CLERK: Juror number 344, is this your verdict?

8 JUROR NUMBER: Yes.

9 THE CLERK: Is it still your verdict?

10 JUROR NUMBER 344: Yes.

11 THE CLERK: Your Honor, the jury has been polled
12 and the verdict stands.

13 THE COURT: All right. Thank you.

14 Ladies and gentlemen, let me take this opportunity
15 to thank you for coming to a verdict. I would have said
16 the same thing had you gone the other way. It's never
17 easy, I think you see, for 12 people to agree on
18 something. My wife and I don't agree on anything, so
19 when you try to bring 12 people from different walks of
20 life to determine one issue it's difficult, and I
21 appreciate your hard work during this week and your
22 taking the time to reach a verdict. And, again, thank
23 you for your service.

24 Now, ladies and gentlemen, throughout this trial I
25 have told you you can't talk to anybody about this trial.

1 That prohibition has now been lifted and you can talk to
2 anybody you want to for as long as you want to or as
3 little and you want to. So if somebody persists in
4 talking to you about the case and you don't want to talk
5 to them and they continue to ask you about the case
6 contact one of the bailiffs or something like that. They
7 will in turn get in touch with me and I'll make sure
8 that's not a problem. But again, if you don't want to
9 say anything about it you don't have to. But again, you
10 can talk to whoever you want to.

11 Ladies and gentlemen, there were a lot of important
12 things going on in Charleston this week. As you know, we
13 had the Spoleto Festival, we had everything else going
14 on, but I can assure you that there was nothing more
15 important than this trial because this trial is what is
16 one of the core of our country and the fact that we make
17 sure that justice is done.

18 Now, ladies and gentlemen, this completes your jury
19 duty for this week.

20 And what do they pay them down here, James?

21 THE CLERK: \$10 a day, plus 57 and a half cents per
22 mile.

23 THE COURT: Plus lunch every day. So you got lunch
24 every day and you'll get a pittance compared to what your
25 value to this community has been for this week. So you

1 can't serve jury duty for the next year and you don't
2 have to serve it for the next three years if you don't
3 want to.

4 You know, there's always polls and studies going on
5 about what makes America great. Well, it's not the
6 judges, it's not lawyers, it's not politicians but it's
7 people like y'all who come from your walks of life and
8 give up your life for a week to come here and be the free
9 people who determines whether or not a fellow citizen is
10 guilty or not.

11 Again, the police don't get to decide, the
12 politicians, the judges don't decide, only other free
13 people, and that's what makes America great. And I tell
14 people that I have the best job in the world because I
15 get to sit between these two flags, and these flags,
16 you know, they are just pieces of cloth here but what
17 they represent is so much greater than any of the
18 individuals that are even in this courtroom because you
19 didn't have to die this week or shed blood but you did
20 all that you could do to preserve the ideas of freedom
21 that we have in this country.

22 So, ladies and gentlemen, as you leave out of here
23 I want you to think of yourselves as some of the very
24 threads that make up this idea of truth and justice and
25 the fact that all defendants are entitled to a fair trial

1 in this courtroom, and so your service to our state, our
2 county and our country has been great this week and it
3 would be my honor to shake your hand as you all leave out
4 of here.

5 Now, ladies and gentlemen, I'll add in about 30
6 minutes I'm going to sentence the defendant in accordance
7 with your verdict. If you would like to come back in
8 here and sit here and see what my sentence would be,
9 you've been here since Monday morning, you're welcome to
10 be here until the very end. All right. Thank you.

11 (WHEREUPON, the jury leaves the courtroom at
12 approximately 3:10 p.m.)

13 THE COURT: You may be seated. Would the defense
14 like to make your posttrial motions now or would you
15 rather submit them in writing in 10 days?

16 MS. BROWN: Submit them in writing in 10 days, Your
17 Honor.

18 THE COURT: Okay. And after that I will give the
19 State five days to respond to theirs. Okay?

20 If you could please put the defendant in posture
21 for sentencing. We will come back at 3:30 for sentencing
22 of the defendant.

23 MS. BROWN: Okay.

24 THE COURT: That will give you an opportunity to
25 talk to your people and the State an opportunity to talk

1 to theirs. Thank you.

2 Court will reconvene at 3:30 for sentencing.

3 (WHEREUPON, a brief recess was taken.)

4 THE COURT: All right. Ms. Savas?

5 MS. SAVAS: Yes, Your Honor.

6 THE COURT: Are you ready to proceed?

7 MS. SAVAS: Yes, Your Honor.

8 (PAUSE.)

9 THE COURT: He doesn't need to sign it when there's
10 a jury verdict.

11 All right. Madam Solicitor, any statements on
12 behalf of the victim or the victim's family, or victim
13 impact stuff?

14 MS. SAVAS: Yes, Your Honor. Thank you. May it
15 please the Court. As it's noted that the victim was
16 present during this trial and he wanted to pursue charges
17 and prosecution. We have met with them at length in this
18 case. They have left it at the discretion of the Court
19 as to their sentencing.

20 On behalf of the State of South Carolina, Your
21 Honor, these are very serious offenses. Although we
22 acknowledge that the defendant does not have any prior
23 record given the specific circumstances of this case and
24 the actions of this defendant has taken we find them to
25 be reckless, sir, and these serious charges. We would

1 respectfully request a sentence in the 15 to 30 year
2 range on all charges.

3 THE COURT: All right. Thank you.

4 Ms. Brown?

5 MS. BROWN: May it please the Court, Your Honor.
6 Mr. Sanders is present in the courtroom today with his
7 mother, Cynthia Sanders; his aunt, Elizabeth Wright;
8 there's another aunt, uncles, and cousins and, of course,
9 Ms. Sanders testified during the course of this trial. I
10 believe Ms. Sanders would like to address the Court at
11 the appropriate time. Elizabeth Wright, which is an
12 aunt, would like to address the Court. Mr. Sanders
13 himself, of course, would like to address the Court as
14 well.

15 I would remind the Court, as Madam Solicitor
16 indicated, that he has never been charged with a crime,
17 he's never been arrested prior to this particular event.
18 He is 25 years of age. He did complete high school and
19 of course he went to Trident Technical College for about
20 almost two years. He doesn't have any children, Your
21 Honor.

22 His mother, of course, testified during the course
23 of this trial that she is battling with a medical issue.
24 Of course, that particular health is terminal. She does
25 have cancer. And Rhajon has, in fact, for the past two

1 years now that he's been out on bond he's been caring for
2 his mother after he, of course, lost his job from MUSC.

3 He was, of course, gainfully employed prior to this
4 day for two years, as you've heard during the course of
5 this trial, which, in fact, the human resource manager
6 came in and verified that.

7 We would ask once again that you consider just in
8 light of the information that you were provided during
9 the course of this trial to think of the immediate
10 response following the incident itself when Rhajon fired
11 his weapon and he returned to his home, as he testified,
12 and he went back out and checked on Mr. Nicholas along
13 with his mother, along with his brother.

14 His family contacted law enforcement. He
15 immediately surrendered, had his hands up in the air at
16 the time law enforcement came. He sat down and spoke
17 with law enforcement voluntarily and freely and explained
18 his side of the story from his perspective and, Your
19 Honor, he had maintained at this time that he was afraid
20 certainly. And he certainly had apologized to the
21 family, apologized to Mr. Washington.

22 And, in fact, Mr. Washington stated during the
23 course of this trial that Rhajon and him have spoke since
24 this time because he went out of his way to contact
25 Mr. Washington or make sure that Mr. Washington and him

1 didn't have any problems.

