

VOLUME II of II

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Charleston County
Honorable Deadra L. Jefferson, Circuit Court Judge

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SC Court of Appeals

THE STATE,

RESPONDENT

V.

MONTRELLE LAMONT CAMPBELL,

APPELLANT

APPELLATE CASE NO 2018-000115

RECORD ON APPEAL

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**THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:
STATE'S NO. 95 (SURVEILLANCE VIDEO FOOTAGE)
STATE'S NO. 118 (HOME SURVEILLANCE VIDEO FOOTAGE)**

1 because she knew officers where already on their way. So
2 just because she didn't mention things in her 911 call
3 doesn't mean she's changing her story. And somethings might
4 be a little fuzzier two years later. But the bottom line is
5 that police did not send anyone out, the detective or
6 anyone. They talked to numerous people, other people;
7 people that had nothing to do with this case just to, like,
8 little things to checkup on. They didn't bother talking to
9 her. Even over two years later up to this trial, they
10 didn't bother talking to her.

11 And Marty (ph), well, her observations are not
12 consistent. We don't get to hear -- that the State has,
13 that Detective Tuttle has. They pretty much wrote her off.
14 I mean, she's kooky, you know. So they don't think she's
15 the most reliable. But just because she believed that, you
16 know, hearing a whole bunch of gunshots might mean that ISIS
17 is involved doesn't mean that she's not a credible person.
18 It doesn't mean that she would take it upon herself when she
19 was seeing to her son, when she was clearly startled and
20 shaken up herself, that she would just call police and just
21 make up something or say something that wasn't true. For
22 what purpose? Why would she make -- why would she put
23 herself, get herself involved? She went out and talked to
24 place that night. It is not as though she was trying to get
25 involved in like, you know, running down to the police

1 station saying I want to be involved, hear me out. She
2 thought that they knew what was going on so she let it go.
3 She wasn't seeking attention or anything like that.

4 And you heard from Detective Tuttle today trying to
5 repeat the testimony about the car. Well, cameras don't
6 pick up everything. We know that because sometimes they'll
7 seem to be getting somewhere and it moves around. This car
8 pulled off. It wasn't speeding in a weird way. It could've
9 pulled off and stopped for all we know. She doesn't know.
10 She just saw it pulled over. And the city cams, they don't
11 necessarily show color. So even though Detective Tuttle may
12 have gone back two years later to look to see if he could
13 find the lime green car, maybe the color just didn't come
14 off that well. It doesn't mean it doesn't exist. Because
15 at the end of the day, does it makes sense that Peggy Blake
16 would have just lied about that. That makes zero sense.

17 The reason the police were stuck on Montrelle is
18 because of the -- so I want to talk about that. And
19 Mr. Simpson stated this, but yeah, I mean it does not make
20 sense at all. Based on this minor altercation that
21 Montrelle would've gone back the next night and shot up the
22 place. It just makes no sense. So what we know about that
23 Thursday evening is that Kadeshia, Montrelle's sister, went
24 over to Katrina's. She was really more friends with Kerri
25 and Katrina. They hadn't seen each other in a while because

1 Katrina -- or Kerri had been living out of town. They go
2 over there showing -- they get together though like the next
3 night. So a lady comes in and says, hey, Kadeshia, your
4 brother wants to talk to you. And so Kadeshia is still
5 catching up with her old good friend. So hey go outside and
6 so a man walks in. He and Kadeshia clearly know each other.
7 He doesn't try to start a scene, he doesn't say anything to
8 anyone. You know, he's there to see his sister. And
9 they're acting like this is some horrible person who barged
10 in her house without permission. I mean, even if, you know,
11 on that night Katrina didn't let just random people in.
12 Clearly, that's not something that is uncommon. He went
13 into see his sister.

14 Katrina tried to minimize things, but I think she
15 ultimately admitting that State -- information from her --
16 that she is somebody -- but he left. He didn't say
17 anything. He left. But she wasn't done yet. She was still
18 upset, and she admitted that she and Kadeshia had words at
19 the time. That she felt Kadeshia should apologize to her
20 brother. But could Kadeshia was like, what you talking
21 about. And so they had words, Kadeshia left. Well,
22 initially, Trina said she went outside to smoke a cigarette.
23 But then she admitted that initially she did tell the
24 officer that she did follow Katrina -- or Kadeshia. That
25 her intent, at least what she had told Detective Tuttle, was

1 to apologize for overreacting essentially. But she did say
2 and she told us that it is possible that Montrelle hit her.
3 He could have been thinking that she was going after his
4 sister. And that's very likely what happened. The State
5 has made it sound like he's a monster and he just hit her
6 just because he was mad that she asked him to leave. While
7 a man should never hit a woman -- I mean, I'm not trying
8 it's appropriate or the right thing to do -- he was
9 defending his sister. And we heard again from Trina that
10 she can get -- that's very possible that she went out there,
11 she approached Trina to attack. So that's what happened
12 that night. Yes, she was hit. She fell down. But she
13 didn't grab any -- she didn't call police. And then we
14 heard typically people are not just going to call the police
15 just, you know, for something like that. But she also said
16 pretty much, you know, it was over, whatever. It wasn't a
17 big to do. She actually sad there weren't many people
18 outside. It wasn't a big deal. Why would he had to have
19 been so threatened or feel so much shame or be mad when he
20 was just defending his sister. It makes no sense, zero
21 sense, that that would be a motive. They kind of suggested
22 that maybe he looked to be reaching or something. But he
23 never presented a gun that night. He never threatened them.
24 He didn't say anything, you know, I'll be back to get you.
25 None of that. Nothing to indicate that he was going to come

1 back the next night to do this horrible thing.

2 The State's case against Montrelle primarily -- because
3 just an incident happening the day before obviously is not
4 evidence that he's the one who did this. And obviously you
5 can believe a man with a gun assuming that he is the shooter
6 if you do assume that, and we'll get to that later, but
7 there's -- identify that person as Montrelle but Trivell.
8 Detective Tuttle tried to act like they looked similar. I
9 mean, yes, they are black men. They have facial hair.
10 That's his description of the people. He tried to say, oh,
11 they're 6-feet tall. But there's no way you can see from
12 that video how tall that man was. Is not like a -- where
13 you can walk out and they have that ruler -- he tried to
14 act -- about Montrelle. The police talked to people. They
15 talked to his sister. They talked to Tomeka who you heard
16 from. Someone who sounds like they had not been dating
17 long, but they had known each other for quite some time.
18 And even though she was the person who testified in this
19 trial who probably knows him best, she did not identify that
20 man -- as Montrelle. She did not identify that shirt as
21 belonging to Montrelle. Only Trivell identifies that person
22 as being Montrelle. And did he do that back in 2015? No,
23 he didn't. Quite the contrary.

24 He adamantly denies that he was even downtown. He got
25 on the stand and he seems to take his testimony seriously.

1 He did. He swore on the Bible and he told his version of
2 what happened, or today's version. But we know from him and
3 Detective Tuttle that was not the version he gave over two
4 years ago. And while he swore on the Bible in court, back
5 then he swore on his -- on my kid, I was not there. He was
6 adamant. Even when he was shown pictures, even when they
7 said we have DNA evidence -- adamant he was not there. He
8 did eventually admit, well, okay, I was there. But that's
9 still -- but I was downtown. I walked there. I was
10 certainly not in that car. He talked to Detective Tuttle
11 several times after that. Still didn't admit that he was
12 there. That he had any knowledge of this. So a year and a
13 half goes by that he's sitting in jail under no bond. Even
14 if he was to get -- couldn't bond out because his bond has
15 been revoked from his previous charge, and he didn't have a
16 bond on the murder charge. So year and a half, over a year
17 and a half or about that, he decides to give the State what
18 they wanted to hear.

19 Now, I mean, obviously, I'm not suggesting that the
20 State said this is going to be mentioned here. Of course
21 not. And the State did not make comment with him that this
22 is what we'll give you. But he's a smart guy. I mean, he
23 knows what they want to hear. He's charged with -- he knows
24 what they're saying happened. I mean, obviously, he knows
25 Montrelle is charged. He knows what they want to hear.

1 And, yes, he said the bargain is dependent on telling the
2 truth. But what is the truth? Mr. Simpson wasn't there
3 that evening. Detective Tuttle wasn't there. They don't
4 know the truth. They can only speculate. So there's no way
5 they can ask a witness of the truth. There are certain
6 things that they can say, no, we know you're there and there
7 by the video of, you know, the phone maps. But they do not
8 know the truth because they were not there. And Mr. Simpson
9 pointed out that a lot of what he said was corroborated. It
10 is corroborated. It's corroborated that he was there, not
11 Montrelle. Nothing he said other than him pointing out at
12 the man and saying that's Montrelle. Nothing is
13 corroborated about Montrelle. It's just him, his
14 whereabouts.

