

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

ORIGINAL

Appeal from Greenville County

Honorable Robin B. Stilwell, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

JAHRU HAROLD SMITH,

APPELLANT

APPELLATE CASE NO 2018-000505

RECORD ON APPEAL

RECEIVED  
SEP 09 2019  
SC Court of Appeals

KATHRINE H. HUDGINS  
Appellate Defender

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

ATTORNEY FOR APPELLANT

ALAN WILSON  
Attorney General

DONALD J. ZELENKA  
Deputy Attorney General

MELODY J. BROWN  
Senior Assistant Deputy Attorney General

MICHAEL D. ROSS  
Assistant Attorney General  
S.C. Bar No. 73986

South Carolina Office of the Attorney General  
P.O. Box 11549  
Columbia, SC 29211  
(803) 734-6307

W. Walter Wilkins, III  
Solicitor, Thirteenth Judicial Circuit

ATTORNEYS FOR RESPONDENT

INDEX

|                                                |     |
|------------------------------------------------|-----|
| INDEX .....                                    | i   |
| TRIAL TRANSCRIPTS DATED MARCH 12-14, 2018..... | 1   |
| PRETRIAL MOTIONS .....                         | 9   |
| OPENING STATEMENT BY MR. MORONEY .....         | 44  |
| OPENING STATEMENT BY MR. KORNFELD .....        | 51  |
| OPENING STATEMENT BY MR. SULLIVAN .....        | 53  |
| TESTIMONY                                      |     |
| ANIKA RASHON CARTER                            |     |
| Direct Examination by Mr. Moroney.....         | 56  |
| Cross Examination by Mr. Kornfeld.....         | 58  |
| Cross Examination by Mr. Sullivan.....         | 59  |
| TERESA LANG                                    |     |
| Direct Examination by Mr. Moroney.....         | 62  |
| BRITTANY NORTON                                |     |
| Direct Examination by Mr. Weston.....          | 64  |
| KERSANDRA WRIGHT                               |     |
| Direct Examination by Mr. Weston.....          | 70  |
| Cross Examination by Mr. Kornfeld.....         | 80  |
| JUSTIN HENDERSON                               |     |
| Direct Examination by Mr. Moroney.....         | 85  |
| COURTNEY HENDERSON                             |     |
| Direct Examination by Mr. Moroney.....         | 91  |
| Cross Examination by Mr. Kornfeld.....         | 94  |
| Cross Examination by Mr. Sullivan.....         | 95  |
| BRANDON NAPOLITANO                             |     |
| Direct Examination by Mr. Moroney.....         | 97  |
| Cross Examination by Mr. Kornfeld.....         | 105 |
| Cross Examination by Mr. Sullivan.....         | 106 |
| Redirect Examination by Mr. Moroney.....       | 110 |
| TIRISSA JOHNSON                                |     |

|                                          |     |
|------------------------------------------|-----|
| Direct Examination by Mr. Weston .....   | 112 |
| <b>MATTHEW LOVELACE</b>                  |     |
| Direct Examination by Mr. Weston .....   | 123 |
| Cross Examination by Mr. Kornfeld .....  | 130 |
| Cross Examination by Mr. Sullivan .....  | 130 |
| <b>DAVID WEINER</b>                      |     |
| Direct Examination by Mr. Weston .....   | 132 |
| Cross Examination by Mr. Kornfeld .....  | 142 |
| Cross Examination by Mr. Sullivan .....  | 142 |
| Redirect Examination by Mr. Weston ..... | 143 |
| <b>NICOLAS DOWNING</b>                   |     |
| Direct Examination by Mr. Moroney .....  | 145 |
| Cross Examination by Mr. Sullivan .....  | 151 |
| <b>ROBERT STEVEN PARKER</b>              |     |
| Direct Examination by Mr. Weston .....   | 152 |
| Cross Examination by Mr. Kornfeld .....  | 191 |
| Cross Examination by Mr. Sullivan .....  | 194 |
| Redirect Examination by Mr. Weston ..... | 196 |
| <b>RONALD DAVID LENDWAY</b>              |     |
| Direct Examination by Mr. Moroney .....  | 199 |
| Cross Examination by Mr. Kornfeld .....  | 219 |
| Cross Examination by Mr. Sullivan .....  | 223 |
| <b>DARWIN SHAW</b>                       |     |
| Direct Examination by Mr. Moroney .....  | 228 |
| Cross Examination by Mr. Kornfeld .....  | 255 |
| Cross Examination by Mr. Sullivan .....  | 257 |
| <b>KARA BENNICK</b>                      |     |
| Direct Examination by Mr. Weston .....   | 261 |
| Cross Examination by Mr. Kornfeld .....  | 267 |
| Redirect Examination by Mr. Weston ..... | 268 |
| <b>LLOYD NEWMAN</b>                      |     |
| Direct Examination by Mr. Weston .....   | 277 |
| Cross Examination by Mr. Kornfeld .....  | 278 |
| <b>CASSANDRA GORTON (In Camera)</b>      |     |
| Direct Examination by Mr. Weston .....   | 283 |
| Cross Examination by Mr. Kornfeld .....  | 285 |

## MICHAEL EUGENE WARD

|                                        |     |
|----------------------------------------|-----|
| Direct Examination by Mr. Moroney..... | 296 |
| Cross Examination by Mr. Kornfeld..... | 311 |
| Cross Examination by Mr. Sullivan..... | 312 |

## CASSANDRA GORTON

|                                        |     |
|----------------------------------------|-----|
| Direct Examination by Mr. Weston.....  | 314 |
| Cross Examination by Mr. Kornfeld..... | 317 |
| Cross Examination by Mr. Sullivan..... | 322 |

## LLOYD NEWMAN

|                                          |     |
|------------------------------------------|-----|
| Direct Examination by Mr. Moroney.....   | 325 |
| Cross Examination by Mr. Kornfeld.....   | 333 |
| Cross Examination by Mr. Sullivan.....   | 337 |
| Redirect Examination by Mr. Moroney..... | 341 |

## CHARLES MOORE

|                                        |     |
|----------------------------------------|-----|
| Direct Examination by Mr. Moroney..... | 353 |
|----------------------------------------|-----|

## TIFFANY PETTY (In Camera)

|                                         |     |
|-----------------------------------------|-----|
| Examination by the Court.....           | 362 |
| Direct Examination by Mr. Kornfeld..... | 364 |
| Further Examination by the Court.....   | 365 |

## TIFFANY PETTY

|                                           |     |
|-------------------------------------------|-----|
| Direct Examination by Mr. Moroney.....    | 367 |
| Cross Examination by Mr. Kornfeld.....    | 371 |
| Cross Examination by Mr. Sullivan.....    | 372 |
| Redirect Examination by Mr. Moroney.....  | 373 |
| Re-Cross Examination by Mr. Kornfeld..... | 375 |

## DEBORAH CALHOUN

|                                        |     |
|----------------------------------------|-----|
| Direct Examination by Mr. Moroney..... | 379 |
|----------------------------------------|-----|

## MARY LOUISE CLINKSDALE SMITH

|                                        |     |
|----------------------------------------|-----|
| Direct Examination by Mr. Moroney..... | 382 |
| Cross Examination by Mr. Kornfeld..... | 388 |

## JAMES WILLIAM ARMSTRONG

|                                          |     |
|------------------------------------------|-----|
| Direct Examination by Mr. Weston.....    | 398 |
| Cross Examination by Mr. Kornfeld.....   | 417 |
| Redirect Examination by Mr. Moroney..... | 418 |

## MEGAN FLETCHER

|                                        |     |
|----------------------------------------|-----|
| Direct Examination by Mr. Weston.....  | 420 |
| Cross Examination by Mr. Kornfeld..... | 429 |

|                                                              |     |
|--------------------------------------------------------------|-----|
| Cross Examination by Mr. Sullivan.....                       | 430 |
| MICHAEL RAINEY                                               |     |
| Direct Examination by Mr. Weston.....                        | 433 |
| KAITLIN APPEL                                                |     |
| Direct Examination by Mr. Weston.....                        | 436 |
| Cross Examination by Mr. Sullivan.....                       | 450 |
| JAVOCKUS LATIMER                                             |     |
| Direct Examination by Mr. Moroney.....                       | 452 |
| Cross Examination by Mr. Sullivan.....                       | 456 |
| RYAN HARGER                                                  |     |
| Direct Examination by Mr. Moroney.....                       | 458 |
| DANIEL PAUL KELLY                                            |     |
| Direct Examination by Mr. Moroney.....                       | 467 |
| Cross Examination by Mr. Kornfeld.....                       | 477 |
| Redirect Examination by Mr. Moroney.....                     | 483 |
| STATE RESTS.....                                             | 488 |
| MOTION FOR DIRECTED VERDICT AS TO ARMED ROBBERY.....         | 489 |
| COURT'S RULING .....                                         | 491 |
| MOTION FOR DIRECTED VERDICT AS TO MURDER.....                | 493 |
| COURT'S RULING .....                                         | 493 |
| COLLOQUY WITH DEFENDANT BOBBY SMITH ON RIGHT TO TESTIFY..... | 494 |
| TESTIMONY                                                    |     |
| BOBBY LEON SMITH                                             |     |
| Direct Examination by Mr. Sullivan.....                      | 500 |
| Cross Examination by Mr. Weston.....                         | 525 |
| Cross Examination by Mr. Kornfeld.....                       | 547 |
| Redirect Examination by Mr. Sullivan .....                   | 551 |
| Re-Cross Examination by Mr. Weston .....                     | 553 |
| Re-Cross Examination by Mr. Kornfeld.....                    | 555 |
| DEFENSE RESTS .....                                          | 556 |
| CLOSING ARGUMENT BY MR. MORONEY.....                         | 566 |

|                                                          |     |
|----------------------------------------------------------|-----|
| CLOSING ARGUMENT BY MR. SULLIVAN.....                    | 587 |
| CLOSING ARGUMENT BY MR. MORONEY.....                     | 593 |
| CLOSING ARGUMENT BY MR. KORNFELD .....                   | 596 |
| CHARGE ON THE LAW .....                                  | 602 |
| VERDICT .....                                            | 625 |
| SENTENCING FOR BOBBY LEON SMITH.....                     | 634 |
| SENTENCING FOR JAHRU HAROLD SMITH.....                   | 654 |
| COURT'S EXHIBIT #1 (WRITTEN NOTE CASSANDRA GORTON) ..... | 656 |
| INDICTMENTS AND SENTENCE SHEETS.....                     | 657 |
| CERTIFICATE OF COUNSEL .....                             | 664 |

**THE FOLLOWING EXHIBIT IS ON FILE WITH THIS COURT:**

**STATE'S EXHIBIT #44 (WYFF VIDEO)**

1 A 57.

2 Q How long have you lived in Greenville?

3 A I got out in 2003. I guess about 14 years.

4 Q Do you live at [REDACTED] Avenue?

5 A Yes, sir.

6 Q Is that where your mother lives?

7 A Yes, sir.

8 Q So you and your mother live together?

9 A Yes, sir.

10 Q Does anybody else live in that house?

11 A No, sir.

12 Q What kind of work do you do?

13 A I'm disabled, disability.

14 Q Do you have any physical problems?

15 A Sir?

16 Q Do you have any physical problems?

17 A Oh, I'm bipolar, schizophrenic.

18 Q Wait a minute. I'll get to that. I'm talking about

19 physical, like leg, arms, things --

20 A Oh, I got my toes cut off on my left foot. And my

21 right foot is messed up now.

22 Q What would that be from?

23 A Diabetic, diabetes.

24 Q When did you lose those left toes?

25 A About -- I guess about four years ago.

1 Q Did you -- did you have these left toes on the date  
2 that this happened on February 3rd, 2015?

3 A No, sir.

4 Q So you had already had those toes missing; correct?

5 A Yes, sir.

6 Q Does that affect your mobility?

7 A Yes, sir, my balance. I ain't got my balance  
8 straight yet with walking with these shoes. I have to  
9 wear -- I wear a 13, but these here are 15 or 16 on the  
10 left.

11 Q Okay. Now, as far as any mental problems, now, do  
12 you understand -- you've been in the courtroom the whole  
13 time this case has gone on; correct?

14 A Yes, sir.

15 Q Have you understood the proceedings?

16 A Yes, sir.

17 Q Do you know what the case is about?

18 A Yes, sir.

19 Q Do you know the case is about murder, and armed  
20 robbery, and use of a weapon during the commission of a  
21 violent crime? Are you aware of that?

22 A Yes, sir.

23 Q You and your brother have been charged with that, so  
24 you know that?

25 A Yes, sir.

1 Q And you understand the ramifications of that?

2 A Yes, sir.

3 Q Okay. Now, as far as other mental disabilities go,  
4 what do you have?

5 A I'm bipolar, schizophrenic.

6 Q Do you see anybody for that condition?

7 A Yeah. I was seeing a doctor down in Piedmont, once  
8 a --

9 Q Piedmont what?

10 A Piedmont Mental Health something.

11 Q Okay. Does he give you any medication for that?

12 A Vistaril and Zoloft.

13 Q What do they do for you?

14 A Calm me down.

15 Q But they don't affect the way you think?

16 A No.

17 Q They help you even out?

18 A Yeah.

19 Q Okay. So your testimony today will not be affected  
20 by those drugs?

21 A No, sir.

22 Q Okay. Now, during your time in Greenville -- we're  
23 not going to go back all the way. But you've not been an  
24 alter boy, have you?

25 A No, sir.

1 Q Okay. On -- on September 15th of 2008, do you  
2 remember getting a shoplifting charge?

3 A Yeah.

4 Q Okay. And you got five years suspended to two years  
5 of probation. Do you recall that?

6 A Yeah.

7 Q And March the 29th of '07, you were convicted of  
8 possession of cocaine; is that correct?

9 A Yes, sir.

10 Q And I believe there was one other conviction for a  
11 breach of trust. Do you remember that?

12 A I think so.

13 Q And you got time served for that?

14 A Yes.

15 Q So you've not been an alter boy. But you hadn't been  
16 that bad of a guy, have you?

17 A No, sir.

18 Q Okay. Let's get back to the date in question,  
19 February 3rd, 2015; correct?

20 A Yes, sir.

21 Q All right. Now, the victim in this case, sadly, is  
22 Ms. Logan; is that correct?

23 A Yes, sir.

24 Q Had you known Ms. Logan prior to this night?

25 A Yes, sir.

1 Q How did you meet her?

2 A I met her at a restaurant.

3 Q Was anybody else with you?

4 A Nah, no, sir.

5 Q After you met her, did you continue to see her?

6 A Yes, sir. I would receive a phone number from her  
7 and started calling her.

8 Q Well, what made you ask for her phone number?

9 A Where I can reach her, you know. She sold drugs. So  
10 I can reach her, call her and reach her.

11 Q Well, did you know that when you met her?

12 A No, not really.

13 Q Well, how did you find out that she could sell you  
14 drugs?

15 A She told me.

16 Q Okay. Now, prior to meeting her, had you been doing  
17 drugs before that?

18 A Yes, sir.

19 Q What kind of drugs had you been doing, Bobby?

20 A Crack cocaine..

21 Q How long have you been -- how long have you been  
22 doing crack cocaine?

23 A About 10 years.

24 Q So off and on, you've been smoking crack cocaine?

25 A Yeah.

1 Q Do you remember where you got it before you met  
2 Ms. Logan?

3 A No. It was in a neighborhood in Greenville.

4 Q So you would just get it out of the hood, so to  
5 speak?

6 A Yeah.

7 Q So after you met Ms. Logan and found out she could  
8 sell drugs, what happened then?

9 A I started calling her.

10 Q Was she your primary source for crack cocaine?

11 A Yeah.

12 Q Did you ever buy from anybody else?

13 A When I couldn't reach her. I'd get it from somebody  
14 else when I couldn't reach her.

15 Q How would you get in touch with them?

16 A I walked through a neighborhood.

17 Q So there were people in the neighborhood that could  
18 fix you up?

19 A Yeah.

20 Q So when you would call her, what would happen? Tell  
21 me how that would go down.

22 A She'll come -- she'll come -- she'll come, pull up in  
23 the driveway, blow the horn, and I'd come out.

24 Q So you'd be in the house and she'd blow the horn?

25 A Yeah.

1 Q What side of the car would you approach to get the  
2 drugs?

3 A The driver's side.

4 Q In other words, your house is sitting -- let's see if  
5 I can refer to this. And let me get where y'all can see.  
6 This is your house; correct?

7 A Uh-huh.

8 Q And this is the driveway?

9 A Yes, sir.

10 Q How would she -- how far -- stop me when she would  
11 pull up.

12 A About right along in there.

13 Q And she would blow the horn?

14 A Yeah.

15 Q You would come out?

16 A Sometimes, she would just call me back on the phone  
17 and tell me to come on.

18 Q And then she would roll down the passenger side?

19 A No. The driver's side.

20 Q So she would -- tell me what would happen then. She  
21 would call you and you would go out. How would you do the  
22 deal?

23 A I'd speak to her. And she give me the stuff. And I  
24 give her the money.

25 Q On which side of the car?

1 A On this side right here, on the driver's side.

2 Q So you would go around to the driver's side and y'all  
3 would just make the swap?

4 A Yeah.

5 Q And was that pretty much it?

6 A Yeah.

7 Q No talking about the weather and children? She'd  
8 just pull off --

9 A No. She'd just pull off and go.

10 Q And you'd smoke your cocaine, the crack cocaine?

11 A Yeah.

12 Q How many years did this happen before February 3rd,  
13 2015?

14 A About a couple of years.

15 Q So over a two-year period, y'all had this ongoing --

16 A Yeah.

17 Q -- financial transaction, let's say?

18 A Yeah.

19 Q Did you ever have any arguments with her about money?

20 A No. I ain't never had no words with her, no words.

21 Q So she would come, you'd pay, she'd go?

22 A Yeah.

23 Q Okay. During this period of time, of your own  
24 knowledge, not guessing or hearing neighborhood talk,  
25 would Jahru ever be there and be involved in these

1 transactions?

2 A No, sir.

3 Q Did Jahru -- do you know of your own knowledge if  
4 Jahru knows Ms. Logan?

5 A Yeah. Yeah, he knows her.

6 Q Do you know if he ever had any dealings with her?

7 A Yeah, they had dealings.

8 Q But not at your house?

9 A Not at our house.

10 Q Where did Jahru live?

11 A I forgot the name of them apartments.

12 Q Where were they?

13 A On the other side of town, not too far from the other  
14 side of town. They about a five-minute drive,  
15 five-minute, 10-minute drive from there.

16 Q About 10 minutes from your house to his house?

17 A Yeah.

18 Q If you don't know, tell me. But do you know if she  
19 ever drove to his house to do drug deals?

20 A Yeah.

21 Q Do you know that of your own knowledge?

22 A Huh?

23 Q Do you know that of your own knowledge?

24 A Yes.

25 Q That she came to your house and y'all did deals, and

1       then she would do deals with Jahru?

2       A     Yes.

3       Q     So both of you knew her?

4       A     Yes, sir.

5       Q     Did you and Jahru ever have any discussions about  
6       either one of you having any problems with her?