2 And, in fact, during the course of this trial I
3 understand you may not have seen it but outside of these
4 doors when Mr. Washington came into this courtroom he
5 acknowledged Rhajon. They gave each other a handshake
6 before he even testified during the course of this trial.
7 There's no animosity whatsoever. The guys have clearly
8 looked at it and truly believe that there was maybe some
9 sort of miscommunication. He clearly stated that at the
10 time he believed that he was threatened and he believed
11 that he was going to be harmed but for the only reason in
12 which he fired his weapon.

13 We understand, Your Honor, that he was not able to
14 talk about the environment in which he lived and why he
15 felt that he needed to have a firearm but I think all of
16 that was in his mind at the time, as you may know. We
17 would ask once again that you consider all of that when
18 you render a sentence in this case.

19 And we would also ask that you consider the
20 statements of his relatives at this time as well, and ask
21 that you observe some sort of, of course, leniency.

22 THE COURT: Thank you.

23 MS. BROWN: And we would ask Elizabeth Wright to be
24 the first person.

25 THE COURT: Just speak loudly. State your name,

1 please.

2 MS. WRIGHT: My name is Elizabeth Wright.

3 THE COURT: Yes, ma'am?

4 MS. WRIGHT: I am the eldest aunt of Rhajon, and I
5 stand here to say that Rhajon is a very good child and
6 he's very helpful around. Anything he can do for
7 somebody he would do, and when his mom got sick we all
8 came in but he felt that he had to do for her. We would
9 do for her but he would come beyond us and he would just
10 go and do whatever needed to be done.

11 Rhajon is so much -- so much in love with his mom.
12 He cares about his mom. Every time if he would talk to
13 anybody he would ask how mom is doing. And he asks his
14 mom, Did you take your medication?

15 She said, No.

16 He said, Well, did you eat?

17 She said, No.

18 He said, Well, mom, you got to take your
19 medication.

20 Even though he is going through -- went through all
21 of this his focus was always on his mother. He did not
22 think about himself at all. He just was focusing on his
23 mother. And I ask Your Honor to please consider this
24 because he loves his mom and his mom really, really needs
25 him because I could come but I live in Huger and I have a

1 husband. My husband, he is not that well himself. So I
2 have to spend more time with my husband. And I come and
3 I help relieve her but he needs -- his mother needs him.
4 God knows his mother needs him and I ask you please, Your
5 Honor, if it's your will, please consider some things.

6 THE COURT: Thank you.

7 (PAUSE.)

8 THE COURT: Ms. Brown, who do you want to speak
9 now?

10 MS. BROWN: Oh, I'm sorry, Your Honor. His mother
11 now is Cynthia Sanders.

12 THE COURT: Okay. She can just speak as loud as --
13 or if you want to bring her up by one of these
14 microphones.

15 MS. SANDERS: Good afternoon. My name is Cynthia
16 Sanders and I'm the mother of Rhajon Sanders.

17 THE COURT: Yes, ma'am?

18 MS. SANDERS: As my sister said for Rhajon, he's a
19 loving child. He would do anything for me. I've never
20 had any problems with him. This is his first time
21 involved with the law, and if he felt that his life was
22 in danger that was the only reason why he shot at
23 Nicholas, for safety purpose, not for malice, not for
24 hatred because he didn't know Nicholas.

25 After I got diagnosed with cancer Rhajon was there

1 for me. He fixed me breakfast, fixed me lunch. He fixed
2 me dinner. He made sure that I took my medicine. He
3 made sure that I go to my treatment. He was there
4 holding my hand all the time. I can rely on him. And,
5 Judge, I just ask you and the Court to take all of this
6 into consideration and please have lenience on him.

7 We all make mistakes in life. Some of us learn
8 from our mistakes and some of us don't, and I believe
9 that he's learned from his mistake. So I ask you to take
10 all those things into consideration.

11 THE COURT: Thank you, ma'am.

12 Anyone else want to speak on his behalf?

13 MS. BROWN: Beg the Court, Your Honor.

14 (PAUSE.)

15 MS. BROWN: Your Honor, Mr. Rhajon is going to
16 speak, address the Court right now.

17 THE COURT: All right. He can stay seated if he
18 wants to since he's in shackles.

19 THE DEFENDANT: I can stand up, too?

20 THE COURT: You can do whatever you want to do.

21 THE DEFENDANT: I just want to apologize to my mom.
22 I'm sorry.

23 And I'm not that monster that the solicitor tried
24 to make me seem. I really am not. I didn't mean for
25 this to be happening. I didn't want this to go this far.

1 Like they said, I never been in trouble with the law. I
2 don't know nothing about the court system. I don't know
3 anything about jail, anything. This is the first time
4 I've ever been in trouble, first time I ever seen a
5 judge. I hope you just don't sentence me harsh. Just --
6 I love you, mom.

7 MS. SANDERS: I love you, too, baby.

8 THE COURT: Okay. Anything else?

9 MS. BROWN: Beg the Court's indulgence.

10 THE DEFENDANT: That's it.

11 THE COURT: All right. Thank you.

12 MS. BROWN: Your Honor, we thank you for
13 considering the remarks made by Rhajon and his family
14 members. Once again, we would like to remind you that
15 Rhajon and Nicholas, obviously the relationship is in a
16 different place. They didn't know each other prior to
17 this event. After the event they have spoken, as he
18 indicated on the stand.

19 Mr. Washington clearly has indicated they don't
20 have any problems. I believe he continues to go in that
21 community, Your Honor, and I think the guys may see each
22 other more often now but there has been no subsequent
23 incident, there's been no problems whatsoever. And more
24 importantly, Your Honor, as I stated, I sat there and saw
25 these guys just shook hands in this courtroom.

1 THE COURT: Well, but you understand well that it's
2 not --

3 MS. BROWN: I understand.

4 THE COURT: It's not Washington against him --

5 MS. BROWN: I understand.

6 THE COURT: -- It's the State of South Carolina.

7 MS. BROWN: I understand that. I want to remind
8 the Court that if in fact at the point of his release
9 that there will not be any problems, obviously, and I
10 think that was one of the family's main concern, that
11 they live so close together and there would not be any
12 retaliation, and we just didn't want that to be a
13 problem. But once again, we would ask that you again
14 extend leniency in rendering a sentence today, and we
15 thank you.

16 THE COURT: All right. Thank you. How much time
17 did the defendant serve before --

18 MS. BROWN: Your Honor, I believe he --

19 THE COURT: A couple days?

20 MS. BROWN: Yeah. I'm sorry. One second.

21 It was six days initially, and, of course, during
22 the course of the trial.

23 THE COURT: All right. I've listened to the
24 testimony throughout this week. It's been the most
25 senseless thing I've ever heard. I mean, and I've

1 probably tried 25 murder cases and I'm just appalled at
2 the way that people will take a weapon and shoot at
3 another human being. Everybody wants to blame the gun.
4 Well, it isn't the gun's fault. But I am just amazed at
5 the level that people will go to shoot another person.

6 Your client is so lucky that he's not here facing a
7 maximum -- or minimum of 30 years day-for-day. He was
8 not a good shot, but I don't give him credit for that.
9 But I do understand that they were there. The jury did
10 not buy the self defense. It just wasn't going to stick
11 in this case. And my beliefs, whatever, the jury did not
12 buy it and it didn't take them long. It seemed to be
13 pretty clear on their part.

14 But he asserted himself in something he should have
15 just stayed at home. He's lucky that he just shot this
16 poor man's leg and it doesn't make him lame, but he's
17 going to be permanently disabled from that. How much I
18 don't know.

19 The sentence of this Court -- I'm not going to
20 sentence him to the maximum but he's not getting the
21 minimum either. The sentence on the attempted murder
22 charge is that he be committed to State Department of
23 Corrections for a period of 10 years.