15 You heard from Ms. President that she though Montrelle
16 was with Trivell. That they live -- like he basically lives
17 in the back, or she lived in some apartments. I think the
18 testimony said he pretty much lived behind her. Even as the
19 State argued that Montrelle lived in North Charleston, that
20 is actually -- there is no evidence of that. Tomeka said
21 that he stayed there once, actually. And you heard from
22 Tomeka and Detective Tuttle that his family home, you know,
23 is on Cedar Street downtown Charleston. So even though we
24 know he came down to North Charleston from Tomeka, no one
25 actually said he lived there. Tomeka said he had a couple

1 of outfits there. She was clear that he did not live there.
2 So it is possible that Trivell could have gotten this car
3 from someone giving him the key in North Charleston or very
4 possible that Montrelle did not leave with him. From
5 Montrelle records that night, I believe it shows that he
6 was -- Tomeka to testified he went to bed with her about
7 midnight. She wakes up later when she gets up for work --
8 and he's not there. But it's unknown when he left the
9 house. The record, I think, show that he was downtown at
10 5:50 a.m. But that's it. But we don't know exactly where
11 he was. We do know from the night before that it's not
12 unusual for Montrelle to be downtown. The State said, oh,
13 he was stewing for several hours. There's no evidence of
14 that. What the phone records show from the night before is
15 that Montrelle hangs out and stays out late. I think it was
16 almost 4:00 a.m. when he was last using his phone in
17 downtown Charleston. And then it was close to 7:00 a.m.
18 that he was back in North Charleston, but obviously awake
19 because he was using his phone that morning. So Montrelle
20 hanging out downtown in the early morning hours and then
21 going back to North Charleston fairly early in the morning,
22 the evidence actually suggests that's not unusual because
23 the same thing happened the night before.

24 Even though Trivell has not been promised anything yet,
25 we know that he has already gotten the benefit. And,

1 unfortunately, you know, he hasn't been able to make the
2 bond, he did get a very significant advantage -- initially
3 he had no bond. And yet after, and only after he talked to
4 the State, he came to court for a bond hearing to have the
5 bond reconsidered to see if the bond could be set. And the
6 judge set the bond for murder, two counts of attempted
7 murder, and then two other pending charges he had, for
8 \$50,000. And he told you -- and my point in asking him the
9 question, you've been in jail since -- which is he knows
10 from everybody talking about the low bond. He admitted
11 that. He as like I know that's a low bond, I just can't
12 make it. So he had gotten a benefit. And so he has every
13 reason to believe that if he got on the stand that he would
14 get a major benefit from doing so and from saying what he
15 knows the State wants to hear.

16 Trivell has also been charged with murder. But the
17 State made it clear that he was never accused of being the
18 shooter. He was charged more for being there, you know,
19 being in that car I guess with the other witness. But that
20 doesn't make sense from the evidence, the surveillance
21 video, or from his testimony. And I say that because --
22 like the State is mainly saying that Montrelle more or less
23 had some plan to go down there and do this. And that does
24 not add up. Even if you believe that the man in the jersey
25 is on trial, it doesn't make sense that he goes -- well,

1 first of all, he decides to go shoot up a house wearing a
2 very distinctive outfit. I mean, that is like the last
3 outfit that anybody would wear I would think to go shoot up
4 an apartment. You wear the basic black and white, whatever,
5 something generic; not something so very distinctive and
6 attention grabbing. But he tells Trivell to go move the
7 car. And so the surveillance shows that he moves the car,
8 but it doesn't show that there's anything suggesting that it
9 was done to get away. Because first of all, he didn't stay
10 in the car. He left. You can see he's just roaming about.
11 He doesn't look in a hurry. He didn't rush. He's just
12 chilling with Ace. And we also know the car was parked the
13 wrong way. So that's just a little unusual because if
14 you're trying to get away, just doesn't make sense you're
15 going to parking in a a way that could be difficult. But it
16 makes no sense that he's the getaway driver if he wasn't
17 sitting in the car. Like he just got out and was just
18 walking.

19 So, ultimately, Trivell doesn't even point to Montrelle
20 as being the shooter. He doesn't say he saw Montrelle shoot
21 anybody. He doesn't say that he heard Montrelle talk about
22 shooting anyone either before or after. He said that he and
23 Montrelle went downtown. They were supposed to go to the
24 store but didn't. The State tried to elicit that it was
25 enough concern, but he was like -- really didn't think

1 anything of it. They get downtown and -- so they got
2 downtown. Montrelle gets out of the car. Doesn't say
3 anything about seeing a gun, certainly not gun like you see
4 in the surveillance footage. But they get out of the car --
5 or Montrelle gets out and, you know, walks away. Tells him
6 to park and he does it. They stay in the car and anything
7 like that. And he says that -- and you see from the
8 surveillance, that the State showed you they do something
9 what looks like Ace and Trivell were walking. You know, you
10 get a shot from the distance. They had it zoomed in of him
11 going down there. And then they're trying -- see the shot.
12 You do not see a man with an Italia jersey shoot up [REDACTED]
13 Norman Street. That is not on the video. Obviously, if
14 that was on that video, there would be all kind of --
15 zooming. Something that -- it doesn't show that. Again,
16 it's people trying to see something that's not there.
17 Seeing what they want to see after not being able to find
18 something out. And again, it's not necessarily intentional.
19 I'm not suggesting that. It's just human nature. And it
20 doesn't look like from that -- surveillance video that
21 Trivell and Ace, again, they're just walking and chilling.
22 It doesn't look like they're, like, on the lookout. It
23 doesn't look like they stopped because they see someone like
24 Montrelle who they recognized. They're just walking past.
25 Doesn't make sense that if Montrelle was the shooter --

1 they're just walking past. There's no connect here from
2 that video to suggest that they saw somebody that they knew.

3 The State also -- another thing he provided was this so
4 called smoking gun. Okay. But that does not make any
5 sense. Mr. Simpson showed you -- so it would've been
6 several minutes before the man with the gun got to Trivell's
7 car. Several minutes after the shooting, at least a couple
8 of minutes. A gun does not smoke that long. You didn't
9 hear from a firearms expert -- but a gun does not smoke for
10 minutes longer. It just doesn't. That was said for
11 dramatization. It didn't happen. He said that because it
12 sounds good. Because it sounds like, just like Mr. Simpson
13 said, the smoking gun.

14 So in the end, Trivell doesn't even really offer actual
15 direct evidence against Montrelle. Again, if you believe
16 that that person is Montrelle, even though, again, no
17 evidence other than Trivell saying it's him, you have
18 someone in the general area there for an unknown amount of
19 time. Mr. Simpson indicated they weren't quite sure how
20 long or what time that he would've been dropped off on Nunan
21 Street. You have no talk of a plan, no hint of a plan. You
22 don't see anybody get out of the car with a gun, but it's
23 Trivell. There's no indication there's any conspiracy. You
24 have in the night before that it's typical for him to be
25 hanging out downtown at weird hours of the night and then

1 going up to North Charleston when he happened to come into
2 possession of a gun at some point. But you don't know how
3 it came to be. You know he left the car without it. He
4 came back with it, but who knows the circumstance. And I
5 know it's frustrating sometimes when you're talking in ifs
6 and who knows, but at the end of the day, the State has the
7 burden to prove to you of what happened. And he can't do it
8 in this case. They can't do it because there are many
9 unanswered questions . . .

10 Much of -- you may have heard me, I know I objected on
11 multiple times occasions throughout this trial. And one
12 objection was speculation. And that objection is just like
13 -- I am basically saying they're speculating and he
14 shouldn't be able to testify about it. Because in the court
15 of law, you're not supposed to speculate. A witness
16 certainly isn't suppose to speculate. They're supposed to
17 testify to that, to what they actually know from their
18 personal observation. And in this case, there is a lot of
19 speculation because they're simply isn't true. Detective
20 Tuttle, they made assumptions based on what they want to
21 believe. Detective Tuttle assumed that the man in the photo
22 with a gun was the shooter. And, yeah, I mean, obviously,
23 crazy suspicion. He was right when he was reviewing the
24 surveillance footage to say, wow, there's a man with a gun.
25 But it doesn't mean that there are no other possibilities.

1 And perhaps -- other things to look at like talking to other
2 people, them talking to Peggy Black instead of just brushing
3 her off like she's no one, may be something could have come
4 from that. It's simply, at the time, Montrelle Campbell was
5 just the lead that they had from Katrina. I mean, you're
6 looking at if the State has proven to you that Montrelle
7 Campbell is guilty beyond a reasonable doubt. You can look
8 to things such as credibility -- and he would argue that
9 Trivell is credible simply because the evidence backs it up.
10 Again, it backs up that he was there. But Trivell is not
11 credible. He has much to lose. He has everything to gain
12 by testifying against Montrelle. And while the two we're
13 friendly, they weren't great friends. The State asked about
14 their communication, like how they communicated. And
15 Trivell had indicated that Montrelle, he would call him if
16 he wanted -- and obviously Montrelle had just started dating
17 Tomeka about a month or so earlier. And Trivell lived
18 nearby, so they were probably talking then. But it's not
19 unusual that their conversations stopped or they wouldn't be
20 talking much. They were not great friends. Again, hey,
21 dude, cut my hair. That's the type of friends they were.
22 Chilling, hanging out, nothing suggests that they're tight
23 buddies. And that is a big deal for Trivell to testify
24 against Montrelle.