7       A     No, sir.

8       Q     So everything was copacetic, everything was cool?

9       A     Yes, sir.

10      Q     Now, let's get to the night of February 3rd, 2015.

11      That afternoon, was Jahru at your house?

12      A     Yes, sir.

13      Q     Okay. What were y'all doing?

14      A     We had came from the hospital first. I had to go to  
15      the hospital. And we came from the hospital --

16      Q     Wait, wait. I couldn't hear you. Are you talking  
17      about that morning?

18      A     Yeah, earlier part of the day.

19      Q     What happened to you?

20      A     My blood sugar went up, I think, yeah.

21      Q     And you went to the hospital?

22      A     Yeah..

23      Q     Who took you there?

24      A     Jay.

25      Q     How did he come? Did you call him, or how did y'all

1 get together?

2 A I called him.

3 Q So then what happened?

4 A He came in. And we came back and --

5 Q Wait, wait. He took you to the hospital?

6 A Yeah.

7 Q And what happened there?

8 A They kept me a few hours, and then they released me.

9 And then me and him went and ate. We went and ate. And  
10 after that, we started smoking.

11 Q What were you -- you left the hospital, got some  
12 food, and then started smoking dope. What time of morning  
13 was this?

14 A It was about 12:00 or 1:00.

15 Q Now, you had been smoking a good many years, hadn't  
16 you?

17 A Yes, sir.

18 Q Did it take -- if you smoked, say, one rock, did that  
19 mess you up too bad?

20 A No, sir.

21 Q So you had a tolerance for the drug?

22 A Yes, sir.

23 Q Whereas, say, for example, if I smoked a rock of  
24 cocaine, I'd be on my fanny probably; right?

25 A Yes, sir.

1 Q So then what did you do? Where did y'all smoke this  
2 dope?

3 A We were smoking in the car at first, in the Jeep at  
4 first. And then we went to my house.

5 Q Okay. Now, you were in a Jeep. Is this the Jeep  
6 that was parked in the front of the house that we've seen  
7 pictures of?

8 A Yes, sir.

9 Q The night this happened? So the car, that's how  
10 y'all got there?

11 A Yes, sir.

12 Q What time did y'all get there?

13 A I guess around 6:00 or 7:00, something along there.

14 Q Did you continue to smoke dope?

15 A No. We was sitting watching TV at first. And then  
16 he said, Let's get one.

17 I said, All right.

18 And I called my baby.

19 Q He said, Let's get one. What did that mean to you?

20 A Let's get a rock.

21 Q Okay. And what did you do?

22 A I said, I'll call my baby and see if she got some.

23 Q You said you'd call your lady. Who did you call?

24 A Nicole.

25 Q Ms. Logan?

1 A Yeah.

2 Q What happened then?

3 A I called her and she said she was coming. And then  
4 she came. She had come -- we called her two times. And  
5 she came both times.

6 Q So after a while, he suggested y'all call and get a  
7 rock?

8 A Yes, sir.

9 Q And then she brought that one?

10 A Yes, sir.

11 Q Did you smoke that one?

12 A Yes, sir.

13 Q And then you say Jahru said, Let's do another one?

14 A Yes, sir.

15 Q And who did you call then?

16 A I called Nicole Logan.

17 Q And Ms. Logan would come. And what would happen?  
18 How would you get the dope from her into your house?

19 A She'd pull up in the driveway, blow the horn, and I'd  
20 come out and get it.

21 Q Okay. No harsh words?

22 A Nah. Me and her ain't never had no words.

23 Q So did you go back in the house? What happened?

24 A I give him his part, and I take my part.

25 Q And y'all smoked it up?

1 A Yeah.

2 Q Okay. So far, everything is cool. What happens to  
3 lead up to this melee, this confrontation?

4 A He had called them -- he had called and she wasn't --  
5 she wasn't coming as fast as I would call her. And so he  
6 told me to call her back. So I called her and asked her  
7 was she coming. And she said, Yeah.

8 Q So Jahru called and she didn't want to come then?

9 A Huh-uh.

10 Q And you called her back and you were a better  
11 customer?

12 A Yeah.

13 Q So she was accommodating you by coming over quicker?

14 A Yeah.

15 Q Okay. What happened then?

16 A Well, they had -- he came out the back door --

17 Q Wait, wait. What did you do?

18 A I was in the house.

19 Q You didn't go out? Did she blow the horn?

20 A Yeah. She blowed the horn. And I came out.

21 Q Okay. You came out?

22 A Yeah. And I got my little stuff and shot on in.

23 Q Tell me what happened.

24 A They got to arguing --

25 Q Wait, wait. You got your stuff and shot in. That

1     don't mean anything to me. Tell me what you did.

2     A     Smoked it.

3     Q     No. She came up, blew the horn. What did you do?

4     A     Got up and we went outside.

5     Q     Then what happened?

6     A     I got my little stuff. And he came out the back  
7     door. And she said, I'm going to teach that mother fucker  
8     a lesson.

9     Q     What did you do?

10    A     I shot on in, shot on in the front door.

11    Q     You didn't see anything after that point?

12    A     No. I ain't seen nothing. After I was in there for  
13    about three or four minutes, I heard shots. I heard  
14    shots. I said, Damn. I said, I hope she ain't shot my  
15    brother, just like that. And a knock on the door came,  
16    and it was him. And he told me to come out there.

17    Q     It was Jahru?

18    A     Yes. He told me to come out there. I said, Man,  
19    what you done did? And he said he shot her.

20    Q     What did you do then?

21    A     So I came on outside with him. And she was laying  
22    halfway out of the car.

23    Q     Where in the car? The driver's seat? Backseat?

24    A     Front seat driver's seat.

25    Q     So she was in the driver's seat. Could you tell if

1 she had been shot?

2 A No, sir.

3 Q You didn't see any blood on the seat or anything, on  
4 her?

5 A No, sir.

6 Q When did you first see blood?

7 A I seen blood after he pulled her on out of the car.  
8 He pulled her on out of the car. And I seen blood then  
9 all on the seat.

10 Q So Jahru, you're saying, took her out of the car, and  
11 then you see blood all over the inside of the car?

12 A Yeah.

13 Q And what happened then?

14 A He pulled the car up and --

15 Q Let me go over here and get this straight. Now, back  
16 here on Mayflower -- so she had pulled up somewhere in  
17 here?

18 A Yes, sir.

19 Q So you go out and he had shot her. And he pulls her  
20 out of the car?

21 A Yeah. He pulled the car on up.

22 Q Wait, wait. He took her out of the car?

23 A Yes, sir.

24 Q Is the car closer to the street here?

25 A I don't know why he took her out.

1 Q But he pulled the car way up in here?

2 A Yes, sir, by the trash can.

3 Q Then what did you and Jahru do at that point?

4 A We tried to tote her around the other side to the  
5 back.

6 Q So you were trying to drag her from where the car --  
7 where she was pulled out of up to where it was then?

8 A Yes, sir.

9 Q How heavy was this lady?

10 A She was too heavy for me.

11 Q I think the coroner said she weighed 175 pounds and  
12 was 5'8"; is that correct?

13 A I don't know. That's what they said in here.

14 Q Who had her upper body?

15 A He did.

16 Q Who had her by the feet?

17 A I did.

18 Q And y'all were trying to move her up the driveway?

19 A Yes.

20 Q Could you pick her all the way up?

21 A No, sir, I couldn't.

22 Q Your foot and just --

23 A Yeah.

24 Q So you drug her pretty much up there?

25 A No. I dropped her. I dropped her. I was toting her

1 by the foot, leg, and stuff. So I dropped her.

2 Q After you dropped her, what happened then?

3 A I said, Shoot, I'm going in. I'm going in the house.

4 Q Wait a minute. Jahru got her up in the car; right?

5 A I guess.

6 Q You were up at the car, too, weren't you?

7 A Yeah. I was up at the car with him.

8 Q What did you do as far as being around the car and  
9 seeing stuff in the car?

10 A I grabbed a cell phone and a bag of reefer, about a  
11 dime or a nickel bag of reefer.

12 Q So where were these things located?

13 A In the seat.

14 Q So you took a phone and you took a bag of weed?

15 A Yes, sir.

16 Q Okay. And we've heard testimony that there was,  
17 also, some money and ID. This is the phone that was taken  
18 from the car that was tested by forensics that has her  
19 blood on it. Do you understand that?

20 A (There was no response.)

21 Q Where -- did you get the money and the ID separate,  
22 or did you get it all at once?

23 A It was stuck in between there, in there. Stuck in  
24 between there.

25 Q So she had some money and her ID?

1 A Yeah, had it folded up.

2 Q Folded up in there?

3 A (Witness nodded.)

4 Q Now, in carrying her and -- did you get blood on you?

5 A I don't know, probably. I don't know.

6 Q It was dark?

7 A Yeah. It was dark.

8 Q There's a good chance you got blood all over you --

9 MR. SULLIVAN: I'd like for the jury to see this  
10 phone has little compartments on the back where he says  
11 there was the ID.

12 MR. WESTON: Your Honor, I'm going to object to the  
13 closing argument before he finishes examining the witness.

14 THE COURT: Yes. You can address that in the closing  
15 argument, Mr. Sullivan.

16 BY MR. SULLIVAN:

17 Q So you took the phone inside the house?

18 A Yes, sir.

19 Q You left Jahru outside?

20 A Yes, sir.

21 Q You went in. Now, were you able to run in, or were  
22 you hobbling in with your feet?

23 A Just hobble in, hobble in the house.

24 Q When you got in, did you look in the phone?

25 A Yeah.

1 Q What did you find?

2 A I found an EBT card, a bank card, and a driver's  
3 license, and money.

4 Q How much money do you think you found?

5 A About \$60.

6 Q Did you have some money of your own?

7 A Yes, sir.

8 Q What did you do with the money that you found?

9 A I put it in my back pocket.

10 Q What did you do with the ID items?

11 A I tried to flush them.

12 Q What did you do with the phone?

13 A I put it in the freezer.

14 Q Okay. Then -- what did you do then?

15 A I just went back and sat on the couch. And the  
16 polices [sic] were pulling up. I kept seeing the blue  
17 lights. And about -- I guess, about an hour or so, they  
18 knocked on the door. As soon as I opened the door, they  
19 arrested me.

20 Q Wait a minute. Wait a minute. You say that it took  
21 them an hour?

22 A Yeah, about an hour.

23 Q Now, you were in the courtroom for the last three  
24 days for the testimony. And the officer had the call  
25 logs. And they say they were there within about five

1 minutes of the 911 call?

2 A They might have been. But they took a long time  
3 before they came to the door.

4 Q So you were sitting in the house and they came to the  
5 door. Did you open it?

6 A Yes, sir.

7 Q What happened then?

8 A They told me to get down and then they arrested me.

9 Q Did they take you down -- were you arrested then or  
10 just interrogated?

11 A I guess I was arrested. They handcuffed me and put  
12 me in the backseat of a car. And then they came and took  
13 the cuffs off and just let me sit out there.

14 Q Sit out where?

15 A Sit out there on Donaldson Center Road in the car.

16 Q You were in a police car uncuffed waiting on them to  
17 do whatever they were doing?

18 A Yes, sir.

19 Q Then what did they do with you?

20 A They brought me downtown to Mr. Newman's office. And  
21 then they carried me back to the scene.

22 Q They took you to the LEC?

23 A They took me to Mr. Newman's office down in  
24 Greenville County. And then they carried me back down to  
25 the scene.

1 Q Wait a minute. When you left Donaldson Center in the  
2 car, where did you go?

3 A I told you, he carried me downtown.

4 Q You went to the LEC?

5 A Yeah. I guess it's what you call it.

6 Q How long did y'all talk down there?

7 A About 30 minutes, I guess.

8 Q And then you went back to the scene?

9 A Yes, sir.

10 Q And then what happened?

11 A And then he -- he told me he was placing me under  
12 arrest because I kept telling him I didn't know what  
13 happened.

14 Q Okay. So you were lying to him?

15 A Yes, sir.

16 Q But then they took you back down to the LEC and put  
17 you in a room and interrogated you?

18 A Yes, sir. And the lady -- the man that carried the  
19 machine over me trying to find residue, or whatever.

20 Q Okay. When you were at the LEC, did you lie to the  
21 officers?

22 A Yeah. I kept telling them I didn't know what  
23 happened.

24 Q Okay. At some point, did you call your mother and  
25 talk to her about what was going on?

1 A Yes, sir.

2 Q What did you do then?

3 A I came -- came clean with the officers.

4 Q Not completely. You still didn't tell everything,  
5 did you?

6 A Huh-uh. I just told them my brother shot her.

7 Q But you didn't say anything about you taking  
8 anything? You kept yourself out of it?

9 A Uh-huh.

10 Q You were still covering yourself up; right?

11 A Yes, sir.

12 Q So you lied at first that you didn't know nothing  
13 about it. Then your momma told you to come clean. And  
14 you said Jahru shot her. And you tried to say you knew  
15 nothing about it?

16 A Yes, sir.

17 Q Since then, you and I have talked several times, have  
18 we not?

19 A Yes, sir.

20 Q I've been down to your house, haven't I?

21 A Yes, sir.

22 Q We sat in your living room with you and your momma.  
23 What did I tell you?

24 MR. WESTON: Your Honor, I'm going to object to the  
25 relevance. And it's hearsay. It has nothing to do with

1        what happened in regards to this incident, any  
2        conversations he had with his lawyer two, three, five,  
3        six months later.

4                THE COURT: I'll sustain. You can move on.

5        BY MR. SULLIVAN:

6        Q        Did we talk today and yesterday?

7        A        Yes, sir.

8        Q        Did I tell you to --

9                MR. WESTON: Objection, Your Honor.

10               THE COURT: Okay. I'll sustain. I'll sustain.

11        BY MR. SULLIVAN:

12        Q        Are you telling the truth today?

13        A        Yes, sir.

14        Q        So after she was shot, y'all drug her up. And you  
15        took her phone and you took some weed?

16        A        Yes, sir.

17        Q        Okay. That night, did they find the weed?

18        A        No, sir.

19        Q        Did you have a conversation with your mother at a  
20        later time and told her that the weed had not been found,  
21        that it was in your pocket, and it had blood on the  
22        package and for her to get rid of it?

23        A        Yes, sir.

24                MR. SULLIVAN: Answer any questions that the  
25        Defense -- the Prosecution may have.

CROSS-EXAMINATION

BY MR. WESTON:

Q Mr. Smith, let's see if we can see what we agree on.  
Okay.

A Uh-huh.

Q You have so say "yes" or "no," because she's typing  
it.

A Yes.

Q All right. Thank you.

And let's begin with this happened at [REDACTED]  
Avenue; is that correct?

A Yes, sir.

Q This is where Shameese Logan was killed?

A Uh-huh.

Q You have to say "yes" or "no."

A Yes.

Q Thank you, sir.

And that's where you lived?

A Yes, sir.

Q And your brother does not live there?

A No, sir.

Q And this was not the first time you had bought drugs  
from Ms. Logan?

A No, sir.

Q In fact, you had been buying from her for almost two

1       years, I think you said; is that right?

2       A     Yes, sir.

3       Q     And you sounded like -- I think you referred to her  
4       as -- you said, Let me call --

5       A     I said, Let me call my baby.

6       Q     So y'all were not romantic, were you?

7       A     No.

8       Q     And I'm not trying to suggest that you were.

9       A     No.

10      Q     But, apparently, you liked her. You referred to her  
11     as your "baby." And she never cheated you, did she?

12      A     No, sir.

13      Q     And you never cheated her. That wasn't the case with  
14     Jahru, was it?

15      A     No, sir.

16      Q     She had problems with him, didn't she?

17      A     Yes, sir.

18      Q     And the problem was he would short her, wouldn't he?

19      A     Yes, sir.

20      Q     He wouldn't have all the money?

21      A     Wouldn't have all the money.

22      Q     Right. So she didn't particularly -- they didn't  
23     care for each other. And she didn't like doing business  
24     with him, did she?

25      A     No, sir.

1 Q And that was why you called that night to get her  
2 over there, instead of him. Because she wouldn't come for  
3 him; isn't that right?

4 A Yes, sir.

5 Q So you helped lure her over there for him, didn't  
6 you?

7 A I --

8 Q You knew he was going to buy, didn't you?

9 A Yeah. I knew --

10 Q Excuse me. Yes or no. You knew he was going to buy  
11 crack?

12 MR. SULLIVAN: Let him finish his answer.

13 THE COURT: Yes. Let him finish his answer.

14 BY MR. WESTON:

15 Q Did you know he was going to buy crack cocaine?

16 A Yes, sir.

17 Q But you called?

18 A (Witness nodded.)

19 Q And you have so say "yes" or "no."

20 A Yes, sir.

21 Q And you knew she was coming for you?

22 A Yeah.

23 Q But you knew she might not come for him, didn't you?

24 A Yes, sir.

25 Q So you helped get her over there so he could buy

1 crack, didn't you?

2 A Yeah. I bought some, too.

3 Q I know. But -- you were buying some. But you knew  
4 if it was him that called, she probably wouldn't have  
5 come. Because she didn't like him because he would cheat  
6 her. Isn't that what you said?

7 A Yes, sir.

8 Q So you lured her over there so he could buy crack  
9 in addition to you; isn't that true?

10 A (There was no response.)

11 Q Come on, sir. You can tell the truth.

12 A No, sir. No, sir. I -- he called and then I called  
13 her.

14 Q But you -- she didn't come when he called?

15 A Huh-uh.

16 Q So you called. And you didn't say to her, hey,  
17 Jahru's gone, you can come on, did you?

18 A Huh-uh.

19 Q So you lured her over there to make sure your brother  
20 got crack, also. Because she wouldn't have come for him;  
21 isn't that true, sir?

22 A Yeah.

23 Q Come on, you can tell the truth.

24 A Yeah, yeah.

25 Q Okay. So you invited her to your house. You said,

1       come here and I will buy some crack from you?

2       A     Yes, sir.

3       Q     Where the man who ended up killing her was at, didn't  
4       you?

5       A     Yes, sir.

6       Q     That's a true statement, isn't it?

7       A     Yes, sir.

8       Q     Okay. But you used his phone, didn't you?

9       A     No. I --

10      Q     You took the phone to Anderson after this murder like  
11      that man was talking about with that cartoon that he  
12      showed?

13      A     No. I hadn't been to Anderson. I didn't go to  
14      Anderson.

15      Q     But the phone went to Anderson. So you used Jahru's  
16      phone to call, didn't you?

17      A     Yeah.

18      Q     Okay. It's okay. You can tell the truth. I'm not  
19      going -- I'm not trying to trick you, sir. I'm just  
20      trying to get to the truth. You used Jahru's phone to  
21      call her?

22      A     Uh-huh.

23      Q     You have to say "yes" or "no."

24      A     Yes.

25      Q     Thank you.

1           And, once again, this lady never cheated you. She  
2       didn't deserve that, did she?

3       A     No, sir.

4       Q     She just came there to sell you some crack, didn't  
5       she?

6       A     Yes, sir.

7       Q     And you would give her the money, she'd give you the  
8       crack, and y'all would go on your merry way?

9       A     Yes, sir.

10      Q     Now, you were saying you're a diabetic. And what was  
11     the medication you said you were taking during this time?