24 On the gun charge he's sentenced to 5 years. I
25 want it to be known that he is sentenced on the gun

1 charge so therefore they will run consecutively. So he
2 will have a total sentence of 15 years. Good luck, sir.

3 MS. BROWN: Thank you, Your Honor.

4 THE COURT: I'll look forward to your posttrial
5 motions in 10 days to my Sumter office, and you may send
6 them via e-mail.

7 MS. BROWN: Thank you, Your Honor. Your Honor, and
8 the objections that we were not able to include --

9 THE COURT: If you'd like to just put those in
10 writing then I'll allow them to respond.

11 MS. BROWN: Certainly. Thank you, Your Honor.

12 THE COURT: Thank you.

13 (WHEREUPON, the trial was concluded.)

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STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

STATE OF SOUTH CAROLINA,

vs.

RHAJON AKEEM RESHAE SANDERS,

Defendant.

IN THE COURT OF GENERAL SESSIONS
NINTH JUDICIAL CIRCUIT

INDICTMENT Nos. 2015-GS-10-2684;
2015-GS-10-2685; 2016-GS-10-3318

**DEFENDANT'S NOTICE OF MOTION
AND MOTION TO RESTATE
OBJECTIONS RAISED DURING TRIAL
AND PLACE SIDE BAR RULINGS IN
THE RECORD**

**TO THE HONORABLE ROGER YOUNG, PRESIDING JUDGE AND NINA SALVAS,
ASSISTANT SOLICITOR FOR NINTH CIRCUIT SOLICITOR'S OFFICE:**

The Defendant, by and through his undersigned counsels, hereby move to restate objections raised during the trial and place in the record rulings made during the trial at side bar.

The Defendant's counsel raised objections during the trial and most of them were overruled. The basis of the Court's decisions were rarely addressed on the record. The Defendant's counsel made an attempt to seek clarification for the Court's rulings by requesting a side bar conference and was unaware that the side-bar conferences were not on the record. To ensure an accurate record for purposes of appeal, the Defendant's counsel requested an opportunity to restate her objections and side bar rulings in the record. The Court agreed to allow Defendant's counsel to place previously raised objections on the record and to place side bar conference discussions on the record. The Defendant's counsel was given ten (10) days following sentencing to provide her objections for the record.

Objection Number One (1) Raised: The Defendant questioned the witness, Nicholas Washington, on a photo depicting Kent Avenue. The witness, Nicholas Washington, clearly identified the photo as Kent Avenue and informed the Court that the picture is Kent Avenue, a more recent picture of the street, but nevertheless it was Kent Avenue. The

Defendant's counsel attempted to admit the photo in evidence. The Assistant Solicitor objected to the admission of the photo clearly identified by the State's witness as Kent Avenue and requested a side bar conference. During side bar, the Court ruled that the photo was inadmissible because it was not taken the night of the shooting incident. The State of South Carolina's objection was sustained. The Defendant's counsel takes exception to this ruling. The Defendant's photo was later admitted into evidence after the Defendant brought to the Court's attention that the State of South Carolina admitted a photo of Kent Avenue taken by google maps after the shooting incident. The Court overturned its previous ruling by allowing the admission of the photo, but the witness, Nicholas Washington, testimony had concluded and he was released by the Court as a witness. The Defendant was unable to demonstrate through witness Nicholas Washington's testimony his location at the time the shots were fired. Nicholas Washington's location at the time that the shots were fired was critical in the Defendant's case. The Court's ruling prohibited the Defendant from offering testimony through Nicholas Washington that was critical to the issue in the case.

Objection Number Two (2) Raised: The Assistant Solicitor objected to the Defendant's admission of the witness, Nicholas Washington's, written statement signed December 26, 2014 after Mr. Washington acknowledged that he reviewed the statement, provided the accounts in the statement to law enforcement and signed the statement on December 26, 2014. The Defendant's counsel attempted to admit the previously written statement for impeachment purposes. The Court took a recess and allowed an explanation of the basis of the State's objection to admitting the evidence. During recess, the State of South Carolina argued that the proper foundation was not made for admission of the witness previous inconsistent statement because the witness did not identify who the officer was that wrote the

statement and only the officer could admit the evidence. The State continued to argue that the witness testified that the statement was truthful. The Court sustained the State's objection without stating a reason. The Defendant's counsel takes exception to the Court's ruling. The Court improperly ruled that a witness must identify the officer that took his statement and only the officer could admit the witness statement for impeachment purposes. The witness testified that he provided the contents of the written statement to the officer. The witness admitted to reviewing the statement prior to signing the document and the witness testified on cross examination differently from the written statement. The inconsistent statement should have been admitted into evidence for impeachment purposes.

Objection Number Three (3) Raised: The Assistant Solicitor objected to the witness, Katina Washington answering a question about whether the gate makes loud noise, as testified to by witness Nicholas Washington. The State objected on the basis of speculation. The Defendant's counsel take exception to the Court's ruling. The Court improperly prohibited the witness from testifying based on her personal knowledge of whether a gate she has used many times made noise.

Objection Number Four (4) Raised: The Assistant Solicitor objected to any line of questioning by the State's Witnesses Officer Stanley Tucker and Officer Rotthaus regarding the number of times each witness responded to the Defendant's neighborhood and street, Kent Avenue. The Court sustained the objection. The matter was taken up on side-bar. The Defendant's counsel informed the Court that the issue of the Defendant's neighborhood formed the Defendant's state of mind. The Defendant's counsel informed the Court that the neighborhood is relevant because the Defendant lives in a high crime neighborhood subject to shooting, robberies, and other criminal behavior. During side bar, the Court informed the

attorneys that a Defendant cannot live in an area and then refer to it as bad. The Defendant's counsel takes exception to this ruling. The Defendant's counsel believe that it was imperative that the jury was allowed to hear testimony about the Defendant's neighborhood's propensity for violence is relevant to assist the jury as factfinders and which formed his opinion and state of mind on December 26, 2014. The Court ruled that the Defendant's neighborhood was not on trial and any evidence relating to the conditions of the neighborhood for violence and criminal acts were inadmissible.

Objection Number Five (5) Raised: The Assistant Solicitor during cross examination of Defendant, Rhajon Sanders, inferred to the jury that the Defendant was reckless for having a loaded weapon on his person while on his property. The Defendant's counsel requested side-bar and moved to allow the testimony about the Defendant's neighborhood citing that the State of South Carolina had opened the door for such line of questioning by inferring to the jury that the Defendant was reckless in having possession of a loaded weapon while on his property. The Court's ruling restricting any mention of the violence in the Defendant's neighborhood prohibited the Defendant from answering the State's inquiry about having a firearm on his person. During the side bar conference, the Court ruled that the State of South Carolina did not open the door to such line of questioning. The Defendant's counsel take exception to the ruling.

Objection Number Six (6) Raised: The Assistant Solicitor on cross examination of witness Cynthia Sanders questioned her about whether she asked the neighbors if there were problems in the neighborhood. The witness testified that the neighbor did not relay any problems, but that the area was in a high crime area. The Defense requested side bar and informed the Court that the Assistant Solicitor's line of questioning opened the door to the

reputation of the neighborhood. The Court ruled that the Assistant Solicitor did not open the door and the witnesses may not testify to any propensity for violence in the neighborhood but could elicit testimony about Kent Avenue solely. The Court's ruling that the witnesses may testify to Kent Avenue after the Assistant Solicitor opened the door prejudiced the Defense because the witnesses such as Officer Routhhuas, Detective Rebecca Barfield, and PFC Shawn Perkins, testimony had concluded and were released from their subpoena. The Defensed did not have an opportunity to elicit testimony from these witnesses regarding their knowledge, interactions or involvement of Kent Avenue. The Defendant's counsel takes exception to the Court's ruling.