25 This is very much a circumstantial evidence case. and

1 Judge Jefferson will explain that as well to you. But I do
2 want to go over it again as well. So direct evidence is
3 that there's something directly, like someone were to say, I
4 saw Montrelle Campbell shoot at the apartment, if they
5 directly see that. We don't have that here. Sometimes you
6 are allowed to take different circumstances, a couple, and
7 if you put them together and say based on everything I
8 believe that he's -- guilty beyond a reasonable doubt. But
9 to the extent that the State relies on circumstantial
10 evidence, all the circumstances must be consistent with each
11 other, and when taken together point conclusively to the
12 guilt of the accused beyond a reasonable doubt. If the
13 circumstances merely portray the defendant's behavior as
14 suspicious, the proof has failed. So here, while things may
15 be suspicious, the evidence certainly does not lead
16 conclusively that he's guilty. And that's not consistent
17 because we have Peggy Blake. And again, even though some
18 may -- they think she's kooky, zero motive why she would
19 call the police that night and say that she saw a man with a
20 rifle get into a lime green car. She is the most credible
21 person you've heard because she has literally nothing to
22 gain or lose from this. If anything, to lose, you know,
23 nobody really wants to testify. She has nothing to lose.

24 Another legal concept the judge will instruct you on is
25 mere presence. And that does mean that mere presence is not

1 sufficient to establish guilt -- or better. Because that's
2 the other thing Mr. Simpson went into is the hand of one is
3 the hand of all. The tricky thing about that is there has
4 to be proof that there was some type of plan or conspiracy.
5 You have to believe that -- there has to be evidence that
6 more than one person -- here, they don't necessarily have to
7 be charged, but it does have to be evident. Peggy Blake is
8 another person. Clearly, that person was not the person in
9 the Italia shirt. Clearly, that man was dark-skinned,
10 wearing dark clothing with a hoodie. Clearly, not the
11 person in the Italia shirt. But she doesn't say I saw him
12 talking to another man. There's no evidence that that man
13 was . . .

14 And then you have Trivell Richardson. He's charged.
15 He's the codefendant, which no one else is charged in the
16 case. But according to his testimony, he didn't know
17 anything. He knew nothing; nothing at all. He didn't --
18 doesn't involve. And he didn't know anything. That's his
19 testimony. So he is saying that he's not guilty and the
20 State hasn't presented any evidence to the contrary that
21 he's guilty either. So there's no other person that you can
22 see that or that you heard of to establish that there was a
23 plan to do this. Nothing like that. There's no evidence
24 that he aided someone or contributed. Even though there is
25 a gun that, again, if you believe that person was Montrelle,

1 which it wasn't, but if you believe that person was
2 Montrelle, you don't know exactly when that person came into
3 contact with that gun. Yet there's a very short turnaround.

4 But things are crazy. Obviously, it was super crazy.
5 People in the apartment was shot at. You saw the video; it
6 was very traumatic inside. The outside was very scary too.
7 It was scary for people who called the police who heard all
8 those shots. Multiple people called the police. That's a
9 really scary thing to wake up to -- see someone that
10 something shot up, you're going to get the hell out of
11 there. Who's gonna stick around for that? So someone could
12 have just run to get away doesn't mean that they knew what
13 happened. Because that's the thing, he would've had to have
14 known beforehand what was going to happen -- but here we
15 don't have that. There's no testimony from anyone including
16 Trivell Richardson that there was any type of plan
17 beforehand. There's no evidence of a plan. And so to find
18 him guilty on the hand of one, the hand of all, makes no
19 sense at all. It's simply -- the State did not present any
20 evidence to that. And again, the person that Peggy talked
21 about, there's no indication that he was . . .

22 It is horrific -- obviously -- it's a tragic ending for
23 his mom -- for family and for all involved. It's very
24 difficult -- and I hope to never be in that position.
25 Something traumatic happened for Mr. Frost and the Browns

1 and other people in that apartment that night. It's natural
2 to them to -- to Antwan Frost. That's understandable. And
3 the State says that it's his day too. And it's natural to
4 feel that way, but at the end of the day this trial is not
5 about determining something-- this trial -- and we're not
6 disputing that there was a murder. This trial is not to
7 determine if he was murdered -- this trial is to determine
8 if the State has proven beyond a reasonable doubt, the
9 highest burden there is, that Montrelle Campbell is the one
10 who did it. The facts don't prove Montrelle did it. The
11 evidence shows Peggy Blake -- saw the shooter. Large black
12 man in a hoodie with a rifle. She saw him go to his lime
13 green car. That's the shooter. Not the man in the Italia
14 shirt and not Montrelle. Montrelle was shown to be downtown
15 at around 5:50 a.m. I believe was the time, 5:51 perhaps.
16 But there's no proof that he was downtown at that moment
17 other than Trivell's word -- and Trivelle -- someone who
18 swore on his family that he' telling the truth when he later
19 changed his mind. Someone who is adamantly deny -- someone
20 who tried to get his mom involved -- someone who sent the
21 police on a wild goose chase talking to the child's mother,
22 other people about his supposed whereabouts. He didn't
23 think -- so why would he think twice in falsely accusing
24 Montrelle. It just means at the end of the day that he
25 did -- that his charges are dismissed, which are all . . .

1 The facts do not conclusively point -- of Montrelle.
2 The reason they don't conclusively point to that is because
3 Montrelle Campbell is not guilty. And again, I totally
4 understand the nature of what you're going to have to do, we
5 ask you to please consider everything we talked about. And
6 after, you return a verdict of not guilty on all charges.
7 Because it's simply not true, and the State has not proven
8 his guilt.

9 THE COURT: Is everybody so comfortable. Does anybody
10 need a restroom break? (No response.) Okay. You may
11 proceed.

12 AST. SOL. SIMPSON: Thank you, Your Honor.

13 THE COURT: You're welcome.

14 AST. SOL. SIMPSON: Ladies and gentlemen, it has been a
15 long week and it's been a long day. So I'm going to take
16 the opportunity -- to address some points -- take a few
17 moments to case in point to address this. One point made by
18 Ms. Ford is is he happens to -- presence of Katrina and
19 them. You didn't hear from them. You did hear, however,
20 testimony about Katrina being punched in the head the night
21 before and falling to the ground and her not calling the
22 police. And most of us -- like, why would -- why has he
23 knocked you to the ground in front of people -- you heard
24 it. It's not in dispute that happened -- why would you not
25 call the police? In the Gadsden Green area, I asked her and

1 she explained it to you, because contact with police is not
2 really encouraged down there. Okay. And the more serious
3 the event, the less likely people want to entangled in it.
4 And so in that respect, I -- it happens. And so we get the
5 witnesses that are willing to come in and cooperate. It's
6 not -- that community is not really . . .

7 Mary Ford keeps referring to that, however, getting
8 punched in the head by man, blindsided, knocked on to the
9 ground. It's a minor altercation. I don't think that's a
10 real minor altercation. In fact, I think that's a pretty
11 telling event. Because I had addressed with you in my
12 closing argument, murder is not rational. That's why we
13 punish it. That's why we call it murder. It's not about
14 the outfit of the shooter. Yeah, that was dumb. That's not
15 rational. Going in and shooting up a house because you were
16 disrespected is not rational. You know, a lot of this when
17 we're disrespected, we handle it by just ignoring it. Some
18 people handle it by, like Katrina and others, by speaking
19 her mind. That's a rational way to do it. Murder and
20 violence isn't. Punching someone in the head as Montrelle
21 did and then shooting up a house as Montrelle certainly did
22 isn't -- the murder isn't rational. That's why we punish
23 it. You don't look at it and say, oh, that doesn't make
24 sense; you must not be guilty of that.

25 And so we really get through and sum up the defense's

1 closing. To really whittle it down, it comes down to this:
2 Only Trivell identified Montrelle. Only Trivell. In order
3 to go back there and find him guilty, you just have to take
4 Trivell's word for it. Wasn't that sort of the basic
5 closing that you just got from Ms. Ford? But don't forget
6 how I went through slide by slide, point by point, only
7 Trivell, only Trivell, points to the gunman as Montrelle
8 Campbell? You have to believe Trivell? Only Trivell and
9 Montrelle's phone calls, contact between the two while
10 Trivell is parking the car. Only Trivell in the car that
11 belongs to Tomeka President. The car who the only people
12 who had access to were Tomeka President and the gentleman
13 sitting right there because the keys were in his
14 apartment -- her apartment on her counter. But only
15 Trivell; just take Trivell's word for it. Only Trivell and
16 the cell tower records that showed Montrelle right there in
17 the area of Gadsden Green not the area of his grandmother's
18 house downtown, but the area of Gadsden Green. Only Trivell
19 and the cell tower record that show him down right in the
20 area at 5:51 and then right after, right backs up there was
21 Trivell back to where he had -- he better have gotten that
22 Buick back because his girlfriend had to get to work an hour
23 and nine minutes later. But you only have to rely on the
24 word of Trivell. And Tomeka President at the time, no dog
25 in the fight, wakes up, Montrelle's gone. Her car is gone.