12      A     Vistaril and Zoloft.

13      Q     And that would, you said, calm you down?

14      A     Yeah.

15      Q     And that was because you had mental health issues?

16      A     Yes, sir.

17      Q     Did you take anything for your diabetes, too?

18      A     Yeah. I took insulin.

19      Q     So you're on insulin and whatever those two drugs --  
20     long-named drugs you just said?

21      A     Yes, sir.

22      Q     To like bring your blood pressure and your sugar  
23     level down. And then you would smoke crack all day long.  
24     Didn't that take you straight up in the air?

25      A     No, sir.

1 Q What did the crack do to you then? What does it do  
2 to you?

3 A It just get you high and paranoid.

4 Q But doesn't it get you going pretty fast?

5 A Yes, sir.

6 Q It's cocaine, isn't it? Doesn't it get you going?

7 A Yes, sir. If you ain't used to it, it will whack you  
8 out.

9 Q And you had been smoking all day and taking those  
10 other drugs all day?

11 A (Witness nodded.)

12 Q You have to say "yes" or "no."

13 A Yes, sir.

14 Q Thank you.

15 You said your brother took to you the hospital  
16 earlier that day?

17 A Yes, sir.

18 Q You were that ill that you had to go to the hospital?

19 A Yes, sir.

20 Q And then that evening, you -- as soon as you get  
21 home, y'all start buying crack?

22 A Yes, sir.

23 Q And you wonder why you had to go to the hospital, why  
24 you're having medical problems. But your brother took you  
25 to the hospital?

1 A Yes, sir.

2 Q He drove you in the Jeep?

3 A Yes, sir.

4 Q So that Jeep that was found in front of the house was  
5 operating, it drove?

6 A Yeah.

7 Q But when the police got there, Jahru wasn't out  
8 there. Why was that?

9 A He was gone.

10 Q That's what I mean. But his Jeep is out front. Why  
11 did he not drive off?

12 A I don't know.

13 Q He was in a hurry to get away, wasn't he? Because he  
14 had just killed somebody; right?

15 A Yeah.

16 Q That's the truth again, isn't it, sir?

17 A Yeah.

18 Q He left his car there because he was trying to get  
19 away so fast, didn't he?

20 A Yes, sir.

21 Q And the car would -- he could have driven it? He  
22 drove it there?

23 A Yes, sir.

24 Q And he drove you to the hospital in it, brought you  
25 back home. But he left because he was in such a hurry to

1 get away from the murder he had just committed that he  
2 left his car there. He just ran off?

3 A Yes, sir.

4 Q And I suppose you're going to tell this jury you  
5 didn't know he had a gun?

6 A Yes, sir.

7 Q He's your brother?

8 A Yes, sir. I didn't know he had it.

9 Q You didn't know your brother carried a gun. This is  
10 your brother --

11 A Huh-uh.

12 Q That's the story you're going with?

13 A Me and him didn't get along like that.

14 Q I'm not saying he would put it on you. You're saying  
15 you didn't know your brother carried a gun?

16 MR. KORNFELD: Objection. Asked and answered, Your  
17 Honor.

18 THE COURT: I'll allow that one question, and then  
19 we'll move on.

20 BY MR. WESTON:

21 Q Are you saying to this jury in this courtroom under  
22 oath that you didn't know your brother carried a gun?

23 A Yeah. I know he carried one.

24 Q Then why did you say no not 30 seconds ago?

25 A Because I ain't see him with none that night.

1 Q But you knew he carried a gun?

2 A Yeah.

3 Q Okay. So let's make sure I've got your story  
4 straight. This is your version. You bought -- you called  
5 her to come over and buy crack. You bought crack from  
6 her. You came out the front door, I take it, when she  
7 blew the horn?

8 A Yeah.

9 Q But I heard you say something about you bought crack  
10 and then Jahru came around, you said. You mean he came  
11 out the back door?

12 A Yeah.

13 Q Did that not make you scratch your head? He was in  
14 the house with you?

15 A Yeah.

16 Q She wasn't expecting to see him, was she?

17 A No.

18 Q Because y'all had lured her over there, hadn't you?

19 A We didn't lure her over there. I called for her.

20 Q You didn't tell her Jahru was here, though, did you?

21 A She didn't ask me.

22 Q But you didn't tell her?

23 A Huh-uh.

24 Q And she had not responded to Jahru's call earlier.

25 And he told you she hadn't called when he called her. So

1     you knew all of that?

2     A     Yeah.

3     Q     Okay. And so then he comes around the house. Did he  
4     have a hat on?

5     A     No.

6     Q     Sir?

7     A     No.

8     Q     Did he have a hat on?

9     A     No.

10    Q     Do you remember the conversation you had with me, and  
11    him, and your lawyer, and Investigator Newman last week --

12           MR. SULLIVAN: Judge, I would object. That was part  
13    of negotiations.

14           THE COURT: Okay. He asked a question if he had a  
15    hat on. He'll answer "yes" or "no."

16    BY MR. WESTON:

17    Q     So your story is he didn't have a hat pulled down  
18    over his head? Yes or no.

19    A     I can't remember.

20    Q     So, now, you know -- now, you can't remember?

21    A     No.

22    Q     Okay, sir. And, like I said, I'm not trying to trick  
23    you, I promise. I'm just trying to get to the truth. We  
24    all do --

25    A     You're getting to the truth. He admitted to shooting

1 her.

2 Q We're going to get there. So you're standing at the  
3 window and the car is, like you said, out here. The house  
4 is back here. The driveway is up here on the side at that  
5 point. You get yours; right?

6 A Uh-huh.

7 Q Now, she's pulling this way. You are between --  
8 she's right here. This is the driver's window. And she's  
9 looking out the window at you and in the house behind you;  
10 right?

11 A Yeah.

12 Q She's kind of this way. So you're standing there and  
13 you get yours. How much did you buy, by the way?

14 A About --

15 Q Not about. I mean, how much did you buy? Somebody  
16 died. Don't you remember anything about this? Don't you  
17 care? My God, man, somebody died. How much crack did you  
18 buy from that lady --

19 MR. KORNFELD: Objection. He's badgering the  
20 witness. It's not a question.

21 THE COURT: I sustain.

22 BY MR. WESTON:

23 Q How much crack did you buy from her?

24 A About \$40 worth.

25 Q About \$40 worth. And she gave you \$40 worth?

1 A Yeah.

2 Q And you gave her the money?

3 A Yeah.

4 Q But then you stole it back later?

5 A I didn't steal it back later. I got it out of the  
6 phone.

7 Q Well, what do you reckon happened to the \$40 you just  
8 handed her that they did not -- they could not find in the  
9 car when all these forensic people went through that car  
10 with a fine-tooth comb? Where do you reckon that went?

11 A It went with me in the phone.

12 Q That's what I'm saying. You stole the money back  
13 that you just paid for the crack. You don't have to --  
14 I'm not trying to trick you.

15 A Yeah, yeah.

16 Q I'm just trying to get you to tell the truth, sir.

17 A You saying stole.

18 Q I'm sorry?

19 A You saying stole.

20 Q You did steal it. It's her money. She gave you the  
21 crack. Ain't that stealing? What do you call it? You  
22 tell us what you call it, sir, if it ain't stealing.  
23 She's laying there dying, bleeding out, as the coroner  
24 said.

25 A She was already dead.

1 Q And you've got a medical degree and you knew that.  
2 You had a phone in your hand. Did you call 911?

3 A No, sir.

4 Q Why? You said -- you called her baby. You liked  
5 her. Why would you not call 911?

6 A Because I don't know how to use them touch phones.

7 Q You called her to buy crack. You dialed seven  
8 numbers to buy crack. You couldn't dial 911? Is that  
9 what you're telling this jury?

10 A I don't know how to use them phones.

11 Q My God, man. All right. So you got your crack,  
12 according to your version. You gave her the \$40. And  
13 then you say you went in the house?

14 A Yeah.

15 Q Okay. And you stayed in the house until after he had  
16 dragged her out. She was already -- you heard the  
17 gunshots outside?

18 A Uh-huh.

19 Q And when you went out there, did you see the gun in  
20 his hand?

21 A Huh-uh.

22 Q Where was the gun?

23 A I don't know.

24 Q So -- and I'm trying to remember what you told your  
25 lawyer. Once again, I'm not trying to trick you. I'm

1 just trying to make sure we get to the truth here. The  
2 window was smashed. Glass was laying around and glass was  
3 in the car?

4 A Uh-huh.

5 Q You have to say "yes" or "no."

6 A Yeah.

7 Q So the court reporter can pick it up.

8 A Yeah.

9 Q And it was clear then that whoever had shot her had  
10 shot through the window because there was glass inside the  
11 car? You would -- that was what you thought; right?

12 MR. KORNFELD: Objection. Calls for speculation.

13 THE COURT: Okay. I'll overrule.. You can ask that  
14 question.

15 MR. WESTON: Thank you.

16 BY MR. WESTON:

17 Q You could see there was glass inside the car. She's  
18 laying in the car bleeding out. It was clear to you that  
19 whoever had shot her had shot through the window, didn't  
20 they?

21 A Yeah.

22 Q Okay. And who's standing there next to that window?

23 A My brother.

24 Q All right. And he didn't have the gun in his hand no  
25 more?

1       A     Huh-uh.

2       Q     You didn't ask him, hey, why did you shoot her?  What  
3       happened?  You didn't ask him any of those questions?

4       A     Yeah.  I asked him what happened.

5       Q     And what did he say?  Let me quote you, I'm not going  
6       to use the curse words like you did.  Did he say, I had --  
7       something, like, I had to kill the MF?  What did he say  
8       when you asked him?  Let me just let you tell it again.

9       A     He just said he shot her.  He had to shoot her.

10      Q     Okay.  So he admitted that he killed her to you?

11      A     Yeah.

12      Q     I'm sorry?

13      A     Yeah.

14      Q     Okay.  So then he's standing there and you're  
15      standing there.  She's in the car bleeding out.  She's in  
16      the car bleeding.  So what did you do next?

17      A     We attempted to move her out.

18      Q     So you helped move her out of the car?

19      A     Yes, sir.

20      Q     And y'all -- what did y'all do with her?

21      A     We were going to tote her around to the passenger  
22      side, but she was too heavy for me.

23      Q     Why were y'all going to do that?

24      A     I don't know.  He just wanted to put her in the back.

25      Q     So when you say "he," do you mean your brother?

1 A Yeah.

2 Q Do you know why he would move -- what difference it  
3 made that she's dying in the driver's seat versus dying in  
4 the passenger seat?

5 A Huh-uh.

6 Q But you helped him do that? You tried your best to  
7 help?

8 A Yeah.

9 Q But you couldn't lift her?

10 A Right.

11 Q So at what point did you decide you were going to rob  
12 her? When did it occur to you? Now, you're now trying to  
13 get her out of the car and you say I can't lift her. When  
14 did you decide I'm going to rob her?

15 A I ain't never said I was going to rob her.

16 Q Well, when did you do it?

17 A I got the phone out of the car when he was trying to  
18 move her in the back.

19 Q So he was pulling her out of the car, and you're  
20 taking the phone out of the car?

21 A Yeah.

22 Q So then after that, you got the phone, and her  
23 identification, and her money, and her marijuana?

24 A Uh-huh.

25 Q You stole her drugs? How desperate were you that

1 day? Were you out of your mind or something high? Why  
2 did you take her drugs?

3 A I just took it.

4 Q Because she's dying and you're thinking about getting  
5 higher. Is that what was going through your mind, sir?

6 A Not really. I don't smoke weed.

7 Q Well, then why did you take her drugs?

8 A I just got it because I saw it.

9 Q And you wanted it?

10 A Yeah.

11 Q And you took it?

12 A Yeah.

13 Q So you got these items. And then what did you do?

14 A I went in the house.

15 Q All right. And you say you didn't -- and did you  
16 change clothes?

17 A No, sir.

18 Q Well, ave you got any idea how her blood got on some  
19 other clothes that were in the house that you weren't  
20 wearing?

21 A I don't know how they got on there.

22 Q All right.

23 A Unless I touched them, or whatever.

24 Q Okay. But you did try to help move the body?

25 A Yeah.

1 Q And when you couldn't lift it because of your medical  
2 condition and just the way it was set up, you decided I'm  
3 just going to take these items and go back in the house.  
4 And you did not talk to your brother anymore. He just  
5 left?

6 A Yeah.

7 Q Okay. So, now, the police came five minutes or an  
8 hour later?

9 A They came within about five minutes. But it was  
10 about an hour before they came in the house.

11 Q When the police came to the house, you lied to them?

12 A I told them I didn't know what happened.

13 Q But that was not true, was it? You knew your brother  
14 had said, I shot her. So you knew what happened?

15 A Yeah.

16 Q You knew exactly what happened. But you -- so you  
17 lied to the police? Come on, sir.

18 A Well, what am I going to do? Would you call the  
19 police on your brother?

20 Q Not if I -- probably not if I had stolen her money  
21 and stuff. But I'm not going to get in an argument about  
22 what I would do. We're talking about what you did.  
23 That's all. We just want to know what you did that night.

24 So in conclusion, sir, let me just make sure I'm  
25 clear. You called her to buy crack to your house? Yes or

1 no.

2 A Yeah.

3 Q You invited her over. You knew your brother was  
4 there? Yes or no.

5 A Yeah.

6 Q You knew your brother regularly carried a gun? Yes  
7 or no.

8 A Yeah.

9 Q You knew that your brother and her didn't get along  
10 and she didn't want to deal with him? Yes or no.

11 A Yeah.

12 Q And you didn't tell her that your brother was at the  
13 house? Yes or no.

14 A No.

15 Q And when your brother came out from around the house  
16 out of the back door, you didn't think that that was  
17 suspicious at all? Yes or no.

18 A No.

19 Q And so you just went on and proceeded to buy crack  
20 from her as your brother came up around behind you?

21 A Came up beside me.

22 Q Beside you. And then you turned and walked back into  
23 the house?

24 A Yeah.

25 Q And then you heard gunshots out in front of your

1 house?

2 A No. I heard them arguing at first.

3 Q But then you heard gunshots?

4 A Yeah.

5 Q And then your brother called you back outside?

6 A Yeah.

7 Q To help him change the scene or, basically, hide the  
8 evidence?

9 A I guess.

10 Q He asked you to help him, didn't he?

11 A Yeah.

12 Q And you tried to help him hide the evidence?

13 A I tried to help him move the body.

14 Q And you then decided you couldn't complete that task,  
15 so you robbed her as she lay dying?

16 A No. I didn't rob her.

17 Q We'll let the jury -- we'll let others decide how to  
18 characterize what you did. Okay. You took her  
19 identification? Yes.

20 A I took the phone. It was inside the phone.

21 Q You took her phone --

22 MR. KORNFELD: Asked and answered, Your Honor.

23 MR. WESTON: I'm wrapping up, Your Honor.

24 THE COURT: Okay. I'll give you some latitude.

25 MR. WESTON: Thank you, Your Honor.

1 BY MR. WESTON:

2 Q You took her phone?

3 A Uh-huh.

4 Q You took her identification that was in the phone  
5 case?

6 A Uh-huh.

7 Q You took her money that was in the phone case?

8 A Uh-huh.

9 Q You took her marijuana that was laying on the seat?

10 A Uh-huh.

11 Q And you just walked away and let your friend die in  
12 your yard. And then you lied to the police about it?

13 A She was already dead.

14 Q Is that true, sir?

15 A She was already dead.

16 Q Because you've got that medical degree that you --  
17 did you check her pulse?

18 A No. I didn't have to check her pulse.

19 Q How could you tell she was dead, sir?

20 A I kept calling her name.

21 Q Okay. So, now, you called her name. Let's go back.  
22 Tell us about how you called her name. Were you like,  
23 hey, wake up? What were you doing?

24 A No. I just kept calling her name.

25 Q What's -- do it -- say it like you said it.

1 A I called her name, Nicole.

2 Q Say her name like you said it.

3 A Nicole.

4 Q And she didn't respond?

5 A She didn't say nothing.

6 Q So that meant to you she was dead?

7 A Yeah.

8 MR. WESTON: That was how much you cared, that if she  
9 didn't answer, I don't need to worry about her no more.

10 That was how much you cared about your friend.

11 I don't have anything further of this witness.

12 THE COURT: All right. Mr. Kornfeld.

13 CROSS-EXAMINATION

14 BY MR. KORNFELD:

15 Q Mr. Smith, you said earlier that Nicole said, I'm  
16 going to have to teach that mother fucker a lesson;  
17 correct?

18 A Yeah.

19 Q And was that -- do you know why she was upset with  
20 your brother?

21 A I guess because he came out the back.

22 Q All right. And you also -- do you know that -- and  
23 she, also, had a weapon, did she not?

24 A Yes, sir.

25 Q And you saw her with that weapon, did you not?

1 A Yes, sir.

2 Q And you saw her pointing it at your brother, did you  
3 not?

4 A Yeah. She opened up the glove compartment and pulled  
5 it out.

6 Q Okay. And she was holding it out at your brother;  
7 correct?

8 A Yes.

9 Q All right. And she was, obviously, angry with your  
10 brother; correct?

11 A I guess so. She said she was going to teach him a  
12 lesson.

13 Q And did your brother retract away from her? Did you  
14 see that?

15 A No. He just backed up.

16 Q All right.

17 A I didn't see nothing else.

18 Q Do you know if your brother -- as far as the -- you  
19 knew -- you could tell through the gunshots that she was  
20 already -- already dead. You didn't see any breathing?

21 A Huh-uh.

22 Q It was pretty obvious; correct?

23 A Yeah.

24 Q It didn't take a medical degree; correct?

25 A No, sir.

1 Q All right. You said you gave her the stuff and then  
2 she gives you the money -- you give her the money, she  
3 gives you the stuff. Did you give her any pills on that  
4 day?

5 A No.

6 Q All right. So you were at a vantage point to see  
7 your brother was stepping back because Shameese Logan had a  
8 gun pointed at him; correct?

9 A Yeah. She had drawed it. She had drawed it on him.

10 Q Okay. And when your brother said, I had to -- did he  
11 tell you anything else, other than I had to -- to kill  
12 her? Did he say anything else other than that?

13 A Huh-uh.

14 Q And then he just left after that point?

15 A Yes.

16 Q And when you called on the phone number -- on the  
17 cell phone, I guess, to call Ms. Logan, your brother still  
18 bought crack from her?

19 A Yeah.

20 Q From time to time; correct?

21 A Yeah.

22 Q And for all you knew, she would sell crack to him  
23 again; correct?

24 A Yeah. She'd sell it to him.

25 Q And she -- when you had crack earlier that day, was

1 he with you when she sold it to --

2 A Yeah.

3 Q Earlier that day; correct?

4 A Yeah.

5 Q So she knew that he was there with you anyway;  
6 correct?

7 A Yeah. Because she knew that was his Jeep out there.

8 Q So you weren't trying to lure her to the house;  
9 correct?

10 A No, sir.

11 Q And you didn't talk to your brother about any kind of  
12 robbery that you were going to rob Shameese Logan; correct?

13 A No, sir.

14 Q This was your drug dealer that you had drive-up  
15 service; correct, for over two years? Why would you want  
16 her dead; right?

17 A Right.

18 Q Yeah. And did she say anything else to you when she  
19 pulled up, other than I'm going to teach that mother  
20 fucker a lesson?