Objection Number Seven (7) Raised: The Defendant's counsel objected to the State's re-direct examination of SLED witness Jennifer Nates allowing the State to introduce evidence they failed to properly admit on direct examination. During direct examination, the State failed to introduce the gunshot residue kit in evidence. The Court informed the State of South Carolina that the line of questioning was re-direct and the State's response was that they had to get the evidence in. The Court overruled the Defendant's objection and allowed the State to introduce evidence that they failed to admit during direct examination and was not a proper line of questioning on redirect. The Defendant's counsel takes exception to the Court's ruling and the admission of the gunshot residue kit.

Objection Number Eight (8) Raised: The Defendant's counsel objected to the State's line of questioning to witness. Ferantez Sanders regarding jail phone calls with the Defendant. The jail phone calls were not introduced for impeachment purposes, but was wholly irrelevant. The Defendant's counsel requested side-bar. During side bar, the Court ruled that the Assistant Solicitor was not limited in her scope of questioning on cross examination, but that the

Defendant is limited on direct. The Defendant's counsel inquired whether the line of questioning must be relevant. South Carolina Rule of Evidence 611 does not allow a party to utilize cross examination as a mode to introduce irrelevant evidence. The Defendant's counsel takes exception to the Court's ruling that the State of South Carolina was not limited on her scope of questioning on cross examination and the testimony involving jail calls was improperly admitted into evidence during the trial.

Objection Number Nine (9) Raised: During the jury charge conference, the Defendant's counsel informed the Court that the State's witness, Nicholas Washington testified that his friend was killed in the neighborhood. The Defendant's counsel presented the Court with a rough draft transcript of the testimony as attached hereto as Exhibit "A". The Defendant's counsel informed the Court that the testimony was part of the record and that no one objected to the line of questioning and that the testimony was not struck from the record. The Court ruled that the Defendant's counsel was prohibited from making any reference to the witness Nicholas Washington's testimony where he stated his friend was killed in the Accabee community. The Court further admonish the Defendant's counsel on the record after the jury charge conference that if any reference to the community was made during closing remarks, the Court will deal the Defendant's counsel. The Defendant's counsel takes exception to the Court's ruling.

Objection Number Ten (10) Raised: During the Assistant Solicitor's closing argument, the Defendant's counsel objected several times that the statements made by the State was not in the evidence. The Court overruled the objection. The State of South Carolina continued to misinform the jury of evidence that was not in the record. The Defendant's counsel takes exception to the Court's ruling.

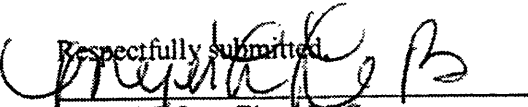
Objection Number Eleven (11) Raised: The Defendant's counsel objected to the jury charges. The Defendant proposed eight (8) jury charges attached hereto as Exhibit 'B'. The Court did not submit the proposed charge for good character. The proposed language was read into the record. The proposed jury charge for good character was supported by the evidence offered during the trial. During the jury charge conference in chambers the Court stated that "the boy's grandmother did testify to his character". The Defendant's grandmother did not testify. The Defendant's mother testified during this trial and clearly stated that her child has never given her any problems and gave examples of his good character. The Proposed Jury Charge for Good Character was supported by the evidence. The Court ruled that it will not submit the jury trial proposed by the Defendant's counsel. The Defendant's counsel take exception to this ruling.

Objection Number Twelve (12) Raised: The Defendant's counsel objected to the jury charges. The Defendant proposed eight (8) jury charges attached hereto as Exhibit 'B'. The Court did not submit the proposed charge for criminal intent. The proposed language was read into the record. The proposed jury charge for criminal intent was necessary to assist the jury with reaching a verdict. The issue before the Court was whether the Defendant possessed malice or criminal intent when he fired his weapon or fear. Criminal intent is necessary for the charge of attempted murder. During deliberations, the jury presented a question about malice. The Proposed Jury Charge for Criminal Intent would have aid the jury in determining whether the Defendant possessed a criminal intent or malice at the time he fired his weapon. The Defendant's counsel takes exception to the Court's ruling.

Objection Number Thirteen (13) Raised: The Defendant's counsel objected to the jury charges. The Defendant proposed eight (8) jury charges as attached hereto as Exhibit 'B'. The Court did not submit the self- defense act on appearances charge to the jury although the

evidence in the record supported an act on appearances charge. The Defendant and witness, Ferantez Sanders both testified that Nicholas Washington was standing across the street from their residence in all black in the dark. The Defendant and witness, Ferantez Sanders testified that Nicholas Washington placed his hands behind his back, started approaching the Defendant and reached towards his waistband. The Defendant fired his weapon based on his observations of Nicholas Washington. The State of South Carolina argued that the self- defense act on appearances charges is only appropriate when a weapon has been observed. The Assistant Solicitor referred to *State vs. Rouse*, 138 SC 98, 135 S.E. 641 (S.C. 1926) as a case supporting her position to exclude the self-defense act on appearances charge. However, in *State vs. Rouse*, the Court ruled that general charge offered by the Judge did cover the right of one to act on appearances and secondly the Defendant's counsel waived his right to argue because he failed to address it after the Court charged the jury. In this case, the Defendant's counsel requested the self-defense act on appearances did not allow the instruction for the act of appearances to be submitted to the jury because there was a general instruction that included the language. In this case, the Defendant's counsel requested the self-defense act on appearance charge based on the evidence in the record and the Court did not offer any charge that included such language. The Court ruled that the charge was not appropriate and did not submit to the jury. The Defendant's counsel take exception to the Court's ruling.

Respectfully submitted,


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June 15, 2016


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STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

IN THE GENERAL SESSIONS COURT
NINTH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA,

INDICTMENT Nos. 2015-GS-10-2685;
2016-GS-10-2684; 2016-GS-10-3318

vs.

**DEFENDANT'S JURY CHARGE
NUMBER 8**

RHAJON AKEEM SANDERS,

Defendant.

Self-Defense is a complete Defense. If established, you must find the Defendant not guilty.

There are four elements required by law to establish self-defense. First, the Defendant must be without fault in brining on the difficulty. Second the defendant must have been in actual imminent danger of losing his life or sustaining serious bodily injury, or he must have actually believed he was in imminent danger of losing his life or sustaining serious bodily injury. Third, if his defense is based upon belief of imminent danger, a reasonably prudent person of ordinary firmness and courage would have entertained the same belief. If the Defendant actually was in imminent danger, then the circumstances were such as would warrant a person of ordinary prudence, firmness, and courage to [strike the fatal blow] [shoot the fatal shots] in order to save himself from serious bodily harm or losing his own life. Fourth, the Defendant had no other probable means of avoiding the danger of losing his own life or sustaining serious bodily injury than to act as he did in this particular instance. These are the elements of self-defense.

A Defendant, in a self-defense case has the right to act on appearances. A defendant must have believed he was in imminent danger, not that he was actually in such danger, because he had the right to act on appearances, and under the circumstances as they appeared to him, he

believed he was in such danger and a reasonable, prudent man of ordinary firmness and courage would have entertained the same belief.

Words accompanied by hostile acts, may, depending on the circumstances, establish a plea self- defense.

Self- defense is not available to one who uses languages so opprobrious that a reasonable person would expect it to bring on a physical encounter, and which did actually contribute to bring it on.

If Defendant is justified in firing the first shot, the Defendant is justified in the continuing to shoot until it is apparent that the danger to his life and body has ceased. Ordinarily, a defendant is not justified in shooting or employing a deadly weapon after the adversary has been disarmed or disabled.

If the Defendant was on his own premises, he had no duty to retreat before acting in self- defense. The Defendant has no duty to retreat if by doing so he increases his danger of being killed or suffering serious bodily harm.