1 The car we see downtown that show up mysteriously late.
2 Only Trivell and all the other evidence we have spent a week
3 of your time presenting to you pointing to the guilt of
4 Montrelle Campbell.

5 When you hear testimony, you don't hear it in a vacuum.
6 You take and you're like, I wonder if I believe this or not.
7 And you fit it with the other evidence. And when it fits
8 and when it corroborates, you know it is the truth. What's
9 required of hand of one, this is not a conspiracy case, but
10 what is required for guilt under hand of one is knowing
11 participation in something. You know, you don't have to
12 have evidence that, oh, at 9:00 a.m. we met at a conference
13 room and discussed the pros and cons of committing a murder
14 and decided that after two deliberations we decided to
15 commence this offense. What's required for hand of one is
16 participation. Participation like, hey, drive me downtown.
17 Participation like caring AR15 on a video. Participation
18 like talking on the phone to other participants.
19 Participation like getting in the car and saying, go, drive.
20 That's the kind of thing required in evidence for guilt
21 under hand of one. You don't have to rely on Trivell.
22 Please do rely on Trivell, but rely on Trivell confidently
23 knowing that you're relying on Trivell and all of this which
24 points to the guilt of Montrelle Campbell.

25 People in different situations have some type --

1 theories. Peggy Blake gave a statement about a lime green
2 car. I would suggest to you -- you heard some phrases from
3 Ms. Ford. She's doing her job. She's doing a good job.
4 You head her say a couple of phrases that I want you to
5 think about. She said, they just thought she was a liar;
6 they just went and wrote her off; and, finally, they just
7 brushed her off like a no one. We heard testimony. There
8 as skepticism. There was some healthy skepticism. But we
9 heard testimony that they spent hours -- they're looking for
10 a lot of things -- but one of the things they're looking
11 for, a lime green car, hours scouring the city cams. And
12 you saw them. They rotate. But we're not talking about a
13 rotating camera. We're talking about five rotating cameras
14 that even when they rotate down one street, we'll see it in
15 the clip, they did turn and rotate down the other. And you
16 see the map, in the map there of, of Gadsden Green -- on all
17 these corners. And this -- this fictitious lime green car
18 drives past, depending on where they went, anywhere between
19 two and all five of them, no lime green car. No one wrote
20 her off. No one brushed her aside like she was no one. It
21 was -- I believe Ms. Ford said something like, oh, just
22 because she's little kooky doesn't mean she's a liar. You
23 know who agrees with that statement? Me, Detective Tuttle,
24 the Charleston Police Department. They thought she was
25 little kooky, but nobody wrote her off like a liar. They

1 went and followed up. And it's a great contrast. It's such
2 a contrast. Trivell's story, everything fitting: cell tower
3 Records, video surveillance, timing, everything coming
4 together. Peggy Blake's story, none of that. Peggy Blake
5 who even in the 15 minutes she was on the stand couldn't
6 keep her story straight. I looked out the front window of
7 that great view. No, it wasn't in the front window; it was
8 the back room. I told the police. I called 911. I told
9 them I saw a guy in a hoodie with a gun. You heard the 911
10 tape. She didn't mention the lime green car. She didn't
11 mention anything. She just has a hard time keeping things
12 together. And you've gotta see it in a ten-minute span, not
13 to mention a two-year span. The one way you determine truth
14 is to take what you hear and put it with the evidence. If
15 it fits, believe it. And when nothing fits, as with Peggy
16 Blake, to not believe it. Sweet lady, but it's . . .

17 Thank you so much for your time -- it's Montrelle
18 Campbell's day. I know you are going to take it seriously.
19 It's also Antwan Frost's day, Brother Dusty. You have to do
20 something hard. But go there, work hard, do your duty, and
21 I am confident you will return a just, a difficult, but just
22 and fair verdict in this case which is Montrelle Campbell is
23 guilty of murder and two counts of attempted murder. Thank
24 you.

25 THE COURT: Mr. Foreman, ladies and gentlemen, I'm

1 going to give you a brief comfort break. During this break,
2 please do not discuss the case. Please leave your notepads
3 in your seats. As soon as everyone is refreshed we will
4 resume with the Court's instruction. If you will go with
5 the bailiff, please.

6 (The jury exits the courtroom.)

7 THE COURT: You may take your seats. I'm thinking I'll
8 take them probably five minutes depending on how many
9 restrooms are available. And I think they needed to walk
10 around a bit. They looked a little sleepy. So we'll resume
11 as soon as indicate to me they're ready which I think should
12 be about five minutes. We'll be at ease. I had no.

13 (Brief recess.)

14 THE COURT: You may be seated. State ready to proceed?

15 AST. SOL. SIMPSON: Yes, Your Honor.

16 THE COURT: Defense ready to proceed.

17 MS. FORD: Yes, Your Honor.

18 (The jury enters the courtroom.)

19 JURY CHARGE

20 THE COURT: You may be seated. During this trial
21 ladies and gentlemen, you and I have certain duties to
22 perform. As the trial judge, it is my responsibility to
23 preside over the trial of the case. I also have the duty to
24 rule on the admissibility of evidence offered during this
25 trial. You are to consider only the competent evidence that

1 is before you. And you are to disregard and disabuse from
2 your mind any testimony ordered stricken from the record in
3 this case during the progress of this trial. You are to
4 consider only the testimony which has been presented from
5 the witness stand together with any exhibits which have been
6 introduce or made a part of the record in this case.

7 I also have the additional duty to charge or instruct
8 you on the law applicable to this case. As the presiding
9 judge, I'm the sole judge of the law in this case, and it is
10 your duty as jurors to accept and apply the law as I now
11 state it to you. If you have a preconceived ideas as to
12 what the law is or what the law ought to be in a case, or in
13 this case, and it should not agree with what I now tell you
14 the law is, you are obligated under your oath to abandon
15 this preconception on your part because you are sworn to
16 accept the law and apply the law precisely as I now state it
17 to you.

18 In every case tried in this court before a jury, the
19 jury becomes the sole and the exclusive judges of the facts.
20 You the jury are the judges of the facts in this case. This
21 court is the judge of the law. The constitution of our
22 State has declared that a trial judge shall not intimate,
23 state, comment upon, or make any statement to a trial jury
24 about the facts in a case. Since you the jury are the sole
25 judges of the facts in this case, you are not to infer

1 anything from what I've said during the progress of this
2 trial in ruling upon the admissibility of evidence or
3 otherwise, or anything that I say now to you during the
4 course of this instruction that I have any opinion about the
5 facts. The law does not permit me to have an opinion about
6 the facts. This is a matter solely for you the jury to
7 determine.

8 As jurors then it is your duty as I've instructed to
9 determine the effect, the value, the weight, and the truth
10 of the evidence presented during this trial. Necessarily,
11 you must assess the credibility of witnesses who have
12 testified in this case. Credibility is simply a legalistic
13 term which means believability. It becomes your duty as
14 jurors to analyze and to evaluate the evidence. Some of the
15 things you may consider as you decide whether or not to
16 believe a witnesses testimony about a particular matter
17 include: What was the manner and appearance of the witness
18 who testified? Was he or she straight forward or hesitant
19 in answering? Was the testimony of a witness consistent or
20 inconsistent? How did the witness come to know the facts
21 that he or she testified to? Or what was his or her ability
22 to know these facts? Is there some reason a witness would
23 want to give testimony which would help or hurt one fact or
24 the other? In other words, was the witness biased or
25 prejudiced? And was the testimony of a witness strengthened

1 or weakened by other testimony or evidence?

2 I further instruct you that in determining the
3 questioning of the credibility or believability of witnesses
4 who have testified, you may believe one witness as against
5 several witnesses, or several witnesses as against one
6 witness. You may believe a part of the testimony of a
7 witness and reject the remaining part of the testimony of
8 that same witness. If you have good and sound reason, you
9 may believe the testimony of a witness in its entirety or
10 reject the testimony of a witness in its entirety. You can
11 believe as much or as little of each witnesses testimony as
12 you think proper. You may consider the demeanor of a
13 witness. That is the manner and the appearance of the
14 witness from the witness stand.

15 I further instruct you that a person who has a past
16 criminal record is competent to testify. A past record does
17 that affect the ability of that witness to testify. The
18 past record may only be considered by you if at all in
19 determining the witnesses believability. Remember, ladies
20 and gentlemen, you are the sole judges of the facts in this
21 case and the believability of any and all of the witnesses.

22 Our rules of evidence ordinarily do not permit
23 witnesses to testify to opinions or conclusions. An
24 exception to this rule exists for witnesses we call expert
25 witnesses. A witness who by their education, training, and

1 experience has become an expert in some art, science,
2 profession, or calling may state an opinion as to relevant
3 and material matters in which the witness claims to be an
4 expert. And they also state the reasons for the opinion.
5 You should consider any expert opinion received in evidence
6 in this case like any other evidence, give it the weight
7 that you think it deserves. If you decide that the opinion
8 of an expert witness is not based on sufficient education,
9 training, and experience, or if you conclude that the
10 reasons given in support of the opinion are not sound, or
11 that the opinion is outweighed by other evidence, you may
12 disregard the opinion entirely. An expert witness's
13 testimony is to be given no greater weight than that of
14 other witnesses simply because the witnesses is an expert.
15 Further, you are not required to accept an expert's opinion
16 even though it is uncontradicted.