21 A No. She didn't say nothing else.

22 Q All right. Did she have her gun out at that time?

23 A No, sir.

24 Q All right. So you saw that after you were already in  
25 the house?

1 A No. Before I went in -- before I went in, she pulled  
2 it out.

3 Q All right. And, at that time, you didn't see that  
4 your brother had a gun out, did you?

5 A No, sir.

6 Q All right. Could you hear what they -- were they  
7 arguing about crack?

8 A I don't know.

9 Q You don't know what they were saying?

10 A I couldn't hear it.

11 Q All you know is that she had her gun out before he  
12 did; correct?

13 A Yes, sir.

14 MR. KORNFELD: All right. No further questions.

15 THE COURT: Yes, sir.

16 Any redirect, sir?

17 MR. SULLIVAN: Very briefly.

18 REDIRECT EXAMINATION

19 BY MR. SULLIVAN:

20 Q Just a couple of things, Bobby. When the car was  
21 down here and she's sitting in the seat shot up, isn't the  
22 neighbor's driveway over here?

23 A Yes, sir.

24 MR. WESTON: Your Honor, I'm going to object. That  
25 was not raised by either my examination or his.

1 THE COURT: Okay.

2 MR. SULLIVAN: I asked him earlier about whether the  
3 car was moved.

4 THE COURT: I know you asked him, but I don't know if  
5 it was the subject of cross-examination by either of the  
6 parties. So if it wasn't within the scope of  
7 cross-examination, it's not appropriate for redirect.

8 Now, if it was and it bears upon what -- anything  
9 that was in cross, I mean, you can educate me. I don't  
10 have an encyclopedic memory of all the questions that were  
11 asked.

12 MR. SULLIVAN: Getting her out, and moving the car,  
13 and dragging her, he mentioned that.

14 THE COURT: Okay. If that's what it's related to,  
15 then I'll let you ask the question.

16 BY MR. SULLIVAN:

17 Q She pulled up and blows the horn. And she was shot  
18 here in the car; right?

19 MR. WESTON: Objection, Your Honor. Leading.

20 THE COURT: Okay. I'll overrule.

21 You can continue.

22 BY MR. SULLIVAN:

23 Q When y'all called, where did she pull up?

24 A She pulled up a little bit past the driveway.

25 Q Okay. And then that's where she was killed?

1 A Yes, sir.

2 Q Now, this driveway is close to the neighbor?

3 A Yes, sir.

4 Q So if the neighbor pulled up there, they would see  
5 her?

6 A Yes, sir.

7 Q And so Jahru moved her up here to hide her?

8 A I guess.

9 Q Now, the other -- the mother said earlier she had  
10 \$700 on her. Do you recall that?

11 A No, sir.

12 Q How much did you -- they say you had \$107; right?

13 A I got about -- I think it was about 50 or \$60.

14 Q 50 or 60, not 700?

15 A Huh-uh.

16 MR. SULLIVAN: Okay. That's all I have, Your Honor.

17 THE COURT: Any recross?

18 MR. WESTON: Yes, sir, Your Honor.

19 RE CROSS-EXAMINATION

20 BY MR. WESTON:

21 Q I want to make sure I understand this. Mr. Sullivan  
22 is your lawyer; right?

23 A Yes, sir.

24 Q And Mr. Kornfeld represents your brother; right?

25 A Yes, sir.

1 Q When Mr. Sullivan examined you for 20, 30,  
2 40 minutes, did you say anything about this woman pulling  
3 out a gun and you seeing it? Did you say anything like  
4 that in response to your lawyer's questions?

5 A He --

6 Q I'm just asking you.

7 A That's the first time he asked me.

8 Q I examined you for another 30 minutes. Did you say  
9 anything in response to any of my questions? We kept  
10 saying what happened, what happened, what happened. He  
11 said what happened, what happened, what happened. You  
12 never said anything about that woman pointing a gun at  
13 your brother in response to his questions or mine, did  
14 you, sir?

15 A (There was no response.)

16 Q Did you just forgot about that?

17 A No.. I ain't forget about it.

18 Q You're still trying to protect your brother, aren't  
19 you, sir?

20 A I ain't trying to protect my brother.

21 Q But you said, you admitted you tried to protect him.  
22 When the police came and asked you what happened, you said  
23 you didn't know. You said, well, I didn't want to hurt my  
24 brother. You wouldn't hurt your brother. Isn't that what  
25 you said?

1 A Yeah.

2 Q And you're still trying to do it, aren't you, sir?

3 A No, sir.

4 Q You're just making it up as you go long, aren't you?

5 A No.

6 MR. WESTON: No more questions, Judge.

7 THE COURT: Mr. Kornfeld, do you have any additional  
8 questions?

9 RECROSS-EXAMINATION

10 BY MR. KORNFELD:

11 Q Mr. Smith, the reason that you didn't answer that  
12 question or say that is because it wasn't, specifically,  
13 asked of you, was it?

14 MR. WESTON: Objection, Your Honor. He's telling him  
15 what to say.

16 MR. KORNFELD: I'm asking a --

17 THE COURT: He can lead in cross-examination.

18 MR. WESTON: But it's not even leading, sir. He's  
19 telling him what to say, Judge.

20 THE COURT: Rephrase your question. Okay. I don't  
21 know that you are, but rephrase your question.

22 BY MR. KORNFELD:

23 Q If they would have asked if Shamese Nicole Logan had  
24 pulled a gun out, you would have answered and said, yes,  
25 she did, wouldn't you?

1 A Yeah.

2 Q And if they would have asked if she pulled a gun out  
3 first before anybody else had one, you would have  
4 answered, yes, wouldn't you?

5 A Yeah.

6 Q And if they would have asked if she had a gun out  
7 raised at your brother before and your brother didn't have  
8 a gun, you would have said, yes, that's what happened;  
9 correct?

10 A Yeah.

11 MR. KORNFELD: Thank you.

12 No further questions.

13 THE COURT: Okay. Thank you, Mr. Smith.

14 I appreciate you being here. You can take -- you can  
15 step down, sir.

16 Mr. Sullivan, anything in addition that you'd like to  
17 put into the record or offer in defense of Mr. Bobby  
18 Smith, sir?

19 MR. SULLIVAN: Judge, the Defense rests. That would  
20 be our only evidence.

21 THE COURT: Okay. Mr. Kornfeld, any evidence that  
22 you would like to present on behalf of Mr. Jahru Smith?

23 MR. KORNFELD: No, Your Honor.

24 THE COURT: Okay. Good enough.

25 Anything in reply from the State?

1 MR. MORONEY: No, Your Honor.

2 THE COURT: All right. Ladies and gentlemen, you've  
3 heard all the evidence that you'll receive in this case.  
4 And we're going to adjourn for the evening. If you would,  
5 please, be back tomorrow at 10:00. The reason I'm asking  
6 you to be back at 10:00 is because we're going to discuss  
7 argument and charge. And it's going to take us a little  
8 bit of time. I don't want you to come here and us not be  
9 ready to start as soon as you get here.

10 Before you leave, I'm going to get you to do  
11 something. Somebody needs to act as Foreperson of the  
12 jury. Okay. And I'm going to let you elect among  
13 yourselves who will act as Foreperson of the jury.

14 Now, a foreperson's role is to ensure that during  
15 deliberations everybody has a voice, everyone has the  
16 opportunity to offer their opinion.

17 Now, you know, when 12 people get together and have  
18 never met each other before, you know there are going to  
19 be some people more opinionated and more vocal. And there  
20 are going to be some people more reticent and less willing  
21 to offer their opinion.

22 So the Foreperson's job is to make sure that everyone  
23 has the opportunity to be heard, everyone has a voice in  
24 the deliberation. Beyond that, I can't tell you how to  
25 discuss or how to deliberate on the case. Understand that

1 I've never served on a jury. And I'm not allowed to go  
2 into your jury room. Because as soon as I go into the  
3 jury room, it's a mistrial. So I'm not allowed to listen  
4 in on you and see how juries conduct deliberations.

5 However, I do know this, that each jury settles on  
6 the most efficient and productive way of deliberating  
7 based on who's in the jury room, that is, the 12 people  
8 who make up the jury, and based on the facts and  
9 circumstances of each individual case. And I trust that  
10 y'all will settle on the most efficient way.

11 To the extent that the Foreperson of the jury wants  
12 to offer some guidance or take control of the manner and  
13 method of deliberations, he or she may do that as well.

14 Also, during your deliberations, if there are any  
15 questions that the jury has, the Foreperson of the jury  
16 can write those questions down, present them to the  
17 bailiff, and they'll present them to me, and I'll answer  
18 them, if I can.

19 I will just give you a heads up that, oftentimes, I  
20 get questions from juries that I can't answer. I told you  
21 and I'm going to tell you again when I charge tomorrow  
22 that I don't have an opinion about the facts. And I can't  
23 comment on the evidence.

24 So if you ask me a question about evidence or about a  
25 factual issue, I'm going to just send something back to

1       you that says, I can't answer that question. Because  
2       that's y'all's job. I'm not allowed to answer that  
3       question. If you have a question about the law, then,  
4       perhaps, I can answer it, depending on what the question  
5       is. And I'll attempt to answer it to the extent that I  
6       can.

7               So, ladies and gentlemen, before you leave, I would  
8       like for you to go ahead and elect a Foreperson of the  
9       jury, one of the 12 sitting jurors, not the alternate.

10              Because you haven't made it on the regular jury yet.  
11       I don't know whether you will or not. We'll see tomorrow.

12              So -- and then give me that name -- or give the name  
13       to the bailiff before you leave so that I'll have that.  
14       Okay.

15              This evening, please, don't discuss the case. And  
16       I've told you that -- that you shouldn't discuss it with  
17       each other. You shouldn't discuss it with any of your  
18       significant others, or friends, or anyone who may invite  
19       you to discuss the case. Just resist the temptation. And  
20       tomorrow after we conclude the case, you can discuss it  
21       with whomever you like.

22              So, ladies and gentlemen, I hope you have a great  
23       evening. And I will see you tomorrow morning.

24              (WHEREUPON, the jury was excused from open court at  
25       approximately 5:05 p.m.)

1 THE COURT: All right. Any motions or any matters to  
2 take up before we adjourn for the afternoon?

3 MR. MORONEY: None from the State, Your Honor.

4 THE COURT: From the Defense?

5 MR. KORNFELD: None, Your Honor.

6 THE COURT: Okay. Mr. Sullivan?

7 MR. SULLIVAN: None from Mr. Bobby Smith, Your Honor.

8 THE COURT: Gentlemen, I've received one request for  
9 charge. Is there any additional requests for charge that  
10 any of you have?

11 And I will tell you, tomorrow morning, I want y'all  
12 to meet me in my office at 9:00. And we're going to do a  
13 charge conference off the record. And we'll talk through  
14 charge, talk about the definition of reasonable doubt so  
15 that you can tailor your arguments appropriately. And  
16 then we can discuss any other issues that we may have  
17 outstanding. So, at 10:00, we can come on the record and  
18 we can -- we'll all be on the same sheet of music as to  
19 what law will be charged. Okay.

20 MR. SULLIVAN: Will we discuss tomorrow the order of  
21 argument?

22 THE COURT: Sure. Yeah. We're going to discuss all  
23 of that. So when we start at 10:00, there will be no  
24 outstanding questions. No outstanding questions at all.  
25 Okay.

1 MR. SULLIVAN: Thank you.

2 THE COURT: I'll see y'all tomorrow at 9:00.

3 (WHEREUPON, the proceedings were concluded at  
4 approximately 5:07 p.m., to be reconvened on  
5 Thursday, March 15, 2018.)  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

1                                    THURSDAY, MARCH 15, 2018

2                    THE COURT:   We're back on the record.

3                    Mr. Kornfeld, have you had the opportunity to either  
4                    speak with or send information or requests to your client,  
5                    Mr. Jahru Smith, as to whether he wants to participate  
6                    today, sir?

7                    MR. KORNFELD:   No, Your Honor.

8                    I believe he's still on the transport list and on the  
9                    way over.   But I have not gotten that information yet.

10                  THE COURT:   Is he here?

11                  THE COURTROOM DEPUTY:   He's here.   We're waiting on  
12                  the answer.

13                  THE COURT:   Okay.   Let's see what the answer is.

14                  And, in the meantime, I recognize that the State  
15                  needs to put a motion on the record with respect to the  
16                  charge.

17                  I'll be happy to hear from you.

18                  MR. MORONEY:   Yes, Your Honor.   Very briefly.

19                  It's my understanding that at the conclusion of this  
20                  trial, the jury would be charged with respect to accessory  
21                  after the fact.   The State objects to that simply on the  
22                  principle that it's not a lesser included of murder.

23                  And we feel that we would be precluded -- if this  
24                  case were to be appealed if the Defendants were convicted,  
25                  we'd be precluded because of double jeopardy from trying

1 Bobby Smith again on that. So I just wanted to put that  
2 on the record.

3 THE COURT: Mr. Sullivan, anything that you'd like to  
4 be heard on that issue, sir?

5 MR. SULLIVAN: Judge, I would give the same argument  
6 I made in chambers, and you ruled you would give that  
7 charge.

8 THE COURT: Okay. I'll just say that I think that  
9 the evidence -- the evidence of -- particularly, from his  
10 own testimony suggests that he could be guilty of the  
11 offense of accessory after the fact. And I'll charge the  
12 same in an effort to be as absolutely fair to the  
13 Defendant as I possibly can be, which I've tried to be to  
14 both Defendants through the entirety of this trial.

15 I recognize that they've both been noticed, if I'm  
16 not mistaken, with life without the possibility of parole.  
17 I, also, recognize that they are of fairly advanced age.  
18 And that a conviction on either of the charges, that is  
19 the murder, or armed robbery, or accessory after the fact,  
20 would probably, in essence, amount to a life sentence in  
21 any event notwithstanding the life without the possibility  
22 of parole.

23 So this is one of those instances where I don't  
24 necessarily disagree with the State, technically. But I  
25 think, as a matter of fairness, that I'm going to defer to

1 the Defense. And I'll charge it as a lesser included  
2 offense. I don't -- ultimately, it remains to be seen  
3 that it may have absolutely no practical difference in  
4 this case.

5 Okay. Also, I reserve the right to exercise my  
6 discretion as the thirteenth juror after the return of the  
7 verdict in case there is an abnormality or issue that  
8 arises with regard to the lesser included offense. I'm  
9 not saying that I would. I'm just saying I reserve that  
10 right. Okay.

11 Have we heard anything back from Mr. Jahru Smith?

12 THE COURTROOM DEPUTY: Not yet.

13 (Pause.)

14 THE COURTROOM DEPUTY: Your Honor.

15 THE COURT: Yes, sir.

16 THE COURTROOM DEPUTY: He said he will be sitting in  
17 his cell for the verdict. He's not going anywhere.

18 THE COURT: All right. So he has indicated he does  
19 not wish to attend and participate in the trial or closing  
20 arguments.

21 So, gentleman, having said that, let's go ahead and  
22 bring the jury in, please.

23 (WHEREUPON, the jury came into open court at  
24 approximately 10:25 a.m.)

25 THE COURT: Okay. Welcome back, ladies and

1 gentlemen.

2 Mr. -- is it Leisgang?

3 JUROR #89, EDWARD LEISGANG: Leisgang.

4 THE COURT: Thank you for accepting the role of  
5 Foreman of the jury.

6 I've explained the responsibilities to you. And I  
7 hope that was clear -- as clear as it can be, at least,  
8 under the circumstances.

9 Now, ladies and gentlemen, we're going to proceed to  
10 closing arguments and charge. Closing arguments, as I  
11 told you when we first began the case, is not evidence to  
12 be considered by you. Closing arguments is the  
13 opportunity for each side to comment on the evidence in an  
14 attempt to persuade you and an attempt to advocate to  
15 their respective sides.

16 So, ladies and gentlemen, the process -- or the order  
17 that we'll follow is the State will go first, and  
18 Mr. Moroney will argue to you. He's going to argue  
19 approximately 20 minutes, perhaps, a little bit longer.  
20 But he's represented to me that he's going to try to keep  
21 it as close to 20 minutes as possible.

22 Then Mr. Sullivan will have the opportunity to  
23 present closing arguments on behalf of Mr. Bobby Smith.  
24 And he's indicated to me that he will probably be between  
25 10 and 15 minutes.

1           Then the State will have the opportunity to respond.  
2       Mr. Moroney will have the opportunity to argue for about  
3       an additional 10 minutes, maybe five to 10 minutes.

4           Then in closing, Mr. Kornfeld will have the  
5       opportunity to argue for Mr. Jahru Smith. And then after  
6       he finishes that argument, then we'll go to a closing  
7       charge on the law. Again, he's indicated to me that he  
8       thinks his argument is going to take about 15 minutes.

9           So that gives you some idea of the time frame for  
10      closing arguments. My charge is probably going to take  
11      somewhere between 15 and 20 minutes, probably more like  
12      20 minutes.

13          And then after I give you that charge, if there are  
14      no exceptions and I don't have to bring you back out and  
15      recharge you on any mistakes that I make, then I'll give  
16      you the case and you can begin your deliberations.  
17      Hopefully, at that point, lunch will have either arrived  
18      or be arriving shortly, and you can deliberate on the  
19      case.

20          So, ladies and gentlemen, having said that, let's go  
21      ahead and proceed to closing arguments.

22          So, Mr. Moroney, your argument, sir.

23          MR. MORONEY: Thank you, Your Honor.

24          May it please the Court.

25          THE COURT: Yes, sir.

CLOSING ARGUMENTS

MR. MORONEY: Mr. Kornfeld.

Mr. Sullivan.

Ladies and gentlemen of the jury, just from the outset, thank you very much for your attention this week and your patience. I know this was a lot to go through over the past few days. I sincerely thank you for your patience.

I know, especially, Tuesday going through the procedure of all these items of evidence and putting up with sending you in and out multiple times is a lot to ask of you. So thank you for sticking with us and staying so attentive. We do appreciate that.

I told you at the outset of this trial what we intended to prove, how we intended to prove it, and that what we intended to prove was that Bobby Smith and Jahru Smith combined together to lure the victim over to [REDACTED] Avenue with the intent to rob her of her drugs and money, and, in the course of doing so, shot her five times. And I contend that we have proved beyond a reasonable doubt that that, in fact, happened. And I'm going to walk through the evidence and go through all of that to summarize what we presented to you.

Before doing that, I think it's appropriate to go over the law very briefly. I'm just going to touch on it.

1       Because at the close of the trial, Judge Stilwell will do  
2       that in great detail. But, as you know, both Defendants,  
3       Bobby Smith and Jahru Smith, are charged with armed  
4       robbery, murder, and possession of a weapon during a  
5       violent crime.

6               So I'm going to use this projector here and start off  
7       with murder. As you can see, it's the killing of any  
8       person with malice aforethought expressed or implied.  
9       Pretty straightforward.

10              What are we talking about with malice? A wrongful  
11       act intentionally without just cause or excuse. Say,  
12       firing a gun five times at close range about two to three  
13       feet into the victim, Ms. Logan, for no excuse other than  
14       you wanted drugs and money. And then malice does not  
15       necessarily require ill will toward the person injured,  
16       but a general malignant recklessness of the lives and  
17       safety of others.

18              I think it's been abundantly clear through the  
19       presentation of evidence that there was no regard for  
20       Ms. Logan during this encounter. Not only did they shoot  
21       and kill her, but then they dragged her lifeless body  
22       through the gravel driveway, tried to cover their tracks,  
23       et cetera. We're going to get into all of that.