There is no burden upon the Defendant to prove self- defense. The Defendant is not required to prove any element of self- defense. The burden is on the State to disprove self- defense beyond a reasonable doubt.

If you have a reasonable doubt of the Defendant's guilt after considering all the evidence, including the evidence of self- defense, then you must find the Defendant not guilty. On the other hand, if you have no reasonable doubt of the defendant's guilty after considering all the evidence, including the evidence of self- defense, then you must find the defendant guilty. Ralph King Anderson, Jr., South Carolina Requests to Charge - Criminal, 2007, §6-6 Self Defense

Respectfully submitted,

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Summerville, South Carolina

June 6, 2016

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

STATE OF SOUTH CAROLINA,

vs.

RHAJON AKEEM SANDERS,

Defendant.

IN THE GENERAL SESSIONS COURT
NINTH JUDICIAL CIRCUIT

INDICTMENT Nos. 2015-GS-10-2684;

2015-GS-10-2685; 2016-GS-10-3318

MOTION FOR A NEW TRIAL

RECEIVED

AUG 29 2016

SC Court of Appeals

TO: THE HONORABLE W. JEFFREY YOUNG, PRESIDING JUDGE AND
ASSISTANT SOLICITOR NINA SAVAS FOR NINTH CIRCUIT SOLITOR'S OFFICE:

NOW COMES THE DEFENDANT, Rhajon Akeem Sanders, by and through his
Counsels, Myesha Brown and Natasha Chisolm, moved the Honorable Court, pursuant to Rule
29 of the South Carolina Rules of Criminal Procedure seeking an Order to grant a new trial to the
Defendant for the reasons listed herein.

The Defendant asserts that in the interest of justice a new trial should be granted because
the there was no evidence to support the jury verdict, the Defendant's relevant evidence was
improperly rejected or excluded from the trial, the appropriate charges of the law were not
presented to the jury, the Assistant Solicitor's improper statements during closing remarks, and
other errors or irregularities.

The Defendant was charged with attempted murder and possession of a weapon during
the commission of a crime December 26, 2014. At the time of the Defendant's arrest, he
immediately informed law enforcement officers that arrived on scene that he fired his weapon
from his property after he noticed an unknown male in the dark approaching him and reaching
towards his waistband. After the Defendant fired his weapon, he aided the stranger and the
Defendant's family member contacted law enforcement and reported the shooting. Further the

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By *Donna Candelaria*
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CLERK OF COURT
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Defendant offered his apologies to the stranger immediately following the shooting incident while waiting for law enforcement to arrive on scene. Upon law enforcement arrival, the Defendant informed the officers that he believed the victim had a weapon and was reaching for the weapon from his waistband at the time the Defendant fired his firearm. Prior to December 26, 2014, the Defendant had never been arrested or charged with a crime. The Defendant was gainfully employed and legally possessed his weapon on his property.

During the trial, the State of South Carolina offered no witnesses to refute the Defendant's state of mind at the time he fired his weapon. In fact, the State of South Carolina's witness and victim, Nicholas Washington testified that when the Defendant approached him after firing his weapon, he was nervous and very afraid. The State of South Carolina's witness, Katina Washington testified that after the shooting, the Defendant approached and apologized and was kind. No other witnesses offered any evidence to inform the jury of the Defendant's criminal intent or state of mind prior to the shooting incident or at the time of the shooting incident. During the trial, the Defendant and an eye witness, Ferantez Sanders both testified that prior to the shooting, they observed the victim approaching the Defendant and reaching towards his waistband. The State of South Carolina offered no evidence to refute the testimony of the Defendant or the eye-witness, Ferantez Sanders.

South Carolina Code 16-3-29 states: "A person, with intent to kill, attempts to kill another person with malice aforethought, either expressed or implied, commits the offense of attempted murder". The State of South Carolina failed to offer any evidence that demonstrates malice aforethought of the Defendant, which is essential in the charge attempted murder. The trial is void of any evidence that demonstrates malice aforethought. The jury's verdict should be set aside because no evidence was offered to support the conviction of attempted murder.

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The Defendant's counsels informed the Court that they were concerned that the Court's verbal and non-verbal conduct may improperly influenced the jury and that the jury may have concluded that the Court took a position on the case. The evidence submitted to the jury does not support a verdict of guilty for attempted murder. Defendant's counsels are concerned that the jury was improperly influenced by the Court's verbal and non-verbal conduct that resulted in the verdict rendered and for those reasons request that the Defendant is given a new trial. The Defendant's counsels expressed its concern during the trial and believe the Court's conduct may have improperly influenced the jury. When it is made to appear that anything has occurred, which may have improperly influenced the action of the jury, the accused should be granted a new trial, although he may appear to be ever so guilty, because it may be said that his guilt has been ascertained in the manner prescribed by the law". State v. Smith, 383 S.C. 159, 679 S.E.2d 176 (2009). Furthermore, there is no evidence to support a conviction of attempted murder. State vs. Smith, 316 S.C. 53, 447 S.E.2d 175 (1993).

During the trial, the Defendant's evidence of the community in which he lived and that formed his state of mind was improperly excluded. The Defendant proffered the evidence during the trial and the witnesses testified of numerous accounts of shooting incidents, burglaries, and robberies in the neighborhood and specifically on Kent Avenue, where this incident took place. The witnesses testified that the neighborhood has crime watch warnings and signage on Kent Avenue and throughout the community and that they are afraid of being a victim in that community. The Court improperly excluded any references to any acts of violence in the neighborhood and Kent Avenue by the witnesses. The Defendant's counsels informed the Court that the Defendant is incapable of offering a complete defense because the neighborhood in which he lived and witnessed violent acts helped formed his state of mind when he noticed an

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By Gary J. Anderson
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unknown male standing across the street in the dark and approaching him while reaching towards his waistband. The Defendant's inability to offer the evidence of the Defendant's neighborhood limited his ability to offer a complete defense during the trial and he was unable to properly respond to the Assistant Solicitor's inquiry as to the Defendant possessed a weapon on his porch. The State knew the Court prohibited the Defendant from making any references to violence in his neighborhood and prohibited the Defendant from stating his fear because of those violent acts witnessed. As a result of the Court's exclusion of the Defendant's evidence, the Assistant Solicitor left the jury with the impression that the Defendant's action was irresponsible because he possessed a weapon while on his porch. The Court's improper exclusion of relevant evidence left the Defendant in a position where he could not respond to the Assistant's Solicitor's references of a weapon on his person while on his property and unable to offer a complete defense during the trial. The Court's exclusion of the Defendant's evidence is a basis to grant a new trial.

The Defendant's counsels submitted eight (8) jury charges to the Court. The Court rejected three (3) of the jury charges requested. The Defendant argues that the self-defense act on appearances jury charges were improperly rejected. The Defendant's entire case was based on the observation of an eye-witness, Ferantez Sanders, and the Defendant's observations on December 26, 2014. The Defendant testified that he did not see a weapon, but that he believed the victim had a weapon because the victim was approaching him and reaching towards his waistband. Upon information and belief, the State's witness, MPO Michael Cook testified that his own firearm is located on his hip. The Defendant testified that his firearm was located on his hip or near his waistband. The State's witnesses, Office Stanley Tucker and Officer Shawn Perkins both testified that the Defendant fired his weapon when the victim was approaching him

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and reaching towards his waistband. The State and the Defendant offered testimony that the Defendant acted on his appearances. The self-defense act on appearances jury charge was improperly excluded and warrants the Defendant requests for a new trial.