17 Ladies and gentlemen, there are two types of evidence
18 which are generally presented during a trial: direct
19 evidence and circumstantial evidence. Direct evidence is
20 the testimony of a person who asserts or claims to have
21 actual knowledge of a fact such as an eyewitness.
22 Circumstantial evidence is proof of a chain of facts and
23 circumstances indicating the existence of a fact. The law
24 makes absolutely no distinction between the weight or value
25 to be given to either direct or circumstantial evidence. Nor

1 is a greater degree of certainty required of circumstantial
2 evidence than of direct evidence. And as I instruct it,
3 crimes may be proven by circumstantial evidence. And again,
4 the law makes no distinction between the weight or value to
5 be given to either direct or circumstantial evidence.

6 However, to the extent the State relies on
7 circumstantial evidence, all of the circumstances must be
8 consistent with each other. And when taken together quite
9 conclusively to the guilt of the accused beyond a reasonable
10 doubt. If these circumstances merely portray the
11 defendant's behavior as suspicious, the proof has failed.
12 The State has the burden of proving the defendant guilty
13 beyond a reasonable doubt. This burden rests with the State
14 regardless of whether the State relies on direct evidence,
15 circumstantial evidence, or some combination of the two.

16 Ladies and gentlemen, you should weigh all of the
17 evidence in the case. After weighing all of the evidence,
18 if you are not convinced of the guilt of the defendant
19 beyond a reasonable doubt, you must find the defendant not
20 guilty. Conversely, if you convinced of the guilt of the
21 defendant beyond a reasonable doubt, then you must find him
22 guilty.

23 I instruct you that the fact that the defendant was
24 arrested, charged and indicted is not evidence in this case,
25 and cannot be considered by you as evidence of guilt in this

1 case, nor, does it create any presumption or inference of
2 guilt. This documentation, ladies and gentlemen, are simply
3 the formal written instrument which contain the charge or
4 charges made against the defendant. They simply serve as
5 the formal documentation by which the case is processed or
6 brought into the court. The defendant has pled not guilty
7 to the indictments. And that plea casts the burden on the
8 State to prove the defendant guilty. Because the person
9 charged with committing a criminal offense in South Carolina
10 is never required to prove himself innocent. I instruct you
11 that it is an important rule of the law of evidence. That a
12 defendant in a criminal trial, no matter what the
13 seriousness of the charge or charges made against him may
14 be, will always be presumed to be innocent of the crime for
15 which he is indicted unless his guilt has been proven by
16 evidence satisfying you that guilt beyond a reasonable
17 doubt. This presumption of innocence does not cease when
18 you retire to deliberate, but it accompanies the defendant
19 from the time of his appearance throughout the trial until
20 you reach a verdict in this case. Our Supreme Court has
21 said that the presumption of innocence is like a robe of
22 righteousness placed about the shoulders of the defendant,
23 and it remains with him and it -- him -- the innocent until
24 the presumptive robe of righteousness has been stripped from
25 his person by evidence satisfying view that guilt beyond a

1 reasonable doubt. The presumption of innocence is not a
2 mere legal theory. It is not just a legal phrase. It is a
3 substantial right to which every defendant is entitled
4 unless you the jury are satisfied from the evidence of his
5 guilt beyond a reasonable doubt.

6 The State has the burden of proving the defendant
7 guilty beyond a reasonable doubt. Some of you may have
8 served as jurors in civil cases where you were told that it
9 is only necessary to prove that a fact is more likely true
10 than not true such as by the greater weight or the
11 preponderance of the evidence. In criminal cases, the
12 State's proof must be more powerful than that. It must be
13 beyond a reasonable doubt. Proof beyond a reasonable doubt
14 is proof that leaves you firmly convinced of the defendant's
15 guilt. There are very few things in this world that we know
16 with absolute certainty. And in criminal cases, the law
17 does not require proof that overcomes every possible doubt.
18 If based on your consideration of the evidence you are
19 firmly convinced that the defendant is guilty of the crime
20 charged, you must find the defendant guilty. If on the
21 other hand you think there is a real possibility that the
22 defendant is not guilty, you must give the defendant the
23 benefit of the doubt and find him not guilty.

24 I instruct you and emphasize that the fact that the
25 defendant did not testify is not a factor to be considered

1 by you in any manner whatsoever in your deliberation of this
2 case, and in your consideration on the question of whether
3 the State has met its burden of proof in this case. It must
4 not be considered by you in any manner whatsoever. A
5 defendant has the constitutional right to remain silent.
6 And the assertion of this right must not be considered by
7 you in your deliberations. I repeat, under your oath, you
8 are to draw no conclusion whatsoever from the fact that the
9 defendant in this case did not testify. The fact that this
10 defendant did not test should not be discussed in any manner
11 whatsoever during your jury deliberations. The burden of
12 proof as I have instructed to you is on the State. The
13 defendant is not required to prove his innocence. The
14 burden of proof remains on the State to prove his guilt
15 beyond a reasonable doubt.

16 The defendant is charged with murder. The State must
17 prove beyond a reasonable doubt that the defendant killed
18 another person with malice aforethought. Malice is hatred,
19 ill will, or hostility towards another person. It is the
20 intentional doing of a wrongful act without just cause or
21 excuse and with an intent to inflict an injury or under
22 circumstances that the law will infer an evil intent.
23 Malice aforethought does not require that malice exists for
24 any particular time before the act is committed. But malice
25 must exit in the mind of the defendant just before and at

1 the time the act is committed. Therefore, there must be a
2 combination of the previous evil intent and the act.

3 Malice aforethought may be expressed or inferred.

4 These terms express and infer do not mean different kinds of
5 malice but merely the manner in which malice may be shown to
6 exist. That is either by direct evidence or by inference
7 from the facts and circumstances which are proven.

8 Expressed malice is shown when a person speaks words
9 which express hatred or ill will for another or when the
10 person prepared beforehand to do the act which was later
11 accomplished. For example, lying in wait for a person or
12 any other acts of preparation going to show that the deed
13 was within the defendant's mind would be expressed malice.

14 Malice may be inferred from conduct showing a total
15 disregard for human life. Inferred malice may also arise
16 when the deed is done with a deadly weapon. A deadly weapon
17 is any article, instrument, or substance which is likely to
18 cause death or great bodily harm. Whether an instrument has
19 been used as a deadly weapon depends on the facts and
20 circumstances of each case. The following are examples of
21 instruments which may be a deadly weapons: a pistol, a
22 shotgun, a riffle, a dirk, a dagger, a knife, a slingshot,
23 metal knuckles, a razor, gasoline, a firebomb or Molotov
24 cocktail, and lighter fluid. A gun may be a deadly weapon
25 even if it is not operating. If facts are proven beyond a

1 reasonable doubt sufficient to raise an inference of malice
2 to your satisfaction, this inference, ladies and gentlemen,
3 would be simply an evidentiary fact to be taken into
4 consideration by you along with all the other evidence in
5 this case. And you may give it the weight, value, and
6 effect you decide it should received.

7 I further instructed that if the defendant with malice
8 aforethought attempts to kill another person that by mistake
9 injures or kills of different person, the defendant still
10 has -- I apologize. If the defendant with malice
11 aforethought attempts to kill another person that by mistake
12 injures or kills another person, the intent is transferred
13 from the original person the defendant intended to kill or
14 killed or injured. The defendant would be guilty of murder
15 as if it had resulted in the death or injury of the person
16 the defendant intended to kill.

17 Bear with me one second, ladies and gentlemen. (Brief
18 pause.)

19 I want you to disregard, ladies and gentlemen, any
20 reference I made to transferred intent because I think I
21 inadvertently made a mistake that I'm going to need to
22 correct. And I would ask that you bear with me. However,
23 I'm going to continue with the remainder of the instruction.
24 And that is as follows:

25 The defendant is charged with attempted murder. In

1 order to prove this crime the State must prove the defendant
2 attempted to kill another person with malice aforethought
3 either expressed or implied. Malice is hatred ill will or
4 hostility towards another person. It is the intentional
5 doing of wrongful act that just cause or excuse and with an
6 intent to inflict an injury or under circumstances that the
7 law will infer an evil intent. Malice aforethought does not
8 require that malice exist for any take your time before the
9 act is committed.. That malice must exist in the mind of the
10 defendant just before and at the time the act is committed.
11 Therefore, there must be a combination of the previous evil
12 intent and the act. Malice aforethought may be expressed or
13 inferred by as I've explained. These terms express and
14 inferred do not mean different kinds of malice. But merely
15 the manner in which malice may be shown to exist. That is
16 either by direct evidence or by inference from the facts and
17 circumstances which are proven. Express malice is shown
18 when a person speaks words which express hatred or ill will
19 for another, or when the person prepared beforehand to do
20 the act which was later accomplished. For example lying in
21 wait for person or any other acts of preparation going to
22 show that the deed was within the defendant's mind would be
23 expressed malice. Malice may be inferred from conduct
24 showing a total disregard for human life. Inferred malice
25 may also arise when the deed is done with a deadly weapon.