24              Then you have aforethought. Aforethought is at the  
25       time when the evil is conceived. This is not

1 premeditated. You may hear on television premeditated,  
2 that they had an intention and plan to kill her at the  
3 time. It's at the moment it happens, the moment it  
4 happens. And Jahru Smith made that conscious decision to  
5 pull that trigger. The moment he pulled that trigger,  
6 that meets this element.

7 We move to the armed robbery. And, here, I've just  
8 laid out the elements of armed robbery for you. It's not  
9 that complicated. If you're armed with a weapon, a  
10 pistol, and your intent is to steal from another, that's  
11 armed robbery. That's breaking it down. Again, Judge  
12 Stilwell will go into great -- a lot more detail about  
13 that.

14 But, again, I think the evidence, clearly, suggests  
15 here what their intent was that day. There's evidence  
16 that both Jahru Smith and Bobby Smith made off with the  
17 personal property of the victim. They were, in fact,  
18 armed with a weapon. She was shot and killed five times.

19 And, finally, possession of a weapon during a violent  
20 crime. Both armed robbery and murder are violent crimes  
21 in the State of South Carolina. So if you accept the fact  
22 that there was a weapon involved, a gun, in both the  
23 murder and armed robbery, or either -- or with respect to  
24 each Defendant, they possessed a weapon during the  
25 commission of a violent crime.

1           So let's move on. First, I think the easiest way  
2           would be to break this down by Defendant. They're both  
3           being tried jointly, but we'll break it down singularly at  
4           first. We'll start with Mr. Kornfeld's client, Jahru Smith.

5           How have we demonstrated and proved beyond a  
6           reasonable doubt that Jahru Smith is guilty of these three  
7           charges? Let's start off with the confession. That's  
8           pretty -- pretty good evidence to me. The confession.  
9           You watched the video. You heard the words and saw Jahru  
10          Smith up here on the screen admitting to, as Tim Waller  
11          asked, murder of the young victim, shooting her. And it  
12          was as clear as day, clear as day.

13          Let me refresh your memory and play this one more  
14          time. And I think it's important to remember that at the  
15          outset of this trial, Mr. Kornfeld, Mr. Jahru Smith's  
16          attorney, told you that during this video, you were going  
17          to hear Jahru Smith say, There's more to the story.  
18          You're not going to hear him say, There's more to the  
19          story on this video. There's not more to the story.

20          That's what the Defense wants you to believe, there's  
21          more to the story. There's not more to the story. It's  
22          crystal clear. Just watch this video briefly for me and  
23          we'll move on.

24                 (WHEREUPON, State's Exhibit No. 44 was played in  
25                 open court.)

1           MR. MORONEY: Folks, there's not more to the story.  
2     The story is that Jahru Smith murdered Ms. Logan by  
3     shooting her five times while she was in the driver's seat  
4     of her own vehicle with the window almost rolled up and  
5     the door closed. That's -- the confession is pretty solid  
6     evidence in and of itself. But that's not all we have  
7     against Jahru Smith. Okay.

8           If you recall, Jahru Smith pointed law enforcement to  
9     where the murder weapon was. He told them exactly where  
10    the murder weapon was. And this is important, how did he  
11    classify that murder weapon that we know is the murder  
12    weapon? When he turned it in, he said it was the victim's  
13    gun. Another lie that we see uncovered in this case, the  
14    victim's gun. We know that wasn't the victim's gun.

15          You heard from James Armstrong, the ballistics  
16    expert, that that was a hundred percent the gun that  
17    killed Ms. Logan. It matched all five cartridge casings  
18    that were recovered, the four on the ground outside the  
19    car and the one inside the car.

20          And that's because it was such close range that the  
21    cartridge casing got ejected into the interior of the car,  
22    as well as those projectiles that went through Ms. Logan's  
23    body. Those all matched up, the ones that came back, a  
24    positive match to that gun. This was not the victim's  
25    gun.

1           In addition to this murder weapon that Jahru Smith  
2           led authorities to, we have the call logs and that phone  
3           number. If you remember the (864) [REDACTED] number, in  
4           particular. And we had the Sprint custodian of records  
5           bring up those call records. Those become important in  
6           this case, especially against Jahru Smith.

7           Remember that Tiffany Petty, his ex-girlfriend,  
8           identified his voice as being the one that answers that  
9           phone. And the last call the victim made at 9:37 p.m. was  
10          to this number. Okay.

11          And then we know that the 911 call is made at  
12          9:44 p.m. 9:37 was when she was saying she was on her  
13          way. She was just a short distance up the road at that  
14          bar. 9:44 was a couple minutes after the shooting.  
15          Because we remember Kersandra Wright didn't call  
16          immediately. She was calling her mother, her kids, all  
17          that. But that was the last call the victim made was to  
18          the [REDACTED].

19          And then we have these linked calls. Not only did we  
20          have the last call matching up with Jahru Smith's phone,  
21          but we had the previous two calls on the same day earlier  
22          in the evening. In particular, on February 3rd -- all on  
23          February 3rd, at 6:30 p.m., at 9:33 p.m., and at 9:36 p.m.

24          Let's take a look at this call log. I've had an  
25          issue with these call logs from the outset and it's still

1 giving me a problem. We're going to get through it.

2 Let's take a look here. Forgive me for pointing, but  
3 at 18:31, the number that we have here is [REDACTED].  
4 Remember from the testimony, that's the victim's phone  
5 number. Okay. And that's an outbound call. That's  
6 Jahru's phone calling the victim, trying to get her over  
7 there.

8 Again, at 9:33, an outbound call, right here. Again,  
9 the victim's phone number. And this is linked with  
10 Jahru's phone number.

11 And, finally, the last call made by Ms. Logan is the  
12 inbound call when she's calling Jahru's phone to let her  
13 know -- to let him know that she's on the way.

14 While we have these call logs up here, we haven't  
15 touched on this, but I think it's important to note that  
16 these are all on that same call log for Jahru Smith. So  
17 just flip through here. You'll have all this evidence,  
18 including the call logs. You'll be able to look back  
19 during your deliberations.

20 But these duration seconds, these are all active  
21 calls and the length of time for the calls. This is  
22 starting on February 1st, the 2nd. This phone is being  
23 used all the time, all the time, up until, curiously, we  
24 start seeing February 3rd.

25 Now, this is the page that's reflecting when the

1 murder happens. What happens here just a day or two after  
2 the murder? All these two's, starting right here, from  
3 February 5th all the way to February 13th when he turns  
4 himself in to the news agency confessing to murder, the  
5 phone stops being used.

6 If you watch any kind of crime drama or anything like  
7 that, or the First 48, you know people know they can be  
8 tracked by a phone these days. He got rid of that phone.  
9 He knew what he did. He knew he could be tracked. And  
10 it's just coincidence -- another coincidence in this case  
11 that the phone mysteriously goes dark all of a sudden  
12 right after he kills this victim, Ms. Logan.

13 Remember, based on these call logs, we, also, have  
14 the cell phone tracking that Sergeant Dan Kelly spoke to.  
15 Sergeant Kelly spoke to when he animated those call logs  
16 that it showed the victim and Jahru Smith's phone, the 386  
17 number, linking up.

18 And then, thereafter, where did the 386 number go?  
19 Where did Jahru go? To Anderson County. And we heard the  
20 testimony that corroborated that from Tiffany Petty and  
21 Deborah Calhoun, her mother, saying she gave him a ride to  
22 Anderson County.

23 Here's that still image of that animation, this being  
24 where they linked up. This being, ultimately, where Jahru  
25 fled that night before midnight just after he committed

1 the murder and armed robbery. And this is that map where  
2 Deborah Calhoun said she dropped off Jahru Smith that  
3 night. Where does that end? As you take a closer look  
4 during your jury deliberations, you'll see it's in that  
5 same exact area where that cell phone tracking matched up  
6 to.

7 Jahru Smith helped conceal this body. As I mentioned  
8 earlier, they dragged the body. And you saw through the  
9 evidence in these pictures, they dragged her body across  
10 the gravel in an attempt to conceal her and load her up in  
11 the back of that vehicle.

12 We know Bobby Smith couldn't do this by himself,  
13 based on his health status. You saw him in here  
14 yesterday, how long it took him to walk up to and from the  
15 stand. He could not do that by himself. Even Bobby Smith  
16 admitted that they were working together in moving her  
17 body.

18 What does that concealment tell us? That shows the  
19 intent. They had bad intentions that night, bad  
20 intentions. It was nothing else other than that. They  
21 intended to rob her. They accomplished that mission. And  
22 in the course of doing so, they just murdered this  
23 innocent victim.

24 Remember Courtney Henderson, Kersandra Wright, the  
25 next door neighbor? She testified that when she pulled in

1 that driveway after she just got the phone call, she saw  
2 two black males. She couldn't identify Bobby Smith and  
3 Jahru Smith, their faces. She didn't see them. But their  
4 body language -- and they turned and just stared at her.

5 And she explained what she interpreted that to mean.  
6 She got an uneasy feeling that it wasn't normal, it wasn't  
7 right. And, basically, they were looking at her saying,  
8 move on, nothing to see here. That's not normal. That's  
9 not normal. That was Bobby Smith and Jahru Smith  
10 pilfering Ms. Logan's car and having no regard at all for  
11 what they'd just done. And I think -- I think that that  
12 tells a lot.

13 Remember, you heard from Jahru Smith's ex-girlfriend.  
14 Immediately after this murder and armed robbery, his words  
15 were, it was an accident. I didn't mean to. An accident?  
16 Shooting the victim five times when a window is rolled up  
17 and a door is closed and you're seated in your driver's  
18 seat.

19 Mary Louise Smith, he contacted her a few days later.  
20 He needed money to get out of town. Why do you need money  
21 to get out of town? Because he had just robbed and  
22 murdered this victim.

23 He was on the run. Remember, he was gone for 10  
24 days. This occurred on February 3rd to February 13th. He  
25 was on the run for 10 days. He knew he was wanted.

1           Tiffany Petty had talked about their conversation the  
2           day after. She said, I'm not letting you come over here.  
3           I saw you on the news. You're wanted. What does that  
4           tell us? He knew he was wanted. That goes to his guilt.  
5           He knew he was wanted. He knew what he did was terrible  
6           in the fact that he had robbed this victim and murdered  
7           her.

8           Jahru left his Jeep, his perfectly good running Jeep  
9           behind in the front of [REDACTED] Avenue. He did that  
10          because Deputy Napolitano scared him off as he pulled up  
11          for that 911 hang up call, and they were loading Ms. Logan  
12          up in the back of the car. He took off on foot with that  
13          murder weapon. And, again, with that \$600, \$700, and the  
14          drugs. He took off running on foot leaving that Jeep  
15          behind.

16          And that 700 to \$800 and no drugs being found on the  
17          victim or in the victim's vehicle, that goes a lot to the  
18          armed robbery. We heard the testimony from Ms. Logan's  
19          mother, Teresa Lang, that just two hours before this  
20          incident, she had counted approximately 700 to \$800 in  
21          front of her, a large sum of money. We can agree to that.

22          And all that's recovered afterwards is \$107 of blood  
23          money from Bobby Smith's pocket. Where did the rest of  
24          that money go? The rest of that money was with Jahru  
25          Smith. Those drugs were with Jahru Smith. That crack

1 cocaine was with Jahru Smith.

2 Now, it was brought up for the first time  
3 yesterday -- which I'll address later with Bobby Smith.  
4 But for the first time, it was pulled out of Bobby Smith  
5 that she pointed a gun. I guess it's suggesting that this  
6 was some kind of self-defense situation, that Jahru Smith  
7 had to defend himself.

8 Folks, I'm just going to touch on this briefly. I'm  
9 not going to dwell on it. You've seen the photographs of  
10 the glass inside the vehicle. You've seen the scene. You  
11 saw exactly what happened here.

12 Let me show you some of these pictures.  
13 Self-defense. Look at the glass in the track of this  
14 window. Self-defense with the window closed. Look at all  
15 this glass that had been shot out that's on the floorboard  
16 here. Clearly, you remember those trajectory rods from  
17 Dar Shaw. In this picture right here, Ms. Logan was  
18 seated in her driver's seat.

19 And, remember, with respect to Dr. Ward's testimony.  
20 He talked about the several wounds that she had, all five  
21 wounds. Remember that one hip wound, in particular. I'll  
22 pull this up for your reference.

23 This is that anatomical drawing that he drew our  
24 attention to. In particular, this hip wound, thigh wound  
25 that he talked about, wound number four, as he described

1       it in his report. It entered her left thigh. She's  
2       seated in the driver's seat. It entered her left thigh  
3       and went out her left buttock. Folks, that's a defensive  
4       position that she's seated in that driver's seat there.  
5       That's a defensive position.

6               The window, the glass being shot out as she's seated  
7       in that driver's seat. She's raising her leg up turning  
8       away as she's shot and killed. Again, you'll have all of  
9       this to review. I know it's a lot. But you can take a  
10      look at this again, if you so choose.

11             There was that gun inside the victim's car that was  
12      found on the passenger seat. That gun was resting right  
13      on the passenger seat there just hanging on the edge with  
14      no blood. We didn't hear any testimony or any evidence to  
15      present any blood on that gun.

16             If she were to be pulling that gun, as Bobby Smith  
17      put out there yesterday, wouldn't there be some blood on  
18      that gun? You saw that driver's seat, how much blood was  
19      there. Wouldn't there be some blood on that gun? We've  
20      heard nothing about that.

21             We know that gun wasn't fired. How do we know that?  
22      It was a firearm that would eject cartridge casings, just  
23      like the one that killed Ms. Logan. There were no  
24      cartridge casings that were ejected from that weapon.  
25      There were only the cartridge casings belonging to the

1 murder weapon, the one that Jahru Smith fired.

2 Self-defense, and you shoot the victim five times  
3 within a distance of two to three feet. And we have these  
4 images of the stippling. And we heard Dr. Ward's  
5 testimony of what that means. No one bothered to call  
6 911.

7 And everything I touched on previously applies to how  
8 ridiculous this self-defense idea is. He's fleeing. He's  
9 going to Anderson County. He's stolen 600, \$700. There's  
10 no drugs recovered, et cetera. All of that, it doesn't  
11 make any sense, folks.

12 And, oh, by the way, during that confession, he makes  
13 no mention of self-defense. Don't you think if you're  
14 acting in self-defense that would be a good time? Well,  
15 I'm turning myself in, but there's a big misunderstanding.  
16 There's more to the story. Maybe that would be a good  
17 time to say, there's more to the story. He doesn't say,  
18 but it was self-defense. Wouldn't that be a prudent time  
19 and thing to say, rather than just, you know, murder?  
20 Yeah, I shot her.

21 And you'll hear later from the Judge that with  
22 respect to self-defense, you have to be without fault in  
23 bringing on the difficulty. I think all of this clearly  
24 suggests that Jahru Smith and Bobby Smith are not without  
25 fault in bringing on the difficulty when you're coming

1       armed to a drug deal with the intent to rob somebody of  
2       their drugs and money. It just doesn't make any sense,  
3       folks.

4               On to Bobby Smith. On to Bobby Smith. Mr. Sullivan  
5       mentioned at the outset that he's just an accessory after  
6       the fact. And he wants you to believe that he was just  
7       minding his business inside the house when he heard the  
8       shots go off and, conveniently, then said, oh, that's a  
9       good idea. I'm going to move and drag this body around  
10      just on a whim, I guess, to help out my brother.

11             And then, at that point, he comes up with the idea to  
12      steal some drugs, and some money, cell phone,  
13      identification, the credit cards. That's what they want  
14      you to believe.

15             Folks, Bobby Smith can't be believed. He hasn't told  
16      the truth from day one. He told you that himself. He  
17      began lying from day one to protect himself and his  
18      brother. And that's what he continued to do yesterday  
19      when you heard him on the stand.

20             And this self-defense first came out yesterday, not  
21      even through the discussion in direct examination --

22             MR. KORNFELD: Objection, Your Honor. It came out  
23      first in the trial. That's a misstatement of facts, Your  
24      Honor.

25             THE COURT: All right. Ladies and gentlemen,

1 oftentimes, the parties to a suit will disagree about what  
2 the evidence says, and about what your determination of  
3 the facts should be. I told you I don't have a position  
4 on the facts. The lawyers are arguing about what the  
5 evidence was and the facts are. I can't express an  
6 opinion in that regard.

7 If either attorney misrepresents the facts, then I'm  
8 sure that in your deliberations you'll understand and  
9 appreciate that. I'm not taking a position on whether  
10 Mr. Moroney is misstating the facts, or if Mr. Kornfeld is  
11 right. That's not my position.

12 But you heard the evidence. You know what the  
13 evidence was, and you know what the evidence shows. So I  
14 leave it up to your good discretion and judgment to  
15 determine whether either -- any of these attorneys are  
16 mischaracterizing the evidence in this case.

17 Mr. Moroney, you may proceed.

18 MR. MORONEY: Mr. Kornfeld is just doing his job.  
19 But he, certainly, doesn't want me to dwell on this fact  
20 that you didn't hear about self-defense until he pulled it  
21 out of Bobby Smith.

22 Tim Sullivan went through a detailed, detailed  
23 recitation with Bobby Smith of what happened that night.  
24 Even backing him up, coaching him at times through that.  
25 And at no point did you hearing anything about this gun

1       being pointed.

2           But when Mr. Kornfeld opened the door for him and  
3       said, He pointed a gun, didn't he -- did she point a gun?  
4       Again, he goes back into protection mode to protect  
5       himself, but most importantly, his brother. He admitted  
6       he would do that, protect his brother. And he says, Yeah,  
7       yeah, she pointed a gun. That's the first time we hear  
8       about this right there. He just can't be believed.

9           Even on the stand when Mr. Weston was cross-examining  
10       him, he was caught in his own lies on the stand. He said  
11       his brother never carried a gun. And then that turned  
12       into he regularly carried a gun.

13          Mr. Weston got Bobby Smith to admit that he lured,  
14       essentially, Ms. Logan over there, even though Bobby Smith  
15       said he wasn't luring her over there. But he didn't mind  
16       to tell Ms. Logan that Jahru was there, even though she  
17       didn't like dealing with him at all and had no business  
18       with him whatsoever.

19          And he knew, at a minimum, that something not good  
20       was going to happen that evening. He knew more than that.  
21       He knew what their intent was. They had been smoking  
22       crack since noon that day. They're both not in their  
23       sound judgment, or whatever way you want to put it.

24          But they had run out of their drugs. They had run  
25       out of their money. And they knew an easy target. They

1 knew Ms. Logan was going to be that easy target. A female  
2 alone at night, she would be an easy rip. Maybe she said  
3 no, maybe she didn't act quick enough, but it cost her her  
4 life.

5 Again, Bobby said he was at home. He made it inside.  
6 He happened to make it inside when he heard the shots.  
7 Again, back to Bobby Smith's mobility. He wants you to  
8 believe, as he tells it, that he's there. He sees Jahru  
9 Smith walk up. And then he's able to make it in the house  
10 before the shots go off.

11 And we know that time frame that we're talking about,  
12 based on when Ms. Logan calls to say she's on her way and  
13 when the 911 call happens. We're talking about a  
14 minute -- short minutes.