During the closing remarks, the Assistant Solicitor made improper remarks to the jury. The Assistant Solicitor informed the jury panel that witness Ferantez Sanders testimony was tainted because he hired legal counsel. The Defendant objected to this improper statement to the jury and the Court overruled the objection. [See Transcript Pages 6-7 & 20-22 of Second Closing Statement by Ms. Savas- attached as Exhibit 'A']. The Assistant Solicitor's statement was improper and a misrepresentation of the facts. There was no evidence to suggest that the witness, Ferantez Sanders testimony was tainted. In fact, the witness, Ferantez Sanders testimony did not vary from the written statement provided December 26, 2014 and if the statement was inconsistent, the State would have impeached the witness with his inconsistent statement. The witness, Ferantez Sanders was not impeached by the State because his statement did not change. Nevertheless, the Assistant Solicitor improperly informed the jury panel without any basis or evidence in the record that the witness testimony was tainted. The improper statement of the Assistant Solicitor warrants a new trial.

During the closing remarks, the Assistant Solicitor informed the jury panel that witness, Ferantez Sanders testified that he never told the Defendant to shoot his gun. The Defendant's counsel objected to this incorrect statement and the Court overruled the objection citing that he thought he heard it. During cross examination, the State of South Carolina specifically asked witness, Ferantez Sanders whether he told his brother not to shot the victim and the witness clearly responded no. The witness responded that he never made such a comment. Nevertheless, the Assistant Solicitor during closing remarks told the jury that the witnesses said otherwise. The

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Assistant Solicitor's improper statement to the jury warrants a new trial. There were numerous improper statements offered by the Assistant Solicitor during the closing remarks to include informing the jury that the victim's leg was blown off, that Dr. Haro testified that the victim was in his yard when he was shot [Dr. Haro's testimony was that the victim said he was on the sidewalk when someone walked by and shot him], and that children were playing in the yard when the shots were fired. All of these statements were misrepresentation of the evidence offered during the trial. The improper statements of the solicitor are a ground for a new trial.

The Assistant Solicitor during the trial was observed coaching witnesses by nodding her head in agreement or disagreement with her witnesses while testifying. This improper conduct was brought to the Court's attention. The Assistant Solicitor's coaching of witnesses while testifying was improper, unethical and warrants the Defendant being granted a new trial.

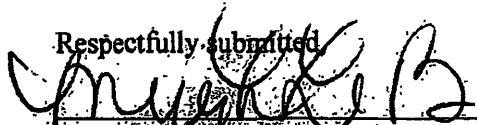
Lastly, the Assistant Solicitor repeatedly informed the jury panel that no specific intent was required under the law to find the Defendant guilty of the charge attempted murder and argued that the fact the Defendant fired his weapon was the only evidence necessary to reach the verdict of guilty for attempted murder. Attempt is a specific intent crime. 21 Am.Jur.2d Criminal Law §176 (1998). The act constituting the attempt must be done with the intent to commit that particular crime." *Id.* Specific intent means that the defendant consciously intended the completion of acts comprising the choate offense. In other words, the completion of such acts is the defendant's purpose. United States v. Calloway, 116 F.3d 1129 (6th Cir. 1997). The State offered no evidence to that the Defendant had the specific intent to kill the victim. In fact, the State's own witnesses testified that the Defendant fired his weapon because he observed an unknown male approaching him and reaching towards his waistband and that the Defendant was

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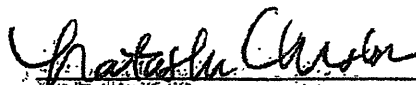
afraid and fired his weapon to protect himself. The Assistant Solicitor's improper statement of the law warrants the Defendant request for a new trial is granted.

THEREFORE, the Defendant requests that the Honorable Court grant the relief sought in this motion for a new trial in this matter.

Respectfully submitted,



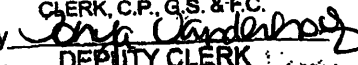
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STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

STATE OF SOUTH CAROLINA,

vs.

RHAJON AKEEM SANDERS,

Defendant.

IN THE GENERAL SESSIONS COURT
NINTH JUDICIAL CIRCUIT

INDICTMENT Nos. 2015-GS-10-2684;

2015-GS-10-2685; 2016-GS-10-3318

MOTION FOR A NEW TRIAL
Exhibit A

1 The reason that -- and every officer testified.
2 They do a portion of their job. So much of what happens,
3 there's so much going on, it's teamwork. Detective
4 Bailey said it. Nearly every officer testified it's
5 teamwork. When you get on the scene you've got several
6 officers. The sergeant says, You do this, you do this.
7 Crime scene comes, they do their role.

8 Rothhaus came out, that officer that testified he
9 detained the suspect. He didn't do nothing. He detained
10 the suspect who just shot someone. Okay. And I'll go
11 through and discuss again what they did but it's
12 important. It's a team effort. And the reason why the
13 officers don't know what other people did and we never
14 showed them is because you do not taint testimony, unlike
15 what happened with the defense's witnesses.

16 The defense's brother retained counsel who has been
17 sitting here every step of the way. The defense stated
18 that you are allowed --

19 MS. BROWN: Objection, Your Honor.

20 THE COURT: Overruled.

21 MS. SAVAS: And the Judge will charge you, you are
22 allowed to take the credibility of any witness before
23 you. You can assume all of their testimony is believable
24 or parts and pieces. Bias is important to take into
25 account. Bias. Okay. Bias that their attorney has been

1 sending questions, assisting, doing everything with the
2 defense every step of the way. Complete bias.

3 Tainted testimony. Not one person on the State's
4 case said they saw anything that they weren't supposed to
5 see, they weren't a part of each other's testimony.
6 That's the reason they were all outside and coming back
7 and forth, and I'll get into that, too.

8 Unfortunately, Nicholas isn't here today. Nicholas
9 sat before you and said he doesn't want to be here, it
10 makes him very uncomfortable. It's true. You heard him.
11 It is very uncomfortable. He is scared. He is scared
12 because he was shot by this man here.

13 He did his part. He told his truth and that is all
14 that is required of him, and that is fine. That is his
15 job. He does not need to continue to sit here to rehash
16 that horrific night where he was shot and nearly killed.
17 He does not need to sit there. That is the State's job.
18 That is my job, is to put forward the case, not the
19 victim to sit here through this again, and again, and
20 again when he lives with it every single day, and I can
21 promise that he does. That is fine.

22 He testified. He told his truth. Make note that
23 statement was consistent with everything he said the
24 night it happened. Consistency. Believability.

25 The fact that good people can do wrong doesn't make

1 honest lady. And Ms. Sanders is very observant about the
2 lighting outside, and she said and testified that [REDACTED]
3 and [REDACTED], so that's Nicholas' aunty's and his grandma's
4 house, their porch lights were on, because they are
5 always on. Ms. Sanders said that. Ms. Sanders is not
6 lying.

7 She also said that she expresses a lot of concern.
8 She's close with her sons. Never expressed a single
9 concern about the neighbors across the street. There was
10 no issues, not anyone coming and going from the home.
11 They often have people coming and going.' We know that.

12 Nicholas and his family go to his aunty's and
13 grandmother's house nearly every single day. There were
14 no concerns with those people there, not that day, not
15 ever until Rhajon started. She's, in fact, cordial with
16 the neighbors. There's good people. It's not an issue
17 here. She did say that Rhajon has matured a lot. It
18 wasn't -- it's an immaturity thing, is what she's saying.

19 Mr. Fernandez Sanders, the brother, he's a pretty
20 decent guy. Claims he's the older brother, he's a
21 protective older brother, and as a protective older
22 brother he's doing everything in his power to protect his
23 brother including lying on the stand. It's just what
24 happened. The statements changed. The statements
25 changed. The statements didn't say that the guy was

1 looking across the street to officers that night. We
2 never heard that until they coached him to do that on the
3 stand.