1 A deadly weapon is any article, instrument, or substance
2 which is likely to cause death or great bodily harm.
3 Whether an instrument has been used as a deadly weapon
4 depends on the facts and circumstances of each case. Is
5 I've instructed, the following are examples of instruments
6 which may be deadly weapons: of pistol a shotgun, a rifle,
7 dirk, a dagger, a knife, a slingshot, metal knuckles, a
8 razor, gasoline, a firebomb or Molotov cocktail, and lighter
9 fluid. A gun may be a deadly weapon even if it is not
10 operating. If the facts are proven beyond a reasonable
11 doubt sufficient to raise an inference of malice to your
12 satisfaction this inference would simply -- would simply be
13 an evidentiary fact to be considered by you the jury along
14 with the other evidence in the case. And you may give it
15 the weight, value, and effect if any you decide it should
16 receive.

17 Intent means intending the result which actually
18 occurs, not accidentally or involuntarily. Intent may be
19 shown by acts and conduct of the defendant and of the
20 circumstances from which you may naturally and reasonably
21 infer intent. Evidence of the character of the act,
22 character of the instrument used, the manner in which it was
23 used, the purpose to be accomplished, and the resulting
24 wounds or injuries may be considered in determining the
25 intent for which the act was committed. Intent may also be

1 inferred when it is demonstrated that the defendant
2 voluntarily and willfully commits an act the natural
3 tendency of which is to destroy another's life.

4 I further instructed that an attempt is an effort to
5 accomplish a crime which does not succeed. And attempt
6 includes a specific intent to do a particular criminal act
7 along with an act falling short of the act intended. The
8 State must show more than mere preparation and intent.
9 There must be some overt act committed in the effort to
10 commit the crime. Intent means intending a result which
11 actually occurs, not accidentally or involuntarily. Intent
12 may be shown by acts and conduct of the defendant and other
13 circumstances in which you may naturally and reasonably
14 infer intent.

15 I further instruct, ladies and gentlemen, that criminal
16 intent is a mental state, a consciousness of wrongdoing. It
17 is up to you the jury to determine what the defendant
18 intended to do based on the circumstances shown to have
19 existed. I further instruct you to find the defendant
20 guilty of attempted murder, the State prove beyond a
21 reasonable doubt that the defendant had an intent to kill
22 the alleged victim.

23 (Brief pause.)

24 THE COURT: Would counsel approach for me, please. And
25 ladies and gentlemen, I apologize for this delay. It's my

1 oversight and I take full responsibility.

2 (A bench conference was held off the record and out of
3 the hearing of the jury panel.)

4 THE COURT: Ladies and gentlemen, we appreciate your
5 indulgence. And I further instruct you as follows:

6 If the defendant with malice aforethought attempts to
7 kill another person but by mistake injures or kills a
8 different person, the defendant still has the intent to
9 kill. The intent to kill is merely transferred from the
10 original person the defendant attempted to kill to the
11 actual person he killed or injured. The defendant would be
12 guilty of murder just as if he attempted -- just as if the
13 attempt had resulted in the death or injury of the person
14 that the defendant attempted to kill.

15 I further instructed, ladies and gentlemen, that if a
16 crime is committed by two or more people who are acting
17 together and committing a crime, the act of one is the act
18 of all. A person who joins with another to commit an
19 unlawful act is criminally responsible for everything done
20 by the other person which happens as a probable or natural
21 consequence of the act done in carrying out the common plan
22 and purpose. For example, two people can be guilty of
23 killing another person. When only one of the two had a gun,
24 there is only one bullet, and only one of the two fired the
25 shot that caused the death. If two or more people are

1 acting together, are together, acting together, assisting
2 each other and committing the offense, the act of one is the
3 act of all. Or it is sometimes said, the hand of one is the
4 hand of all.

5 Prior knowledge that a crime is going to be committed
6 without more is not sufficient to make a person guilty of
7 that crime. Mere knowledge that another person is going to
8 commit a crime, even if the defendant is present when the
9 crime is committed, is not sufficient to convict the
10 defendant as a principal. Guilt as a principal is shown by
11 actual or constructive presence at the scene as a result of
12 prior arrangement. Therefore, a finding of a prior arrange
13 plan or common scheme is necessary for a finding of guilt as
14 a principal. The State must prove beyond a reasonable doubt
15 by confident evidence the theory of the hand of one is the
16 hand of all. Principle of a crime is one who either
17 actually commits a crime or who was present aiding and
18 abetting or assisting in committing the crime. When a
19 person doesn't act in the presence of and with the
20 assistance of another, the act is done by both. Where two
21 or more acting with the common plan or intent to present at
22 the commission of a crime, does not matter who actually
23 commits the crime. All are guilty. The hand of one is the
24 hand of all.

25 Present at the commission of a crime means to be

1 sufficiently near to aid in the bed and assist in the
2 commission of the crime. However, mere presence at the
3 scene of the crime is not sufficient to convict one as a
4 principal on the theory of aiding and abetting. Intent is
5 also a necessary element, but there must be a common design
6 or intent to commit the crime. And the crime must've been
7 committed pursuant thereto with the person aiding and
8 abetting by some overt act. Intent means intending the
9 result which actually occurs, not accidentally or
10 involuntarily. Intent may be shown by acts and conduct of
11 the defendant and other circumstances from which you may
12 naturally and reasonably infer intent. The State must prove
13 these elements beyond a reasonable doubt.

14 Another issue in this case, ladies and gentlemen, is
15 the identification of the defendant as the person who
16 committed this crime charged. The State has the burden of
17 proving identity beyond a reasonable doubt. You must be
18 satisfied beyond a reasonable doubt that the accuracy of the
19 identification of the defendant before you may convict the
20 defendant. Identification testimony is an expression or
21 belief or an impression by a witness. You must determine
22 the accuracy of the identification of the defendant. You
23 must consider the believability of each identification
24 witness in the same way as any other witness. You may
25 consider whether the witnesses had an adequate opportunity

1 to observe the offender at the of the offense. This will be
2 affected by things like how long or short a time was
3 available, how far or close the witness was, the lighting
4 conditions, and whether the witness had a chance to see or
5 know the person in the past. Once again, I instruct you the
6 burden of proof on the State extends to every element of the
7 crime charged. And this specifically includes the burden of
8 proving beyond a reasonable doubt the identity of the
9 defendant as the person who committed the crime. If after
10 examining the testimony you have a reasonable doubt as to
11 the accuracy of the identification, you must find the
12 defendant not guilty.

13 I further instructed that mere presence at the scene is
14 not sufficient to prove someone guilty of a crime. And
15 defendants presence where crime is being committed or mere
16 association with the person who commits the crime does not
17 make a defendant and accomplice or aider and abettor of the
18 person committing the crime. The burden is on the State to
19 prove every element of the crime charged, that if you find
20 after viewing all of the evidence that the State has proven
21 that the defendant was only present at the scene of a crime
22 and that they have not proven beyond a reasonable doubt any
23 other participation in the crime, then you must find the
24 defendant not guilty. The law is that proof of at the scene
25 of the crime is not sufficient to find someone guilty.

1 Ladies and gentlemen, there are multiple indictments in
2 this case. They are indictments 2016-GS-10-2070, murder;
3 and 2071 and 2072 which are attempted murder. Each
4 indictment charges a separate and distinct offense. You
5 must decide each indictment separately on the evidence and
6 the law applicable uninfluenced by your decision as to any
7 other indictment. The defendant may be convicted or
8 acquitted on any or all of the offenses charged. And you
9 will be asked to write a separate verdict of guilty or not
10 guilty for each indictment.

11 Ladies and gentlemen, you've also heard reference to a
12 penalty a person can serve for the crimes alleged in the
13 indictments. In determining whether the State has met their
14 burden of proof regarding the defendant, you cannot consider
15 any possible penalty for any particular crime. The
16 punishment for crime is a matter of law for the Court
17 to determine and should never be considered by you in any
18 manner whatsoever in arriving at a fair and impartial
19 verdict in this case.

20 There are two possible options for verdicts on each of
21 the indictments. And I will go through each of them with
22 you -- you don't have to try to write this down -- you don't
23 have to try and write it down. The verdict form will go
24 into the jury room with you. And I emphasize that there's
25 absolutely no significance to the order in which I state

1 these potential verdicts. It is simply that one must be
2 stated first. And the options for the verdicts are as
3 follows:

4 As to indictment 2016-GS-10-2070, we the jury by
5 unanimous consent find the defendant guilty of murder or not
6 guilty. And as to indictments 2071 and 2072, they both read
7 identically which is, "We the jury by unanimous consent find
8 the defendant guilty of attempted murder or not guilty."
9 Again, there is no significance whatsoever to the order in
10 which I state these potential verdicts. One simply must be
11 stated first.

12 Ladies and gentlemen, instructed that your verdict must
13 be unanimous which means all 12 of you must agree in order
14 to reach a verdict on each indictment. Mr. Foreman, once
15 the jury has reached a verdict, it will be your
16 responsibility to fill each verdict form out and sign and
17 date the form, and also knock on the door and advise the
18 bailiffs that the jury has reached a verdict on each
19 indictment.