15 So, apparently, at the time, Bobby Smith was a lot  
16 more mobile. And he was able to get right back in that  
17 house and close the door and, of course, just bird shots.  
18 He wasn't outside. He wasn't outside with Jahru Smith.

19 You may wonder to yourself where's the common scheme  
20 or plan that Bobby Smith intended to rob Ms. Logan?  
21 Where -- how do we prove that to you? How do we  
22 demonstrate that to you? Folks, when -- at the time that  
23 he was saying, I don't have shit to do with that, chalk it  
24 up to the streets, the moment he said that, that was his  
25 first words.

1           At the time he said that, he had a \$107 of the  
2 victim's money in his pocket with her blood on it. At the  
3 time he said that, her cell phone is hidden in a freezer  
4 behind him. And at the time he said that, her ID was  
5 flushed down the toilet. And he had blood on his shirt  
6 and pants that he tried to change out of and put on the  
7 chair. The intent for him to join in this armed robbery  
8 is on his person and his pockets, in the frig -- the  
9 freezer, and down that toilet.

10           Bobby Smith said he didn't call 911 because he didn't  
11 know how to use a touch phone. And then in his testimony,  
12 he waited an hour while there were blue lights outside  
13 with the door closed and, I guess, his arms folded and  
14 just sat there.

15           So this brings us with respect to Bobby Smith, the  
16 hand of one that I touched on at the outset of this trial.  
17 And this is a very important component under our law with  
18 respect to Bobby Smith.

19           Bobby Smith didn't pull the trigger. Jahru Smith  
20 pulled the trigger. But how is he guilty of armed  
21 robbery? How is he guilty of murder? I touched on the  
22 armed robbery portion, that his intent can be demonstrated  
23 through that physical evidence that was on him and in the  
24 house.

25           The Judge, again, will charge you on this. When two

1 or more combine to commit an unlawful act and in the  
2 execution of that criminal act, a homicide is committed by  
3 one of the actors as a probable or natural consequence of  
4 the acts done in pursuance of the common design, all  
5 present that participated in the unlawful undertaking are  
6 as guilty as the one who committed the fatal act. This is  
7 Bobby Smith. Right here, this is Bobby Smith.

8 That's how his hand is on that gun just like Jahru  
9 Smith. This -- it's just the same as if his hand was on  
10 that gun. When he joined in the undertaking to rob  
11 Ms. Logan, it's just as if he pulled that trigger.

12 Bobby Smith didn't want her dead. Why would he want  
13 her dead in the front driveway? That's what created this  
14 whole mess in the first place. He wanted her drugs and  
15 money. He thought it would go off without a hitch.

16 They had run out of drugs and money because they had  
17 been smoking since noon, and this was now 9:30. And she  
18 was going to be an easy lick. But that doesn't matter  
19 with respect to the guilt, just because he didn't want her  
20 to be shot.

21 The fact that he wanted to partake in the armed  
22 robbery and she ended up dead as a result of that, he is  
23 guilty of armed robbery. He is guilty of murder. As a  
24 result of that, possession of a weapon during a violent  
25 crime.

1 I'm going to sit down now. I know I've been talking  
2 for a while. I'm going to let these Defense attorneys  
3 speak to you. And I'll have an opportunity to briefly  
4 address you at the end here.

5 Thank you.

6 THE COURT: All right. Mr. Sullivan.

7 MR. SULLIVAN: May it please the Court.

8 THE COURT: Yes, sir.

9 MR. SULLIVAN: Mr. Moroney.

10 Mr. Weston.

11 This case has a lot of evidence, but it's fairly  
12 simple. Let's start, I'm representing Bobby Smith.

13 Who is Bobby Smith? He's a 57-year-old man. He  
14 lives at home with his mom. He has diabetes. He has  
15 problems with lost toes on his left foot. The right foot  
16 has problems -- is problematic, number one.

17 Number two, if you're going to plan a crime, there's  
18 three things you do. You have to plan the crime, how you  
19 want to do it. You have to commit the crime. And then  
20 say, let's get away. Well, they had to plan this crime to  
21 rob this lady, and then committed the crime in his front  
22 yard, Bobby's front yard. And then -- well, he didn't get  
23 away. We're here.

24 So let's back up. You know Bobby's health. Bobby  
25 has some mental problems, which is not enough to affect

1       this case. But he's on medication for schizophrenia and  
2       bipolar. And he goes to Greenville Mental Health.

3               So he smokes crack. That's probably a fact of life  
4       that you don't deal with. It's like a couple of guys  
5       watching a football game and they drink some beers. Some  
6       people smoke crack. That's just life.

7               So that day -- prior to that, Jahru had met Ms. Logan  
8       and knew she was a crack dealer. He met her through  
9       friends. It's been admitted in the courtroom. Through  
10      Jahru, Bobby met Ms. Logan and liked her. They got along.

11              So she became his supplier over a two-year period.  
12      She was prompt. She was fair. They never argued. The  
13      way it worked, according to Bobby, he would call her. She  
14      would pull up, park in the yard, blow the horn, and he'd  
15      go out make the deal and go in.

16              On this particular day, actually, she had been over  
17      to the house twice prior to the incident. Jahru and Bobby  
18      were smoking, they called her. She came over, no problem.  
19      They smoked a little bit. And then later, they wanted  
20      some more, same deal.

21              This time, she came over, blew the horn. Now, the  
22      car -- the houses are here and here. They're right  
23      together. And there's the driveway. She pulls up like  
24      she always does, blows the horn. Bobby goes out and makes  
25      his deal. Jahru is coming out. This has nothing to do

1 with him. He goes back in. He hears them arguing.

2 They're probably haggling over a price, or whatever. And  
3 then boom, boom, shots.

4 And the next thing, Jahru is knocking on his door.  
5 Bobby, you've got to help me.

6 What the hell is going on? What have you done?

7 So they go out there. And she is in the car closest  
8 to the neighbor's house, closest to the street. That's  
9 not going to work. Somebody is going to see this lady in  
10 their front yard. It's Bobby's yard.

11 So Jahru said, we've got to move her. Jahru puts her  
12 on the ground, pulls the car further up into the road.  
13 And then they try to pick her up. It's not like they drug  
14 her, like, by her legs. Jahru had her by the shoulders.  
15 And Bobby is impaired. He's trying to carry her. She's  
16 178 pounds -- I think 175 or 178.

17 He can't quite pick her up. And they do have to drag  
18 her. At this point, she's dead it. It sounds bad, but  
19 she's not being injured y. And then Jahru tries to put  
20 her legs in the car. At that point, Bobby sees a phone  
21 and he sees a little weed. He doesn't see any money.

22 Now, according to the mother, there's \$700 somewhere.  
23 Bobby sees this phone. And the phone -- you'll have it in  
24 there. And other people have them. They have these  
25 little slots in the back. And a lot of people put, like,

1       their credit card, or driver's license, or money in there  
2       just to have it handy with them.

3               So Bobby doesn't even know it's in there. He just  
4       thinks he's getting a phone that she's not going to need  
5       anymore. So he takes the phone in and starts looking  
6       through it. And he's got blood on him. And, all of a  
7       sudden, he sees he's got this stuff.

8               He tries to flush some of the stuff. And he takes  
9       the money. He said he didn't get but \$107 from her. He  
10      had some before he got some from her, 30, 40, \$50. He  
11      wads it up and puts it in his pocket. And he puts the  
12      phone in the freezer.

13              In the meantime, Jahru has taken off between the  
14      houses. It was #■, #■. And then behind the house,  
15      there's a fence, somebody's got to go over it. And then  
16      there's a shed. And the gun is placed in the shed  
17      partially underneath a lawn mower. There's no way Bobby  
18      Smith could have done that.

19              So later, Bobby is in jail and he calls his momma.  
20      And he says mom, I've got some weed there. I don't want  
21      you to get in trouble. There may be a little blood on it.  
22      Because he knew he had blood on his hand. And he probably  
23      wiped it on his clothes and things trying to get cleaned  
24      up. So she gets rid of it. She doesn't really know  
25      what's going on.

1           Now, at this point, things are at kind of a  
2   standstill. Jahru is on the run. They've got a phone  
3   track that he was at the house and ended up in Anderson.  
4   Jahru has no idea what's going on -- I mean, Bobby. Bobby  
5   is in jail at the LEC.

6           Later, Jahru talks to Mary Smith, his aunt. And  
7   she's a very nice lady. And he wants some money. She  
8   knows that's what he's wanting. Because she's heard that  
9   he's in trouble.

10          And she says, Jahru, I'm not going to help you. I  
11   will help turn yourself in. That's what you've got to do.  
12   You don't want the police looking for you, and a gun  
13   fight, and you be shot. You need to call Tim Waller.  
14   I'll do it for you.

15          Whoever calls, it ends up Mr. Waller goes out to the  
16   scene that Jahru sets up and gets on the microphone. And  
17   Mr. Moroney has made a real big deal about Jahru saying, I  
18   killed that lady. I'm the shooter. But he doesn't -- he  
19   doesn't mention him saying, My brother is in jail. That's  
20   not right. He is innocent.

21          So if he's saying I killed her and that's true, why  
22   would this other part not be true? He said it twice. My  
23   brother did not do this. He is innocent. It's wrong that  
24   he's in jail. So, right there, you've got an admission.  
25   They want you to use half, but forget the other half, but

1       you can't do it. Jahru said Bobby is innocent.

2               So you go back and you look at the facts. I don't  
3       know what happened between Jahru and Ms. Logan. She is  
4       shot. Bobby goes out, helps cover it up. This crime has  
5       already been committed when Bobby is not there. The gun  
6       fight took place, whatever, he takes the phone.

7               He's an accessory. I'm not saying he's innocent of  
8       this, not at all. He is an accessory after the fact.  
9       That means he's not the main actor in the event. I shoot  
10      somebody, they're dead, it's done. I go to a friend and  
11      say, look, I killed this person. I need to move the body.  
12      I go help. I've got nothing to do with the murder. I am  
13      guilty of accessory after the fact of the armed robbery  
14      and the murder.

15              Now, to get there, there's another step. You have to  
16      find that Jahru is guilty of a crime. If Jahru is not  
17      guilty of a crime, then there's no accessory because there  
18      was no crime to be an accessory to.

19              So I would ask you to look at the facts, look at the  
20      TV thing where Jahru says, My brother is innocent. And he  
21      says it twice. And then the bulk of the money, Bobby has  
22      \$107. He said, Yeah, I had that. Some was mine and a  
23      little bit came out of her phone. And I had a dime bag of  
24      weed. That is after the fact.

25              And what happened if she had more drugs on her, I

1 have no idea. If she had the money, I have no idea. We  
2 don't know what happened to it. But we do know that Bobby  
3 helped afterwards, got a phone, and it just happened to  
4 have money in it.

5 So when you look at everything, especially Jahru  
6 saying, My brother is innocent, I'll expect you to come  
7 back with guilty of accessory after the fact of a crime.

8 I'm not asking you to walk him, to find him not  
9 guilty. That's ridiculous. He is guilty of accessory  
10 after the fact.

11 And they're going to have clothes, and stuff. He  
12 admits he had blood on him in different places at  
13 different times, on the phone, on the money, on his  
14 clothing. That happened afterwards, not while it was  
15 happening.

16 So, again, I'll leave you with this one thought.  
17 Find Bobby Smith guilty of accessory after the fact in  
18 this case.

19 Thank you.

20 THE COURT: All right. Mr. Moroney, you've got five  
21 or 10 minutes to respond, sir.

22 MR. MORONEY: Thank you, Your Honor.

23 Ladies and gentlemen, I'm going to keep this brief.  
24 Mr. Sullivan wants you to focus on this after the fact  
25 that I touched on earlier. I think I addressed this

1 earlier. He wants you to find accessory after the fact,  
2 based on Bobby Smith's testimony yesterday, essentially.

3 We've told you what his words were, and you saw it  
4 yesterday. And that he had been lying from the outset  
5 protecting himself and protecting his brother. So you're  
6 going to be the judge of that. You are the jury. You  
7 consider all of this. And you determine whether that's  
8 reasonable or not.

9 In conjunction with that, he wants you to listen to  
10 Jahru Smith. Because he says on the video that his  
11 brother is innocent, that means that he's innocent. I  
12 don't believe that Jahru Smith is a legal scholar. And in  
13 his mind, I would suggest that he thinks that because  
14 Bobby didn't pull the trigger, he's innocent.

15 We explained why that's not the case under the hand  
16 of one hand of all theory. That ignores the fact that  
17 they both joined in this common conspiracy to rob  
18 Ms. Logan. And when her death resulted in being shot five  
19 times during that robbery, he was just as guilty.

20 He's not an accessory after the fact. We have to  
21 believe that he's inside, conveniently. And he hears a  
22 knock at the door after his brother just murders this poor  
23 victim. A knock at the door, that's what happens. Just a  
24 casual knock, that's how that happened.

25 This story doesn't make sense at all. If you had

1 just killed somebody, you're bursting in the door. You're  
2 panicked, help me move this. It didn't happen that way.

3 Ms. Logan's life mattered. Despite the fact that she  
4 was involved in some drug activity, her life mattered.  
5 And it never gave Jahru Smith and Bobby Smith the right to  
6 rob her that night. It never gave them the right to end  
7 her life.

8 You're going to be charged on the law by Judge  
9 Stilwell, and that will take some time. And you've got so  
10 much evidence to pour over here. Stay focused on the  
11 evidence at the end of day during your deliberations. I  
12 believe it speaks for itself.

13 And the evidence supports and proves beyond a  
14 reasonable doubt with respect to all of these charges for  
15 both Defendants that Bobby Smith and Jahru Smith conspired  
16 together to rob Ms. Logan. And in the course of doing so,  
17 she was shot and killed.

18 Therefore, I'm going to ask you, at this point, to  
19 find Bobby Smith guilty of murder, and armed robbery, and  
20 possession of a weapon during a violent crime, and find  
21 Jahru Smith guilty of murder, armed robbery, and  
22 possession of a weapon during a violent crime.

23 I thank you for your attention. I thank you for your  
24 service.

25 I appreciate it.

1 THE COURT: Mr. Kornfeld.

2 MR. KORNFELD: May it please the Court.

3 THE COURT: Yes, sir. Go ahead.

4 MR. KORNFELD: Thank you, Judge.

5 Mr. Moroney.

6 Mr. Weston.

7 Mr. Sullivan.

8 Ladies and gentlemen of the jury, as you know, I  
9 represent Jahru Smith.

10 And I believe Solicitor Moroney said that he came  
11 armed to a drug deal. That's not true. He didn't come  
12 armed to a drug deal. She came armed to a drug deal. She  
13 came to the house and sold drugs for the third time that  
14 day to a two-toed, schizophrenic, bipolar elderly  
15 gentleman and a man with thick bottle cap glasses.

16 And what did she say when she talked to Bobby Smith?  
17 I'm going to have to teach that mother fucker a lesson.  
18 Does that sound like words of kindness?

19 And then what did she do? She tried to teach him a  
20 lesson when she pulled her Kel-Tec nine up like this in  
21 his face. And Jahru Smith moves back, tries to get out of  
22 the way. He pulls his gun and he shoots back.

23 I don't know whether or not her weapon jammed. I  
24 know that these Kel-Tec nines -- y'all deliberate on that,  
25 whether or not these guns are likely to jam or not. I

1 don't know if the piece of fragmented bullet that they  
2 found, A, B, that the guy testified to was coming from  
3 that bullet or not.

4 I know that he did say there was a bullet underneath  
5 the seat. I don't know where that came from either. That  
6 is not the important question. The important question  
7 that the jury has to answer is whether or not Shameese  
8 Nicole Logan pulled that gun on him, and whether or not he  
9 had the right to defend himself. And that's exactly what  
10 he did, he defended himself. She came over there to sell  
11 crack for the third time.

12 Solicitor Weston made a big deal about the fact that  
13 she wouldn't deal with Jahru Smith. Yet, at the same  
14 time, they're using that same finding that she had already  
15 been over there two times that day. She knew he was  
16 there. There was no luring into coming back. She's the  
17 drug dealer. They're the drug users. There's no luring  
18 here. They didn't talk about this. She had been selling  
19 drugs to them for two years.

20 If you're a drug addict, the best thing that can  
21 happen to you, as a drug addict, is that someone will  
22 drive up to your house and give you drugs. He doesn't  
23 even have to go anywhere for them anymore.

24 Ladies and gentlemen, we said that we would go over  
25 the evidence. And we went through the whole thing.

1           At the beginning of this trial, I asked the ultimate  
2           question is -- whether Shameese Logan was murdered. She  
3           wasn't murdered. This was self-defense. There's no more  
4           evidence to say that it wasn't than it was. And Bobby  
5           Smith, who was there, stated to me when I asked the  
6           question, yes. It wasn't the first time. It was the  
7           first time in the courtroom and I asked it. They didn't  
8           ask that question.

9           Bobby doesn't answer questions that you don't ask  
10          him. They all said that. He's not -- he's an elderly man  
11          with schizophrenia. It's not like -- you saw how he  
12          answers the questions, yes, no. He's not going to bring  
13          things up.

14          You saw the look of the -- when you look on the video  
15          of my client, Jahru Smith, where he says, yeah, he doesn't  
16          deserve to be in there. And he's got glasses as thick as  
17          bottle caps on there. He says he needs to be out.

18          Now, I did listen to the video again. And  
19          Mr. Moroney is right, in that video, he doesn't say  
20          there's more to it than that. I thought that I heard that  
21          in that video. I don't know if I heard it somewhere else.  
22          But he's right, in that video right there, it's not in  
23          there.

24          You can decipher from what you saw there how quick he  
25          is or whether or not he would say, yeah, she tried to pull

1 a gun on me. He looks scared. He was so scared that they  
2 called Tim Waller so that the police -- that they were  
3 going to come and shoot him. That's how scared he was of  
4 them. As a man from his background that they were going  
5 to, actually, shoot him. That he called the news and told  
6 them, yes, so that they would not come after him.

7 We know from the testimony of Anika Carter that she  
8 had seen her with the pistol. She said, yeah, she put it  
9 in the glove box. And then she said, oh, it was in the --  
10 I call it the glove box, the center console. It's the  
11 center console. I don't know why she called it the glove  
12 box. But that's where she has it.

13 We know from Brittany Norton, that was the girlfriend  
14 of the deceased, that she was leaving from Dre's. We,  
15 also, know -- which I guess is a nightclub. We, also,  
16 know that -- which nobody brought up, but me -- but does  
17 that mean it's not relevant? -- that she had a bottle of  
18 half opened gin in the car. Does that mean that she was,  
19 you know, liquored up and drunk and that she was coming  
20 over there and -- I don't know. But it's a relevant point  
21 to go to her state of mind as to what she was thinking  
22 when she went over there.

23 Dar Shaw. He was the one that talked about the  
24 forensics. And I'm going to ask you to look at State's  
25 Exhibit No. 41 when you go back in the jury room. But

1       that is the -- that is the -- let me just pull it. These  
2       are where you'd have different bullets coming in. She's  
3       in here with her gun pulled like this and trying to shoot  
4       back. These guns are -- these bullets are coming back  
5       into her. These do not make sense. Look through these as  
6       to how the bullets came in.