4 MS. BROWN: Objection, Your Honor.

5 THE COURT: Don't refer to what counsel did.

6 MS. SAVAS: Yes, sir.

7 THE COURT: Sustained.

8 MS. SAVAS: It's a desperate situation. Bias,
9 motive to lie. Ms. Sanders didn't lie. She said the
10 porch lights were on. Fernantez, the porch lights were
11 off. Mr. Fernantez was already outside. He was out
12 there for a good few hours. He said he was out there
13 from about four o'clock when he got home after picking
14 his brother up from work that day. He already saw
15 Nicholas outside. He didn't have an issue. No issue.

16 Nicholas is already standing outside smoking a
17 cigarette. Fernantez is on his phone just hanging out on
18 his porch. He never said that he was afraid of him that
19 night. He never expressed any concern to anyone. He was
20 just hanging out.

21 He knew people across the street had people over.
22 He said that. I asked him, Did you know that they had
23 people over?

24 Yeah. I saw people coming in and out all day.
25 They always do.

1 Wouldn't it be reasonable to assume that that man
2 in that front yard by them bushes are with the people
3 across the street? That's reasonable. He had no issue.
4 Fernantez had no issue with Nicholas. None whatsoever.
5 Never expressed one, never had one.

6 He doesn't own a gun. Fernantez lives at that same
7 house with Rhajon. He doesn't bring a gun out on the
8 porch. Rhajon said he brings a gun, a fully loaded gun
9 on his porch every single time he goes outside.

10 Now, is that unlawful? No. He's not on trial for
11 that. But it's strange. It's very, very strange that
12 you feel the need to bring a gun out every single time
13 you stand on your porch, yet your brother doesn't, who
14 also lives there, but your momma doesn't, who also lives
15 there. And your brother is on the porch without any
16 issue because you came out with a fully loaded gun and
17 you wanted to get hard and you walked down and you were
18 looking for trouble. The brother had no issues with the
19 victim already out there. Rhajon had an issue.

20 He also testified that he never told Rhajon to
21 shoot his gun. He said that no one told Rhajon to shoot
22 his gun --

23 MS. BROWN: Objection, Your Honor. It's not in the
24 record.

25 MS. SAVAS: It was --

1 MS. BROWN: He did not testify to that.

2 THE COURT: I thought I heard it. Overruled.

3 MS. SAVAS: Thank you, sir.

4 He said that from that chair. I never told him to
5 shoot the gun. No one told him to shoot the gun. That
6 decision was a wrong one made solely by Rhajon.

7 Fernantez never expressed a concern for his safety
8 or for his life until he testified, inconsistently
9 testified on the stand in this desperate hour to protect
10 his brother. Never once was that ever mentioned. But
11 what he did say, in his very candid calls and candidly on
12 the stand, was that this was a lesson for his brother to
13 learn because sometimes things happen and you do things
14 and you need to learn your lesson, all that that implies.
15 He didn't tell him to shoot him but he needs to learn his
16 lesson because it's wrong and he knew it was wrong.

17 Ms. Katina. Ms. Katina is a good mom. Ms. Katina
18 has five children. Ms. Katina has instilled work ethic
19 in her children and her son, Nicholas, and he is a good
20 man. He is a kind man, and he is a funny man as y'all
21 saw, and he works two full-time jobs. Two full-time
22 jobs. That means he just doesn't come home at three,
23 four o'clock and sit on the porch with a gun. That means
24 after that he changes, showers, and goes to his other job
25 at night because he wants to, because that's what his

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

STATE OF SOUTH CAROLINA,

VS.

RHAJON AKEEM SANDERS,

Defendant.

IN THE GENERAL SESSIONS COURT

NINTH JUDICIAL CIRCUIT

AUG 29 2016

SC Court of Appeals

INDICTMENT Nos. 2015-GS-10-2684;

2015-GS-10-2685; 2016-GS-10-3318

MOTION FOR RECONSIDERATION

TO THE HON. W. JEFFREY YOUNG, PRESIDING JUDGE AND NINA SALVAS,
ASSISTANT SOLICITOR FOR THE NINTH JUDICIAL CIRCUIT:

MOTION FOR RECONSIDERATION OF SENTENCE On this date came the Defendant, Rhajon Akeem Sanders, by his Counsel, Myesha Brown, Esq. and Natasha Chisolm, Esq., and moved the Honorable Court, pursuant to Rule 29 of the South Carolina Rules of Criminal Procedure, to reconsider the sentence previously imposed upon the Defendant in this matter. In support of this motion, the Defendant asserts the following:

1. This Motion is being filed within the proper time limits.
2. On June 10, 2016, after a trial by jury, the Defendant was found guilty on the after-mentioned charges and sentenced by this Court to ten (10) years for Attempted Murder, Indictment No. 2015-GS-10-2684, and five (5) years for Possession of a Weapon During the Commission of a Violent Crime, Indictment No. 2015-GS-10-2685, consecutively, by the Honorable W. Jeffrey Young.
3. Pursuant to S. C. Code of Laws Section 16-3-29, a person convicted of Attempted Murder may be imprisoned up to thirty (30) years. While the Defendant was sentenced to ten (10) years on this charge, this sentence was severe under the circumstances and given that the range of sentence can be as little as no time at all and the Defendant is serving a mandatory five (5) year sentence on the weapons charge, the Defendant seeks a reconsideration of his sentence to reduce his sentence to

ATTEST: A TRUE COPY
JULIE J. ARMSTRONG (SEAL)
CLERK, C.P.D.S. & C.
By *[Signature]*
DEPUTY CLERK

time served to one year or less, or in the alternative, an otherwise great reduction or stay the execution of his sentence so that he may attend his mother's funeral.

4. The Defendant also seeks reconsideration of his sentence on the Possession of a Weapon During the Commission of a Violent Crime to run concurrently with the Attempted Murder Sentence.
5. The Defendant had been released on a very low surety bond shortly after being arrested and remained out on a bond until the time of trial. The Defendant was given an additional PR bond on the newly indicted charge of Assault and Battery of a High and Aggravated Nature in May of 2016. For two (2) years while out on bond, the Defendant proved the bond court judges correct, that he was not a flight risk, nor a danger to the community. A reduction of his current sentence will reflect the same.
6. The Defendant was not believed to be a danger to the community as was evidenced by him receiving a very low surety bond in December 2014 and later a PR bond in May 2016, had never been arrested in his life nor charged or convicted of any crime, and legally owned a firearm that he concealed on his person while on his property at his home. He had been gainfully employed full-time and working at the Medical University of South Carolina in the dietary department with an impeccable employment record before being arrested on December 26, 2014. He was not only a good worker, but a caretaker of his, now deceased, mother who suffered from cancer. She testified that she trusted him with a gun in her home because he was very responsible.
7. Over the last two years the Defendant has not been without the consequences of his actions, emotionally and otherwise. In light of the Defendant having no prior criminal history, his immediate apology to the victim and the victim's family for his actions immediately following the incident on December 26, 2014 and continuing remorse as evidenced at trial, remaining and intentionally cooperating with law enforcement on scene, the Defendant asks for a consideration of his sentence.

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his sentence so that he may attend the wake for his mother on Wednesday, June 22, 2016 and the funeral on June 23, 2016 in North Charleston, SC.

Therefore, the Defendant requests that the Honorable Court grant the relief requested in this motion and reduce the sentence previously imposed as requested herein.

Respectfully submitted,



The MLB Law Firm, LLC
Myesha L. Brown, Atty. for the Defendant
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Office: (843) 285-7199



The Chisolm Law Firm, LLC
Natasha Chisolm, Atty. for Defendant
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Summerville, South Carolina

June 20, 2016

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CLERK OF COURT
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CLERK OF COURT
DEPUTY CLERK

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

STATE OF SOUTH CAROLINA

vs.