20 It is also your responsibility to write out any
21 questions that the jury may have during deliberations. And
22 you should write those out on the notebook that you've been
23 provided and sign and date the note. Also, I will instruct
24 you that no note should ever reveal any numerical breakdown
25 of the jury. As jury deliberation should remain within the

1 confine of the jury room. Ladies and gentlemen, if you have
2 any questions during deliberations, please note that there
3 will be a delay in our response and that's because there's a
4 process that we have to follow in answering your questions.
5 So know if you have a question, there will be a delay.

6 Again ladies and gentlemen, I've instructed that your
7 verdict must be unanimous which means all 12 of you must
8 agree. I'm going to ask that you return to your jury room
9 but do not yet begin your deliberations. There are some
10 brief matters of law that I need to take it with counsel
11 that may require the Court to give an additional instruction
12 or to correct an instruction. However, if there's no
13 further instruction, we will send in your notebooks and the
14 evidence, and at that time will excuse the alternate, and
15 you will be allowed to begin your deliberation.

16 I also tell you advance that I know it's 4:33, we do
17 not have any options for dinner. I also recognize that you
18 all have may have familial or other obligations in the
19 evening. If you reach a point where you would like go home,
20 just let us know. And at that time you'll be allowed to
21 recess for the evening and return in the morning to resume
22 your deliberations. I just want you to know you're not
23 going to be held captive at the courthouse against her
24 wishes. So if you desire -- you know once you reached a
25 point where you think you may want to recess for the

1 evening, please let us know and we will accommodate that
2 request.

3 Again, if you'll go with the bailiffs, please. Please
4 do not yet begin your deliberations and leave your notepads
5 in your seats.

6 (The jury exits the courtroom.)

7 THE COURT: You can take your seats. I'm sorry. other
8 than what we covered in charge conference, any exceptions
9 from the State.

10 AST. SOL. SIMPSON: No, Your Honor.

11 THE COURT: From the defense?

12 MS. FORD: Not in addition to my prior objections.

13 THE COURT: Can y'all just one more time make sure for
14 me all of the evidence -- have y'all already done that
15 again?

16 AST. SOL. SIMPSON: We probably need to tidy it up a
17 little bit, Your Honor.

18 THE COURT: If you all can go ahead and get through
19 with court reporter. You might want to go get a cart
20 because it's a lot of it and go ahead and start putting it
21 on their. Go ahead and get the notebooks but the
22 alternate's on the banister so that we can excuse the
23 alternate and allow the jury to begin the deliberations.

24 (Brief pause.)

25 THE COURT: -- you time and your attention to this

1 case. I know being an alternate can seem thankless. You do
2 all the work that you don't, as they say, don't get any of
3 the glory I guess. That you've been attentive. Even
4 timely. And we appreciate your service. I hope it's been
5 educational for you. I hope you learned it's nothing like
6 what you see on TV and how very valuable you are, your
7 service, is to us. But you're welcome to hang around with
8 us if you want. We can put you in a room back here, one of
9 the we multipurpose rooms, so that you can relax while the
10 jury is deliberating. But you're also welcome to leave if
11 you'd like. The bailiffs will destroy your notes unless you
12 want to do it. It's up to you. They're adept at it. Do
13 you need a work excuse today?

14 JUROR: No, ma'am.

15 THE COURT: Okay. We'll mail that to you along with
16 your check. You're welcome to discuss this case if you
17 would like. But I would ask that you not do it until the
18 entire panel is excused. I hope you have a wonderful
19 afternoon and a wonderful rest of the year, and we thank you
20 for your time on behalf of both the State and the defense
21 for your service to his. Have a great day.

22 JUROR: Thank you.

23 THE COURT: You're welcome, ma'am. Okay. The record
24 should reflect that the alternate was excused at 4:40 and
25 the jury has begun his deliberations. Y'all stay close for

1 me, I'd appreciate it, in case they have any questions.

2 (Jury begins deliberations at 4:40 p.m.)

3

4 THE COURT: -- as follows: The jury has established the
5 process for deliberation but would like to start fresh on
6 Friday morning. Is this okay?

7 So they're in the hallway. I'm going to let them go
8 home and resume in the morning. Any exception from the
9 State?

10 AST. SOL. SIMPSON: No, Your Honor.

11 THE COURT: From the defense.

12 MS. FORD: No, Your Honor.

13 THE COURT: And I've had the note marked as a Court's
14 exhibit.

15 (Court's Exhibit No. 11, Jury Note, was marked for
16 identification.)

17 (The jury enters the courtroom at 5:07 p.m.)

18 THE COURT: You may be seated. We received your note,
19 ladies and gentlemen. And absolutely it is okay for you all
20 to start fresh in the morning. So I will excuse you for the
21 afternoon. I would emphasize that you should have no
22 discussion about this case with anyone else were among
23 yourselves. Please do not watch, read, or listen to any
24 media accounts about this case if there would be any in the
25 newspaper, on the radio, television, or Internet. And don't

1 do any independent of any type on the Internet. When you
2 return in the morning at 9:00, you will come directly to
3 your jury room. And again, please don't have any contact
4 with anyone in or about the courthouse. We would not want
5 an innocent conversation to be observed and misinterpreted.
6 Everything will be left in your jury room undisturbed. That
7 room will be locked. And as soon as all 12 have returned
8 then you'll be allowed to begin -- resume your
9 deliberations. Again, you will return in the morning at
10 9:00. Have a great evening.

11 (The jury exits the courtroom at 5:08 p.m. and are
12 excused for the evening.)

13 THE COURT: Anything before we break for the evening?
14 From the State?

15 AST. SOL. SIMPSON: No, Your Honor.

16 THE COURT: From the defense?

17 MS. FORD: No, Your Honor.

18 (The proceedings adjourned for the evening at 5:08 p.m.)

19 - - - - -

20 (The proceedings resume with deliberations on Friday,
21 January 12, 2018, at 9:04 a.m.)

22 (Questions from the jury at 11:05 a.m.)

23 THE COURT: All right. We have four notes from the
24 jury debt. Three are dated and have the times attached.
25 One is dated and doesn't have the time attached. I will

1 have each marked as court's exhibits:

2 Were fingerprints taken from shell casings? Is
3 evidence available? That is timed at 10:40.

4 Was the DNA from the two cigarettes but analyzed? Did
5 the DNA match that of Trivell Richardson? That's at 10:55.
6 Although they gave it to me all at one time.

7 Is the photograph Montrelle Campbell during the time of
8 the shooting and his arrest available to the jury? That is
9 timed eleven o'clock.

10 And the last: For the two cell phones collected at the
11 scene by Ms. Gladwell analyzed and identified?

12 My response to all four of these notes will be as
13 follows: Ladies and gentlemen of the jury, all of the
14 evidence in this case has been presented to you. The Court
15 cannot answer factual questions. You must only consider the
16 testimony and evidence that has been submitted into the
17 record for the purposes of your deliberations. You cannot
18 conduct your own independent investigation or fact-finding
19 outside of the evidence and testimony presented to you
20 during the course of this trial. You are not to speculate
21 or draw any inferences or conclusions from this response to
22 your inquiry during your deliberations. If you desire to
23 have any testimony -- to have the testimony of any witness
24 replayed or rehear any portions of the law, please advise
25 the bailiff and we will accommodate you your request

1 immediately.

2 Any exception from the State?

3 AST. SOL. SIMPSON: No, Your Honor.

4 THE COURT: From the defense?

5 MS. FORD: No, Your Honor.

6 THE COURT: Okay. I will mark each of those
7 individually. And then I'm going to attach --/well, I don't
8 know. All of these need to be marked individually. And
9 then I'll put them all together as court's exhibits.

10 (Court's Exhibit Numbers 12-15, Jury Notes, were
11 marked for identification.)

12 (Court's Exhibit No. 16, Judge's Response, was marked
13 for identification.)

14 (Proceedings at ease while deliberations continue.)

15 THE COURT: Please be seated. Okay. We have another
16 note. It says: Can the jury review the testimony of Tomeka
17 President?

18 I've already instructed the court reporter to queue up
19 both days of her testimony. Is there any exception from the
20 State?

21 AST. SOL. SIMPSON: No, Your Honor.

22 THE COURT: From the defense?

23 MS. FORD: No, ma'am.

24 THE COURT: How long is each part of the testimony?

25 COURT REPORTER: The first day was about 40 minutes.

1 The second day ---

2 THE COURT: Was about five minutes? Three minutes?

3 Something like that?

4 COURT REPORTER: Yeah.

5 THE COURT: And none of it would include any matters of
6 law? I can't remember. I left my notes in my office.

7 COURT REPORTER: I know yesterday didn't. But let me
8 look back at Wednesday. There was a short bench conference
9 on the first time. Real short. But it's at the end.