7             And also -- it's, also, important to note -- I don't  
8       know -- they got that gun a lot later. When you look at  
9       the gun, it's got rust on it. That's not the gun. This  
10      is the gun that has the rust on it. That changes the way  
11      that things are tested as well and as to impressions -- if  
12      you've got rust, it's not the same. Officer Armstrong was  
13      the officer that couldn't identify to some of the  
14      casings -- or the casings that were found on scene.

15            Jahru Smith told his previous lawyer that he thought  
16      the gun that was in the shed was the victim's gun, the  
17      deceased's gun, the one that pulled the weapon on him. He  
18      ran out of there and he was panicked. And they want to  
19      act as if they know exactly what would happen after you,  
20      in self-defense, after smoking crack all day, how someone  
21      like that would act.

22            Obviously, they were engaged in smoking crack, which  
23      having crack on you is illegal. Obviously, he was already  
24      apprehensive or scared of law enforcement. And,  
25      obviously, he ran away.

1           You, -- his background -- you saw Mary Louise Smith.  
2           They don't even tell her that she's being recorded by the  
3           police. There's going to be distrust. And there was that  
4           time that nobody would believe his story concerning the  
5           fact that Shameese Nicole Logan pulled a gun on him. What  
6           is he going to do? What is he supposed to do when someone  
7           pulls a gun on him at a drug deal and he's standing back,  
8           he's moving back? He said, Yeah, I saw it. This  
9           happened. There's no evidence in there that makes it less  
10          likely than not. They didn't want -- when I asked about  
11          the gun, they didn't necessarily want that gun to come in.

12          Ladies and gentlemen, when you go to a crack addict's  
13          home for the third time in a day to sell a crack head with  
14          two toes, schizophrenia, bipolar and a guy with bottle cap  
15          glasses that are in their late 50s and you bring a weapon  
16          with you and you say, I'm going to teach that mother  
17          fucker a lesson and then you pull a gun on someone, you  
18          have to be ready for the consequences.

19          You don't pull a gun on somebody unless you think  
20          you're going to shoot them. And you've got to be ready to  
21          know that you're possibly going to get shot. It could  
22          possibly be the last breath that you took. And,  
23          unfortunately, on February 3rd, 2015, that is exactly what  
24          happened.

25          Thank you, ladies and gentlemen.

1 THE COURT: Ladies and gentlemen, before we go to  
2 closing charge, let's take about a five or 10-minute break  
3 and let everybody refresh. And we'll come back in and  
4 I'll give you the charge.

5 Please don't discuss the case yet.

6 (WHEREUPON, the jury was excused from open court at  
7 approximately 11:23 a.m.)

8 THE COURT: Okay. We'll be in recess between five  
9 and 10 minutes.

10 (WHEREUPON, a break was taken.)

11 THE COURT: Let's's bring the jury in.

12 (WHEREUPON, the jury came into open court at  
13 approximately 11:37 a.m.)

14 CHARGE ON THE LAW

15 THE COURT: Ladies and gentlemen, the time has come  
16 for me to give you the charge on the law. Now, when we  
17 started this case, y'all took an oath. And you took an  
18 oath to try the case in accordance with the evidence and  
19 the law as I give it to you.

20 So as you come into this courtroom, if you have any  
21 prior opinions or predispositions about the law or what  
22 the law should be, you need to disregard that. Because  
23 under your oath, you must accept the law as I give it to  
24 you in this case.

25 Now, before we get started, I'm going to address an

1 elephant in the courtroom that I know many of you have  
2 even asked the bailiff about as we have proceeded in the  
3 case. And that is, where is Mr. Jahru Smith? Mr. Jahru  
4 Smith is not here. That's obvious. But let me make sure  
5 that you understand. That doesn't matter. That does not  
6 matter.

7 Because in any criminal case, and in this criminal  
8 case, the burden is on the State to prove each and every  
9 element of the offense beyond a reasonable doubt. The  
10 Defense doesn't have any burden of proof. So whether  
11 Mr. Jahru Smith is here or not here is completely  
12 irrelevant to what you are considering in this case. And  
13 it's not subject to your consideration. So you can  
14 disregard that entirely.

15 Let me, also, tell you while we're talking about  
16 this, Mr. Smith -- Jahru Smith elected not to testify.  
17 Now, understand, you can't consider that either.  
18 Understand that we all, under the Constitution, have a  
19 right to remain silent, which means Mr. Smith, nor any  
20 citizen in the United States, does not have to say, do, or  
21 prove anything in a proceeding.

22 So the fact that he didn't take the stand and he  
23 didn't testify, again, cannot be held against him. It's  
24 irrelevant to your consideration. As a matter of fact,  
25 because it is a Constitutional right that we all hold

1       dearly, you can't even discuss it in your jury  
2       deliberations. Because it's not relevant and because it  
3       is his Constitutional right.

4       So, ladies and gentlemen, you know, as I've told you  
5       before, your role in the trial of the case is to be the  
6       finders of the fact. And you're going to determine what  
7       the facts are. Each side comes in and they make  
8       arguments, and present evidence, and try to convince you  
9       of their position. But you have the sole and exclusive  
10      authority and responsibility for determining what the  
11      facts are.

12       If I've said anything during this case or I've done  
13      anything during this case that gives you an impression  
14      that I have an opinion about the facts, disregard it,  
15      because I honestly do not.

16       Now, you're going to determine what the facts are.  
17      And in determining what those facts are, you're going to  
18      determine whether the State has met its burden of proof of  
19      proving each and every element of the offense beyond a  
20      reasonable doubt.

21       Now, I'm about to define reasonable doubt to you.  
22      But I want to tell you before I do that that there are  
23      multiple indictments in this case and there are multiple  
24      Defendants. You must consider each and every indictment  
25      separately and independently. And you must consider the

1 Defendants independent of one another as well.

2 So, for example, for each Defendant, you have an  
3 indictment for murder, one count of murder, and an  
4 indictment for possession of a weapon during the  
5 commission of a violent crime. And then you have a  
6 separate indictment for armed robbery.

7 So you need to consider all of those counts  
8 separately and independently. And you need to consider,  
9 again, the Defendants independently. So I'm sure you  
10 understand that, but it's important. So I just want to  
11 make sure and give you an example.

12 If you were to find one of the Defendants guilty of  
13 one of the counts, that doesn't mean that you have to find  
14 him guilty of the remaining counts. And it doesn't mean  
15 that you have to find the other Defendant guilty of that  
16 count -- that corresponding count as well. Understand,  
17 you can come back with any combination of verdicts that  
18 you feel is appropriate when you apply the facts as you  
19 determine them to be to the law as I give to you.

20 So each indictment -- each count of each indictment  
21 is to be considered independently and separately. And  
22 you'll determine in each instance whether the State has  
23 met its burden of proving each and every element of the  
24 offense beyond a reasonable doubt. And in order to  
25 demonstrate that to you clearly, I'm going to give you six

1       separate verdict forms to demonstrate that you have to  
2       consider them all independent of one another. Okay.

3               Now, ladies and gentlemen, we've bandied about this  
4       term reasonable doubt. What is a -- what is reasonable  
5       doubt? Reasonable doubt is a doubt that is proof of  
6       something that leaves you firmly convinced.

7               Now, there's nothing on the face of this earth that  
8       you can know beyond any possible doubt. And the law  
9       doesn't require that the State prove its case beyond any  
10      possible doubt. However, after your review of the  
11      evidence, if you are firmly convinced of the Defendants  
12      guilt, then under your oath, you would find the Defendant  
13      guilty of that corresponding charge. If after your review  
14      of the evidence, you feel there is a real possibility that  
15      the Defendant is not guilty, then under your oath, you  
16      would find the Defendant not guilty.

17              Now, you may have heard different forms of --  
18      standards of proof in your life, either on TV or in other  
19      experiences you've had in a trial. You've got the  
20      preponderance of the evidence in most civil cases, which  
21      is greater -- more likely than not. And in some  
22      instances, you've got clear and convincing, like when  
23      someone is seeking punitive damages, which is a higher  
24      level of proof. But the highest level of proof there is  
25      is proof beyond a reasonable doubt. And that's the burden

1 of proof in this case.

2 Now, ladies and gentlemen, you'll determine whether  
3 the State has met its burden of proof by reviewing the  
4 evidence and weighing the evidence. Now, obviously, it's  
5 not a method of, actually, weighing it and determining,  
6 you know, who put more evidence in than the other. That's  
7 not the analysis. It's in the aggregate, looking at all  
8 the evidence, has the State met its burden of proof?

9 Now, you're going to look at all of the evidence and  
10 decide what's important and what's not important, what  
11 is -- what -- what may be very important to your  
12 consideration and have great value and what may not. By  
13 the same token, you're going to look at the testimony of  
14 the witnesses. And you're going to determine who is  
15 credible and who is believable.

16 Now, you bring certain inherent tools into this  
17 courtroom, just common sense tools that you use every day  
18 in determining whether somebody should be believed or not.  
19 You know that every day you listen to people and you gauge  
20 their credibility. And you listen to what they have to  
21 say, how they say it, how they express themselves, facial  
22 expressions, their body language. You determine whether  
23 they have something to lose or whether they have something  
24 to gain as a consequence of their testimony. And you  
25 decide whether they should be believed or not.

1           Well, in a trial, you do the same thing. You will  
2 look at those witnesses and determine whether they should  
3 be believed or not. Understand, you can take a portion of  
4 a witnesses testimony and find it very believable and very  
5 valuable, and discard the rest. You can accept it all, or  
6 you can accept none. Again, in your role, you decide.  
7 You decide what has weight, and what has value, and what  
8 part, if any, of the witnesses testimony is credible.

9           Again, expert witnesses. You heard from expert  
10 witnesses. The analysis is the same. You decide whether  
11 it's credible. And you decide what type of weight it has,  
12 regardless of the fact that they were qualified as an  
13 expert witness. You treat it just like any other piece of  
14 evidence that you receive in a trial.

15           Now, in this case, and in every case that comes  
16 before the Court, evidence is going to take one of two  
17 forms. And I'm sure you've heard of it before, direct  
18 evidence and circumstantial evidence.

19           Direct evidence is evidence which immediately  
20 establishes a fact to be proven.

21           Circumstantial evidence is proof of a chain of facts.  
22 or collateral facts that when taken together prove a main  
23 fact to be proven. And that's a simple definition. But  
24 I'm going to give you an example that may help you  
25 understand it a little bit better.

1           Let's say that tonight, you go to bed and you walk  
2 past your front door or your front window, and you look  
3 out your front yard and there's no precipitation on the  
4 ground at all. You go to bed. You wake up tomorrow  
5 morning and you walk past that very same door or window,  
6 and you look in your front yard and there is a blanket of  
7 snow in the yard. And there are, also, footsteps which  
8 lead to your door and then lead away.

9           Well, under that set of circumstances, you've got  
10 direct evidence that it snowed last night because it is  
11 immediately established by the presence of the snow. But  
12 you've got circumstantial evidence that somebody came to  
13 your door and walked away either late that night or early  
14 that evening. You can't see that person. You can't talk  
15 to that person. You can't feel that person. But you know  
16 as a consequence of the timing of the snow fall and the  
17 presence of the footsteps that somebody must have walked  
18 to your door and walked away. That's circumstantial  
19 evidence.

20           Now, ladies and gentlemen, under the law, direct  
21 evidence is not preferred over circumstantial evidence.  
22 Circumstantial evidence is not preferred over direct  
23 evidence. You decide what has weight. And you decide  
24 what has value, regardless of whether it's characterized  
25 as direct or circumstantial evidence.

1           Understand, ladies and gentlemen, to the extent that  
2           the State relies upon circumstantial evidence to make its  
3           case, all of the circumstances, when taken together, must  
4           point conclusively to the guilt of the accused beyond a  
5           reasonable doubt, and cannot merely rise to the level of  
6           suspicion.

7           All right. In one instance, ladies and gentlemen,  
8           the Defendant testified and it was brought into evidence  
9           that he has a prior record. Now, ladies and gentlemen,  
10          that evidence was admitted solely for the purpose of  
11          credibility. You can consider that to consider whether  
12          the Defendant was credible or not. You cannot use that to  
13          determine whether it is more likely or not that he may  
14          have committed this crime. It is not intended for that  
15          purpose. And you may only consider it for purposes of  
16          credibility.

17          Okay. Let's talk a little bit about the -- about the  
18          charges that are -- that are before the Court. Now, I'm  
19          going to read some to you now. And I don't like to read  
20          to you. It suggests to you that either I'm too lazy or  
21          dumb to know the law. And some people might suggest  
22          that's true, my wife and kids, for example. But these are  
23          precise definitions. And I need to get them precisely  
24          right, which means that if you'll bear with me, I'll read  
25          the precise definitions to you.

1           Ladies and gentlemen, the Defendants are charged with  
2 murder. The State must prove beyond a reasonable doubt  
3 that the Defendants killed another person with malice  
4 aforethought.

5           Malice is hatred, ill will, or hostility towards  
6 another person. It is the intentional doing of a wrongful  
7 act without just cause or excuse, and with an intent to  
8 inflict an injury, or under circumstances that the law  
9 will infer an evil intent.

10           Malice aforethought does not require that malice  
11 exist for any particular length of time before the act is  
12 committed, but malice exists in the mind of the Defendants  
13 just before and at the time the act was committed.  
14 Therefore, there must be a combination of evil intent and  
15 the act.

16           Malice aforethought may be expressed or inferred.  
17 These terms of expressed and inferred do not mean  
18 different kinds of malice, but merely the manner in which  
19 malice may be shown to exist. That is either by direct  
20 evidence or by inference from the facts and circumstances  
21 which are proved.

22           Expressed malice is shown when a person speaks words  
23 which express hatred or ill will for another, or when the  
24 person prepared beforehand to do the act which was later  
25 accomplished. For example, lying in wait for a person or

1 other acts of preparation going to show that the deed was  
2 within the Defendant's mind would be expressed malice.  
3 Malice may be inferred from conduct showing a total  
4 disregard for human life.

5 Ladies and gentlemen, I'm going to talk to you now  
6 about accessory after the fact of murder as a lesser  
7 included offense in this instance. Now, this only applies  
8 to Mr. Bobby Smith. And Mr. Bobby Smith asserts that he's  
9 not guilty of murder, but that you should consider the  
10 lesser included offense of accessory after the fact.

11 Now, you're going to see that on your verdict form  
12 with respect to Mr. Bobby Smith. And, ladies and  
13 gentlemen, the Defendant is charged with being accessory  
14 after the fact of murder.

15 In order to prove this crime, the State must prove  
16 beyond a reasonable doubt that the Defendant knew that  
17 another person, the principle committed a felony and after  
18 the crime intentionally helped the principle to escape  
19 from arrest, conviction, or punishment.

20 Intentionally means willfully, intending the result  
21 which, actually, occurs, not accidentally or  
22 involuntarily. Intent may be shown by acts and conduct of  
23 the Defendant and other circumstances from which you may  
24 naturally and reasonable infer intent.-

25 Absence is not an element of the crime of accessory

1 after the fact. If you find the Defendant was merely  
2 present at the scene of the crime and did not participate  
3 in the crime, but became involved after the commission of  
4 the crime, you may find the Defendant guilty of being an  
5 accessory after the fact.

6 Although the actions of the Defendant may have helped  
7 the principle to escape detection or arrest, this is not  
8 to be -- an accessory after the fact. The State must,  
9 also, prove that the Defendant acted with the intention or  
10 with the purpose of helping the principle to escape  
11 detection or arrest.

12 So if a person charged with being an accessory after  
13 the fact did not intend his acts should help the principle  
14 escape detection or arrest, then he is not an accessory  
15 after the fact, even though his acts, in fact, may have  
16 resulted in helping a principle escape detection or  
17 arrest. There must be some affirmative act tending toward  
18 concealment of the commission of the crime. Silence alone  
19 is not sufficient to make a person an accessory after the  
20 fact of a felony.

21 Now, ladies and gentlemen, the next charge that  
22 you'll consider is armed robbery. Both of the Defendants  
23 are charged with armed robbery.

24 In order to prove this offense, the State must,  
25 first, prove beyond a reasonable doubt that the Defendants

1 took personal property from the person or presence of  
2 another person. Property is in the presence of a person  
3 if it is within the person's reach, inspection,  
4 observation, or control so that the person could, if not  
5 overcome with violence or prevented by fear, keep  
6 possession of the property.

7 The State must, also, prove beyond a reasonable doubt  
8 that the Defendants carried the property away intending to  
9 permanently deprive the owner of the property and to keep  
10 the property for the Defendants own use. The slightest  
11 removal of the property or the complete possession of the  
12 property, even for an instant by the Defendant, is  
13 sufficient to show a taking and carrying away of the  
14 property. The taking and carrying away of the property  
15 must have been done with violence or by putting the owner  
16 of the property in fear of violence.

17 Finally, the State must prove beyond a reasonable  
18 doubt that the Defendant was armed with a deadly weapon  
19 during the robbery. A deadly weapon is any article,  
20 instrument, or substance which is likely to cause death or  
21 great bodily harm.

22 Now, ladies and gentlemen, the next count which  
23 you're going to consider in your deliberations is  
24 possession of a weapon during the commission of a violent  
25 crime. The State must prove beyond a reasonable doubt

1       that the Defendants were in possession of a firearm or  
2       visibly displayed what appeared to be a firearm during the  
3       commission of a violent crime.

4               In order to find the Defendants guilty of possession  
5       of a weapon during the commission of a violent crime, you  
6       must, first, find the Defendants guilty of either  
7       committing a violent crime or attempting to commit a  
8       violent crime. And I charge you that both murder and  
9       armed robbery are violent crimes under the law. The State  
10      must prove beyond a reasonable doubt that the weapon  
11      further advanced or helped in the commission of the crime.

12             Now, ladies and gentlemen, the State has propounded  
13      the theory of the hand of one is the hand of all. So I am  
14      going to read for you the definition for the hand of one  
15      is the hand of all, or, in other words, accessory  
16      liability.

17             If a crime is committed by two or more people who are  
18      acting together in committing a crime, the act of one is  
19      the act of all. A person who joins with another to commit  
20      an unlawful act is criminally responsible for everything  
21      done by the other person which happens as a probable or  
22      natural consequence of the acts done in carrying out the  
23      common plan or purpose. If two or more people are  
24      together acting together, assisting each other in  
25      committing the offense, the act of one is the act of all,

1 or as it is sometimes said, the hand of one is the hand of  
2 all.

3 Prior knowledge that a crime is going to be committed  
4 without more is not sufficient to make a person guilty of  
5 that crime. Mere knowledge that another person is going  
6 to commit a crime, even if the Defendant is present when  
7 the crime is committed, is not sufficient to convict the  
8 Defendant as a principle.

9 Guilt as a principle is shown by actual or  
10 constructive presence at the scene as a result of a prior  
11 arrangement. Therefore, a finding of a prior arranged  
12 plan or common scheme is necessary for a finding of guilt  
13 as a principle.

14 The State must prove beyond a reasonable doubt that  
15 by competent evidence, the theory of the hand of one is  
16 the hand of all. A principle in a crime is one who either  
17 commits the crime, or who is present aiding or assisting  
18 in committing the crime. When a person does act in the  
19 presence of another and with the assistance of another,  
20 the act is done by both.

21 When two or more people are present acting with a  
22 common plan or intent and are present at the commission of  
23 the crime, it does not matter who, actually, commits the  
24 crime, all are guilty. The hand of one is the hand of  
25 all.