RHAJON AKEEM RESHAE
SANDERS,

DEFENDANT.

IN THE COURT OF GENERAL SESSIONS

NINTH JUDICIAL CIRCUIT

ORDER OF THE COURT
RE: DEFENDANT'S POST-TRIAL MOTIONS

Arrest Warrant #2014A1010206598
Arrest Warrant #2014A1010206599
Arrest Warrant #2016-GS-10-03318

Indictment #2015-GS-10-02684
Indictment #2015-GS-10-02685
Indictment #2016-GS-10-03318

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AUG 29 2016
SC Court of Appeals

After reviewing the submitted materials, the Court determines, pursuant to Rule 29, SERCrimP, that the Defendant's post-trial motions do not require oral argument and can be ruled upon the pleadings. After considering the positions of the parties, the Court hereby orders that:

1. Rulings made on the record at the time of trial stand. In addition, the objections made at the sidebar conferences are overruled as they were at the time of trial;
2. The sentence as originally ordered stands and the Defendant's motion for sentence reconsideration is denied; and
3. The Defendant's motion for a new trial is denied.

It is so ordered,

W. Jeffrey Young
The Honorable Jeffrey W. Young
Circuit Court Judge

W. Jeffrey Young

10 Aug 2016
Sumter, SC 29154

BY

JULIE J. ARMSTRONG
CLERK OF COURT

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CLERK, C.P., G.S. & F.C.
By *Tanya Vanchell*
DEPUTY CLERK

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NLS/0242736/20141212776
WITNESSES

North Charleston Police Department

AGENCY CASE NUMBER
2014044547

ARREST WARRANT NUMBER
2014A1010206598

DATE OF ARREST

12/26/2014

ACTION OF GRAND JURY

TRUE BILL

Nancy H. Keown MAY 5 2015
Foreperson of Grand Jury Date:

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2015-GS-10-02684

The State of South Carolina
County of Charleston

COURT OF GENERAL SESSIONS
MAY TERM 2015

THE STATE

VS.

RHAJON AKEEM RESHAE
SANDERS
B/M DOB: [REDACTED]

Indictment for

ATTEMPTED MURDER

SC Code: § 16-03-0029
CDR Code: 3410

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5/27/2015 9:54:39 AM
JULIE J. ARMSTRONG
CLERK OF COURT

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

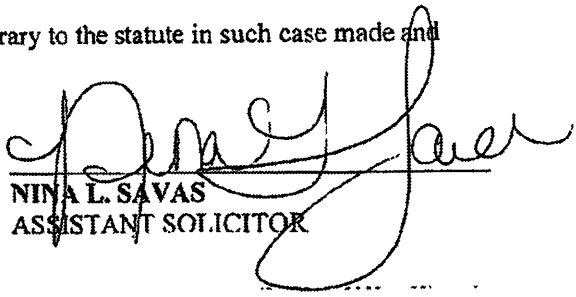
INDICTMENT

At a Court of General Sessions, convened on May 4, 2015, the Grand Jurors of Charleston County present upon their oath:

ATTEMPTED MURDER

That in Charleston County, South Carolina, on or about December 26, 2014, the Defendant, Rhajon Akcem Reshae Sanders, did, with intent to kill and malice aforethought, attempt to kill Nicholas Washington. This is in violation of Section 16-3-29 of the South Carolina Code of Laws (1976) as amended.

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


NINA L. SAVAS
ASSISTANT SOLICITOR

742

NLS/0242736/20141212776
WITNESSES

North Charleston Police Department

AGENCY CASE NUMBER
2014044547

ARREST WARRANT NUMBER

2014A1010206599

DATE OF ARREST

12/26/2014

ACTION OF GRAND JURY

TRUE BILL

Nancy McKeown
Foreperson of Grand Jury

MAY 5 2015
Date

VERDICT

Guilty

[Signature]
Foreperson of Petit Jury

6/10/16
Date

DOCKET NO. 2015-GS-10-02685

The State of South Carolina
County of Charleston

COURT OF GENERAL SESSIONS
MAY TERM 2015

THE STATE

VS.

RHAJON AKEEM RESHAE
SANDERS
B/M [REDACTED]

Indictment for

POSSESSION OF A WEAPON DURING
THE COMMISSION OF A VIOLENT
CRIME

SC Code: § 16-23-0490
CDR Code: 0549

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

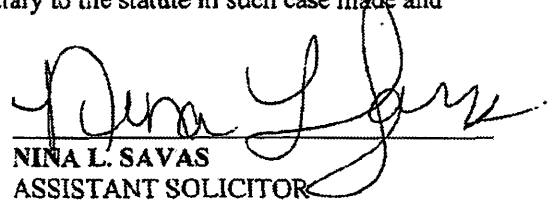
INDICTMENT

At a Court of General Sessions, convened on May 4, 2015, the Grand Jurors of Charleston County present upon their oath:

POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME

That in Charleston County, South Carolina, on or about December 26, 2014, the Defendant, Rhajon Akeem Reshae Sanders, did possess a firearm or did visibly display what appeared to be a firearm or did visibly display a knife during the commission of a violent crime, to wit: Attempted Murder; in violation of 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.


NINA L. SAVAS
ASSISTANT SOLICITOR

NI.S/0242736/20141212776
WITNESSES

North Charleston Police Department

AGENCY CASE NUMBER
2014044547

ARREST WARRANT NUMBER
2016-GS 10-03318

DATE OF ARREST

12/26/2014

ACTION OF GRAND JURY

TRUE BILL

For person of Grand Jury

DATE: 1/1/2016

VERDICT

Not Guilty

For person of Petit Jury

DATE: 6/10/16

DOCKET NO. 2016-GS-10-03318

The State of South Carolina
County of Charleston

COURT OF GENERAL SESSIONS
MAY TERM 2016

THE STATE

VS.

RHAJON AKEEM RESHAE
SANDERS
B/M DOB: [REDACTED]

Indictment for

ASSAULT & BATTERY OF A HIGH AND
AGGRAVATED NATURE

SC Code: § 16-03-0600(B)(1)
CDR Code: 3411

STATE OF SOUTH CAROLINA

INDICTMENT

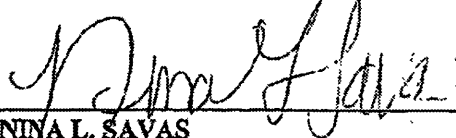
COUNTY OF CHARLESTON

At a Court of General Sessions, convened May 2016, the Grand Jurors of Charleston County present upon their oath:

ASSAULT & BATTERY OF A HIGH & AGGRAVATED NATURE

That in Charleston County, South Carolina on or about December 26, 2014, the Defendant, Rhajon Akeem Reshae Sanders, did commit an unlawful act of injury upon the victim, Nicholas Taheem Johnnie Washington, and as a result, the victim suffered great bodily injury or the act was accomplished by means likely to produce death or great bodily injury, in violation of Section 16-3-600(B)(1) of the South Carolina Code of Laws (1976) as amended.

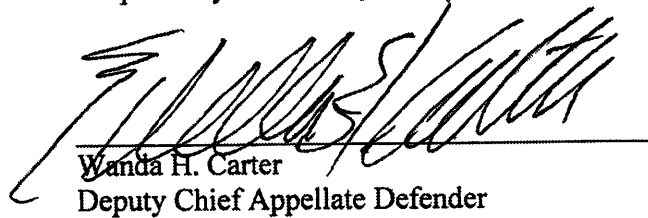
Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


NINA L. SAVAS
ASSISTANT SOLICITOR

CERTIFICATE OF COUNSEL FOR APPELLANT

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

Respectfully Submitted,



Wanda H. Carter
Deputy Chief Appellate Defender

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

ATTORNEY FOR APPELLANT

This 21st day of March, 2018.