10 THE COURT: It's at the end?

11 COURT REPORTER: Uh-huh.

12 THE COURT: But there are no matters of law in her
13 testimony?

14 COURT REPORTER: No.

15 THE COURT: Okay. What I will do -- I'm going to send
16 the court reporter in with the bailiff to replay the
17 testimony. Any exception from the State?

18 AST. SOL. SIMPSON: No, Your Honor.

19 THE COURT: From the defense?

20 MS. FORD: No, Your Honor, as long as it's played in
21 full.

22 THE COURT: It will play until they indicate they don't
23 want to hear it anymore. I'm not going to tell them what to
24 do. They're entitled to relisten to the testimony, and if
25 they say to the court reporter we've heard all we want to

1 hear, that's going to be the end of it. I'm not going to
2 make them -- they're deliberating. It's deliberate process.
3 And if they were in the courtroom and they raised their hand
4 and said that's all we want to hear, they don't have to
5 listen to all of it. I don't have -- but the bailiff will
6 be in there. They will be instructed that they are not to
7 discuss the case at all. But if they tell her they want to
8 hear, then that's in the short of it -- then that's on them.

9 MS. FORD: Yes, Your Honor.

10 THE COURT: All right. And we'll have the note marked
11 as a court's exhibit.

12 (Court's Exhibit No. 17, Jury Note, was marked for
13 identification.)

14 (Proceedings at ease while deliberations continue.)

15 (Replay of Tomeka President's testimony begins play at
16 12:30 p.m.)

17 (The proceedings resume at 3:15 p.m.)

18 THE COURT: Is the State ready to proceed? Is the
19 State ready to proceed?

20 AST. SOL. SIMPSON: Yes, Your Honor.

21 THE COURT: Is a defense ready to proceed?

22 MS. FORD: Well, other than Mr. Williams.

23 THE COURT: He's second chair. Is he essential to the
24 proceedings to be taking a break?

25 MS. FORD: Well, I guess not, Your Honor.

1 (Brief pause.)

2 THE COURT: And I know that this might-- well not --
3 that this could be emotional for those in the gallery.
4 However, I do not expect there to be any audible responses
5 upon publication of the verdict. If you feel that this is
6 too difficult for you to handle, I would ask that you excuse
7 yourselves from the gallery at this time.

8 (The jury enters the courtroom at 3:15 p.m.)

9 VERDICT OF THE JURY

10 THE COURT: You may be seated. Mr. Foreman, is it
11 correct that the jury has reached a verdict?

12 FOREMAN: Yes, ma'am.

13 THE COURT: If you will give the verdict forms to the
14 bailiff for me, please.

15 Sir, if you would stand for the publication of the
16 verdicts.

17 THE CLERK: In the matter of state of South Carolina,
18 County of Charleston, Ninth Judicial Circuit, versus
19 Montrelle Lamont Campbell, as to indictment number
20 2016-GS-10-2070, we the jury unanimously -- by unanimous
21 consent find the defendant guilty of murder signed this day
22 January 12th by the foreperson of the jury.

23 In the matter of indictment number 2016-GS-10-2071,
24 the State of South Carolina versus Montrelle Lamont
25 Campbell, we the jury by unanimous consent find the

1 defendant guilty of attempted murder signed this day
2 January 12th by the foreperson -- 2018 by the foreperson of
3 the jury.

4 In the matter of the State of South Carolina versus
5 Montrelle Campbell as to indictment number 2016-GS-10-2072,
6 we the jury by unanimous consent from the defendant guilty
7 of attempted murder signed this day January 12, 2018,
8 foreperson of the jury.

9 THE COURT: Ladies and gentlemen, if this is your
10 verdict or these are your verdicts, please indicate by
11 raising your right hands.

12 (Jurors comply.)

13 THE COURT: Let the record reflect that all have raised
14 her right hands and the verdict stands. You may put your
15 right hand down. You may take your seat.

16 Is there any request for the State to poll the jury?

17 AST. SOL. SIMPSON: No, Your Honor.

18 THE COURT: From the defense?

19 MS. FORD: Yes, Your Honor.

20 THE COURT: Ladies and gentlemen, the clerk is going to
21 ask you two questions after calling your name and/or juror
22 number. One is, "Is this your verdict and is this still
23 your verdict?" And I would ask that that you follow his
24 instructions. You may proceed.

25 CLERK: Ladies and gentlemen of the jury, as Your Honor

1 MS. FORD: Just a moment. No, Your Honor.

2 THE COURT: Sir, is there anything that you'd like to
3 say for the record on your behalf?

4 THE DEFENDANT: No, ma'am.

5 THE COURT: I can't hear you, sir.

6 THE DEFENDANT: No, ma'am.

7 THE COURT: Sir, if would stand for sentencing. On
8 both attempted murder charges, you're sentenced to the State
9 Department of Corrections for a period of 30 years. On the
10 murder charge, you're sentenced to the State Department of
11 corrections for a period of life. The sentences run
12 concurrent with one another. You'll get credit for any time
13 that you served to be calculated and abided by the
14 Department of Corrections. Thank you very much.

15

(End of Record)

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BCS/0310557
WITNESSES

Charleston City Police Department

AGENCY CASE NUMBER

2015-16094

ARREST WARRANT NUMBER

2015A1010500010

DATE OF ARREST

11/02/2015

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date:

VERDICT

Guilty

Foreperson of Petit Jury

Date:

DOCKET NO. 2016-GS-10-02070

The State of South Carolina
County of Charleston

COURT OF GENERAL SESSIONS

APRIL TERM 2016

THE STATE

VS.

MONTRELLE LAMONT
CAMPBELL
B/M DOB: [REDACTED]-1981

Indictment for

MURDER

SC Code: § 16-03-0010
CDR Code: 0116

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

INDICTMENT

At a Court of General Sessions, convened April 2016, the Grand Jurors of Charleston County present upon their oath:

MURDER

That in Charleston County, South Carolina on or about September 19, 2015, the defendant, Montrelle Lamont Campbell, with malice aforethought, did kill and murder Antwan Lamont Frost by means of shooting him, and Antwan Lamont Frost did die in Charleston County as a proximate result thereof on or about September 19, 2015; in violation of §16-3-10 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.


BENJAMIN CHAD SIMPSON
ASSISTANT SOLICITOR

BCS/0310557
WITNESSES

Charleston City Police Department

AGENCY CASE NUMBER
2015-16094

ARREST WARRANT NUMBER

2015A1010900656

DATE OF ARREST

11/02/2015

ACTION OF GRAND JURY

TRUE BILL

[Signature]
Foreperson of Grand Jury

APR 11 2016

Date:

VERDICT

Guilty

[Signature]
Foreperson of Petit Jury

01/12/18

Date:

DOCKET NO. 2016-GS-10-02071

The State of South Carolina
County of Charleston

COURT OF GENERAL SESSIONS

APRIL TERM 2016

THE STATE

VS.

MONTRELLE LAMONT
CAMPBELL
B/M DOB: [REDACTED]-1981

Indictment for

ATTEMPTED MURDER

SC Code: § 16-03-0029
CDR Code: 3410

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

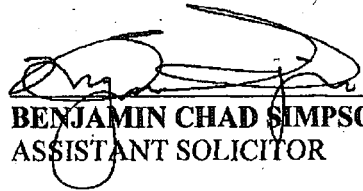
INDICTMENT

At a Court of General Sessions, convened April 2016, the Grand Jurors of Charleston County present upon their oath:

ATTEMPTED MURDER

That in Charleston County, South Carolina, on or about September 19, 2015, the Defendant, Montrelle Lamont Campbell, did, with intent to kill and malice aforethought, attempt to kill Tierre Brown. 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.


BENJAMIN CHAD SIMPSON
ASSISTANT SOLICITOR

BCS/0310557
WITNESSES

Charleston City Police Department

AGENCY CASE NUMBER

2015-16094

ARREST WARRANT NUMBER

2015A1010900660

DATE OF ARREST

11/02/2015

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

APR 17 2016

Date:

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2016-GS-10-02072

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

APRIL TERM 2016

THE STATE

VS.

MONTRELLE LAMONT

CAMPBELL

B/M DOB: [REDACTED]-1981

Indictment for

ATTEMPTED MURDER

SC Code: § 16-03-0029

CDR Code: 3410

FILED

4/15/2016 9:25:46 AM

JULIE J. ARMSTRONG

CLERK OF COURT

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

INDICTMENT

At a Court of General Sessions, convened April 2016, the Grand Jurors of Charleston County present upon their oath:

ATTEMPTED MURDER

That in Charleston County, South Carolina, on or about September 19, 2015, the Defendant, Montrelle Lamont Campbell, did, with intent to kill and malice aforethought, attempt to kill Kerri Brown. This is in violation of Section 16-3-29 of the South Carolina Code of Laws (1976) as amended.

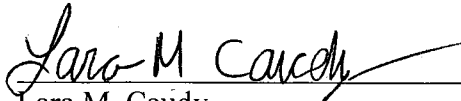
Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


BENJAMIN CHAD SIMPSON
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,

A handwritten signature in cursive script, reading "Lara M. Caudy", is written over a horizontal line.

Lara M. Caudy
Appellate Defender

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

ATTORNEY FOR APPELLANT

This 29th day of July, 2019.