1 Present at the commission of a crime means to be  
2 sufficiently near to aid, and abet, and assist in the  
3 commission of the crime. However, mere presence at the  
4 scene of a crime is not sufficient to convict one as a  
5 principle, but merely aiding and abetting.

6 Intent is, also, a necessary element. There must  
7 have been a common design or intent to commit the crime.  
8 And the crime must have been committed pursuant thereto  
9 with the person aiding and abetting by some overt act.

10 Intent means intending the result which, actually,  
11 occurs, not accidentally or involuntarily. Intent may be  
12 shown by acts and conduct of the Defendants and other  
13 circumstances from which you may naturally and reasonably  
14 infer intent. The State must prove these elements beyond  
15 a reasonable doubt.

16 Ladies and gentlemen, the Defendant, Mr. Jahru Smith,  
17 has asserted the defense of self-defense in this matter.  
18 So when you are considering the indictments which are  
19 before the Court, you will consider self-defense with  
20 respect to the murder indictment concerning Mr. Jahru  
21 Smith.

22 And, ladies and gentlemen, understand that the  
23 absence of self-defense must be proven by the Prosecution  
24 beyond a reasonable doubt. That is, understand that  
25 self-defense must be disproven beyond a reasonable doubt

1 by the State.

2 There are four elements of self-defense. The  
3 Defendant must be without fault in bringing on the  
4 difficulty. The Defendant must, actually, believe he is  
5 in imminent danger of loss of life, or serious bodily  
6 injury, or, actually, was in such danger. If the  
7 Defendant believed that he was in such danger, a  
8 reasonable or prudent man of ordinary firmness and courage  
9 would have been believed himself to be in such danger.

10 If the Defendant, actually, was in such danger and  
11 the circumstances were such that would warrant a man of  
12 ordinary prudence, firmness, and courage to strike the  
13 fatal blow in order to save himself from serious bodily  
14 harm or from losing his own life.

15 And the last thing, ladies and gentlemen, the  
16 Defendant had no other probable means of avoiding the  
17 danger of losing his own life or sustaining serious bodily  
18 injury than to act as he did in this particular instance.

19 Okay. Ladies and gentlemen, I'm going to go over for  
20 you the verdict forms. I've got six separate and distinct  
21 verdict forms. Okay. And, as I indicated to you, that's  
22 because you have to consider all of the charges  
23 independent of one another. These forms are very simple.  
24 But I'm going to go over either one or two of them for you  
25 before you go back so you don't see them for the first

1 time when you get back there.

2 You see the caption, "State v." and, in this  
3 instance, it's Bobby Leon Smith for the indictment of  
4 murder as to Shameese Nicole Logan. Verdict, it says: As  
5 to the charge of murder to Shameese Nicole Logan, we, the  
6 jury, unanimously find the Defendant -- now, let's pause  
7 there for a second.

8 It says unanimously find the Defendant. Your verdict  
9 must be unanimous, all 12 of you must agree. It can't be  
10 a preponderance of you. It can't be the majority of you.  
11 It has to be a unanimous verdict. It can't be 11 to one,  
12 10 to two. It's 12 to zero. That verdict must be based  
13 on the evidence and the law as I've given it to you. It  
14 can't be based on passion, or sympathy, or caprice, bias,  
15 or prejudice. It has to be based on a reasonable and  
16 calculated analysis of the law and the evidence.

17 So you've got three choices on this particular  
18 verdict form. Not guilty. If you find that the State has  
19 not met its burden of proof of proving each and every  
20 element of murder beyond a reasonable doubt as to  
21 Mr. Bobby Smith, then you would check --

22 Mr. Leisgang.

23 JUROR #89; EDWARD LEISGANG: Leisgang.

24 THE COURT: You would check not guilty or initial,  
25 just something that gives me a clear indication of what

1 the intent was. Or if you find that they have met their  
2 burden of proof, then you would check guilty.

3 All right. Now, I have given you the option of  
4 considering accessory after the fact of murder. So if you  
5 find that the State has not met its burden of proof with  
6 respect to murder, then you may consider accessory after  
7 the fact to murder. But you're only going to choose one  
8 of these, only one of them. Okay.

9 And then after y'all have come to a unanimous  
10 verdict, then you'll sign as Foreperson of the jury and  
11 date it.

12 Once you've made a determination on one, then you'll  
13 go to another. Now, you don't have to go in any  
14 particular order. I'm not telling you what order to go in  
15 when I talk to you about this. I'm just going over the  
16 form for you. You can proceed in whatever order you think  
17 is appropriate.

18 So let's look at another one. This is the State v.  
19 Jahru Harold Smith, indictment for armed robbery. Okay.  
20 And it says: As to the charge of armed robbery, we, the  
21 jury, unanimously -- again, unanimously find the  
22 Defendant, and you have two options there, not guilty or  
23 guilty. If you find the State has not met its burden of  
24 proof, you would initial or check not guilty. If you find  
25 the State has met its burden of proof, then you would

1 check or initial guilty.

2 Once you have come to a unanimous verdict as to all  
3 of the charges and you have filled out all of these  
4 verdict forms, then let the bailiff know. And I will  
5 bring you back out and we'll publish the verdict.

6 Now, I know somebody asked can we have a copy of the  
7 jury charge? Yes and no. When you get back there and you  
8 begin your deliberations, if you determine that there are  
9 portions of that charge that you need, let me know. If  
10 you want a precise definition, let me know. And I'll get  
11 together with the attorneys and we will fashion that  
12 written portion of the charge. Actually, we'll take  
13 exactly what I said on the record and I'll give it to you  
14 if you need it.

15 And I know I've read some things. You might want to  
16 see it, you might not want to see it. Every jury is a  
17 little bit different. But if you need it, let me know.  
18 It doesn't help me or you, generally, when you say we want  
19 a copy of the charge. Because, you know, there was a lot  
20 that I just said. And I can't give you a copy of what I  
21 said. I can give you a copy of what I read from. And I  
22 can give you very precise definitions.

23 So when you ask me for something, be as specific as  
24 you possibly can. Okay. And if you have other questions,  
25 I will do my best to answer those questions for you.

1 Generally, I'm just going to write back on the sheet of  
2 paper that you asked the question on. Sometimes, I have  
3 to bring you out.

4 If, again -- and I told you this before, I think it  
5 was yesterday. If you ask me a question bearing on the  
6 evidence or ask me a question about what the facts are or  
7 should be, you're going to get a pretty curt response, no,  
8 I can't answer it, something like that. So don't think  
9 I'm being curt or mean. I just can't answer some of the  
10 questions.

11 So I'm going to ask you to go back to your jury room.  
12 Don't begin your deliberations yet. This is the  
13 opportunity for the attorneys to take exception to  
14 something I said, to point out something that I may have  
15 misstated, or to point out something that I may have just  
16 neglected to state at all. So if I have made a mistake,  
17 then I'll bring you back out and I'll correct it.

18 Now, you'll know when it's time to begin your  
19 deliberations when you get these verdict forms. Okay.  
20 The bailiff is going to bring them to you. And then you  
21 can begin your deliberations. Not long after that, after  
22 the court reporter and the attorneys have had the  
23 opportunity to inventory all of these exhibits, you'll get  
24 all of these exhibits as well.

25 If you need to watch a videotape, let me know and

1 we'll find one that's scrubbed. That is, that doesn't  
2 have too much stuff on it. And we'll give you a computer  
3 so you can watch that videotape in your chambers as well.

4 So, ladies and gentlemen, don't discuss the case yet.  
5 Please return to your jury room.

6 (WHEREUPON, the jury was excused from open court at  
7 approximately 12:04 p.m.)

8 THE COURT: Any exceptions to the charge from the  
9 State?

10 MR. MORONEY: No, Your Honor.

11 THE COURT: Okay. Any exceptions from the Defense?

12 MR. SULLIVAN: None from Bobby Smith.

13 THE COURT: All right. Mr. Kornfeld?

14 MR. KORNFELD: Oh, I'm sorry.

15 THE COURT: I thought you were checking my charge  
16 against a learned treatise there.

17 MR. KORNFELD: No, no. I apologize. I don't have  
18 any exception.

19 THE COURT: All right. Gentlemen, I am going to send  
20 the verdict forms back to the jury and instruct them to  
21 begin deliberations. And y'all -- if y'all will do an  
22 inventory of the exhibits, we'll send those back as soon  
23 as we can.

24 If y'all can have a sterilized computer ready, then  
25 when they ask for it, we can send it back to them.

1           Okay. And I'll start getting some of those  
2 definitions ready and making sure that I redact portions  
3 that I either deleted in my charge so that -- because I  
4 anticipate they're going to ask for some of those things.  
5 They already did before I even charged them. So we'll  
6 have those at the ready.

7           If I get any questions or requests, we'll call  
8 everybody back in my chambers and we'll discuss everything  
9 before we send anything back to the jury.

10          THE CLERK: Your Honor, I'll go get the laptop. The  
11 clerk's office has one that's totally clean.

12          THE COURT: Oh, okay. Good.

13          Well, thank you.

14          I appreciate that.

15          (WHEREUPON, the proceedings were recessed at  
16 approximately 12:06 p.m.)

17          (WHEREUPON, Court's Exhibit No. 2 was marked for  
18 identification and admitted into evidence.)

19          THE COURT: I've been advised that the jury has  
20 reached a unanimous verdict.

21          Is the State ready to receive the verdict?

22          MR. MORONEY: Yes, Your Honor.

23          THE COURT: Is the Defense ready?

24          MR. KORNFIELD: Yes, Your Honor.

25          MR. SULLIVAN: Yes, Your Honor.

1 THE COURT: Well, bring them in, please.

2 (WHEREUPON, the jury came into open court at  
3 approximately 3:52 p.m.)

4 THE COURT: Mr.. Leisgang, has the jury reached a  
5 unanimous verdict?

6 JUROR #89, EDWARD LEISGANG: Yes, we have, sir.

7 THE COURT: Could you pass the verdict forms to the  
8 bailiff, please, sir.

9 Okay. You may publish the verdict.

10 VERDICT

11 THE CLERK: Thank you.

12 Your Honor, in the case of 2015-GS-23-2833, the State  
13 v. Jahru Harold Smith, as to the charge of murder of  
14 Shamese Nicole Logan, we, the jury, unanimously find the  
15 Defendant guilty.

16 In the case of 2015-GS-23-2834, the State v. Jahru  
17 Harold Smith, as to the charge of armed robbery, we, the  
18 jury, unanimously find the Defendant guilty.

19 In the case of 2015-GS-23-2833, the State v. Jahru  
20 Harold Smith, as to the charge of possession of a weapon  
21 during the commission of a violent crime, we, the jury,  
22 unanimously find the Defendant guilty.

23 In the case of 2015-GS-23-2824, as to the State v.  
24 Bobby Leon Smith, as to the charge of murder as to Shamese  
25 Nicole Logan, we, the jury, unanimously find the Defendant

1 guilty of the lesser included offense of accessory after  
2 the fact of murder.

3 In the case of 2015-GS-23-2823, the State v. Bobby  
4 Leon Smith, as to the charge of armed robbery, we, the  
5 jury, unanimously find the Defendant guilty.

6 In the case of 2015-GS-23-2824, the State v. Bobby  
7 Leon Smith, as to the charge of possession of a weapon  
8 during the commission of a violent crime, we, the jury,  
9 unanimously find the Defendant guilty.

10 These are all signed by Mr. Leisgang, our Foreperson.

11 Ladies and gentlemen, if you agree these are the  
12 verdicts you reached in your deliberation room, would you,  
13 please, raise your right hand.

14 (WHEREUPON, all of the jurors raised their right  
15 hand.)

16 THE CLERK: I thank you.

17 THE COURT: All right. Anything further from this  
18 jury from the State?

19 MR. MORONEY: No, Your Honor.

20 THE COURT: Anything further from the Defense?

21 MR. KORNFELD: No, Your Honor.

22 MR. SULLIVAN: None from Bobby Smith, Your Honor.

23 THE COURT: Thank you very much.

24 Ladies and gentlemen, thank you very much for your  
25 service on this jury.

1           What I'm going to ask you to do now is return to your  
2 jury room. You can collect all of your cell phones, and  
3 everything that you need to get out of here this  
4 afternoon.

5           I'm going to come back and dismiss you informally,  
6 give you the opportunity to ask me any questions that you  
7 may have about this trial, to make any comments, to tell  
8 me anything you'd like to tell me, and, again, ask me  
9 anything that you may like to ask me as well.

10          So if you'll go back to your jury room. And I'll be  
11 back there in just a few short seconds.

12          (WHEREUPON, the jury was excused from open court at  
13 approximately 3:55 p.m.)

14          THE COURT: All right. Ladies and gentlemen, I'm  
15 going to go dismiss the jury. And then I'll come back in  
16 and we'll proceed to any post-trial motions and to  
17 sentencing matters.

18          Mr. Kornfeld, I'd like you to ask Mr. Smith --  
19 Mr. Jahru Smith if he would like to come into the  
20 courtroom for purposes of sentencing.

21          Now, I'm not going to force Mr. Smith to come into  
22 the courtroom for sentencing. And that's for a host of  
23 reasons, paramount is officer safety. Because I'm not so  
24 sure that it wouldn't provoke some type of fight or some  
25 type of struggle.

1           So I don't want to put either Mr. Smith at risk, and  
2           I don't want to put any of the officers at risk either.  
3           He may either participate or not participate.

4           I don't think it makes any difference inasmuch as it  
5           doesn't compromise or affect his due process rights in any  
6           way, shape, or form. But I do intend to sentence him this  
7           afternoon. He can come in and offer anything in  
8           mitigation, or he can elect to do what he's done for the  
9           entirety of the trial, which is stay in the holding cell.

10          All right. So I'll be right back in.

11          Thank you.

12          (WHEREUPON, a break was taken.)

13          THE COURT: Mr. Kornfeld, have you had the  
14          opportunity to talk to your client, or send him the  
15          information that I provided?

16          MR. KORNFELD: I spoke with him, Your Honor.

17          THE COURT: And, sir, what's his decision?

18          MR. KORNFELD: He will not -- he's not going to  
19          attend his sentencing.

20          THE COURT: Okay. Good enough.

21          Thank you very much.

22          Then let us start with Mr. Bobby Leon Smith.

23          If you would, please, rise.

24          MR. SULLIVAN: Judge, I have a --

25          THE COURT: You have a motion?

1 MR. SULLIVAN: Yes, sir.

2 THE COURT: I'll be happy to hear it.

3 MOTIONS

4 MR. SULLIVAN: I would like you to exercise your  
5 discretion as the thirteenth juror in this case. The  
6 verdict came back on the murder that Jahru Smith  
7 committed.

8 Mr. Bobby Smith was found to be an accessory after  
9 the fact, which means the lady was dead. His  
10 participation after that was to take a phone, which is not  
11 armed robbery because you can't intimidate a deceased  
12 person. If he's not guilty of the armed robbery, then the  
13 use of a weapon during the commission of a violent crime  
14 goes out.

15 So I would ask that you overturn the verdict as to  
16 the armed robbery, the use of a weapon during a violent  
17 crime, and to let stand accessory after the fact of the  
18 murder.

19 THE COURT: All right. I appreciate that, sir.

20 And I respectfully deny your motion. And I won't  
21 exercise that discretion as the thirteenth juror.

22 I think the evidence in the case -- you -- I know  
23 that you are articulating the evidence from your  
24 perspective. And I know that's an argument you made to  
25 the jury. Obviously, they didn't believe that.

1           There was evidence in the record that he saw her pull  
2           the gun while they were in the midst of some type of -- of  
3           difficulty. And I think that supports the factual  
4           determination that they made that he could have been  
5           guilty of both the accessory and the armed robbery.

6           So, in reviewing the evidence, I think that the  
7           evidence supports the verdict -- all three verdicts that  
8           were returned by the jury in this matter. And I'll,  
9           again, respectfully deny the motion.

10          MR. SULLIVAN: Thank you, Your Honor.

11          And I guess we're ready for sentencing.

12          THE COURT: Okay. Mr. Moroney.

13          Mr. Weston.

14          MR. MORONEY: Your Honor --

15          MR. SULLIVAN: Do you want us to come to the podium?

16          THE COURT: You can just stay right there is fine  
17          with me.

18          MR. MORONEY: As a housekeeping matter, Your Honor,  
19          Deshawn [phonetic] Logan would like to speak when  
20          appropriate. He's a representative from the victim's  
21          family.

22          THE COURT: All right, sir.

23          MR. MORONEY: And both Defendants in this case have  
24          been served with notice of life without parole, as well as  
25          each Defendant's -- their respective attorneys. If you

1 would like to have certified convictions as well as the  
2 notice, I can provide those to you.

3 THE COURT: I would. I would like to have both of  
4 those and make them Court's Exhibits for the record,  
5 please.

6 Mr. Sullivan, do you take exception to the State's  
7 representation that there are prior convictions for armed  
8 robbery and assault and battery with intent to kill?

9 MR. SULLIVAN: No, I don't, Your Honor.

10 THE COURT: Do you take any exception to the  
11 applicability of life without the possibility of parole  
12 under the statute?

13 MR. SULLIVAN: No. We were served notice.

14 THE COURT: All right. Good enough, sir.

15 All right. So with respect to Mr. Bobby Leon Smith,  
16 I'm going to make both the notice and the -- the certified  
17 records of the prior convictions Court's Exhibits  
18 collectively as the next Court Exhibit.

19 (WHEREUPON, Court's Exhibit No. 3 was marked for  
20 identification and admitted into evidence.)

21 THE COURT: All right. So I'd be happy to hear from  
22 anyone who wishes to address the Court.

23 MR. DESHAWN LOGAN: Your Honor.

24 THE COURT: Yes, sir. Good afternoon.

25 MR. DESHAWN LOGAN: First and foremost, I want to

1       thank God, you know, for the verdict. Because, you know,  
2       how God works, you know, he wants you to -- he wants you  
3       to stay strong, you know.

4             And I stand strong, you know, right here with my  
5       sister. I just want to, you know, that -- you know, let  
6       the Court know, you know, I'm still a firm believer in God  
7       and, you know, and his will. And I'm very, very happy  
8       that his will has been done, you know.

9             You know, the pain -- the pain that our family has  
10      had to endure by this whole situation, I wouldn't -- I  
11      wouldn't really try to put that on anybody, you know.  
12      It's -- it's -- let me get myself together. I'm sorry.

13            THE COURT: You're all right. Take your time. Take  
14      your time.

15            MR. DESHAWN LOGAN: The pain that Mr. Bobby and Jahru  
16      put our family through, it was devastating, you know. It  
17      was very hurtful. But the way God works and the way he  
18      wants our family to be, stay strong and remain strong. He  
19      wants us to be able to forgive, you know. Even though how  
20      hard it will be.

21            MS. TERESA LANG: What he's trying to say is that  
22      even though Bobby Smith and Jahru Smith took the life of  
23      my daughter, Shameese Nicole Logan, even though it's hard  
24      to say this, we forgive them for killing her. But we just  
25      can't forget. And it has hurt me to the core, to the core

1       that they done that.

2               My baby was only 23 years old. She has three nephews  
3       that she will never get to meet because they took her life  
4       from her.

5               But we do forgive them. And I'm able to heal better  
6       now that I have closure. That's all I've got to say.

7               MR. WESTON: Will you state your name and  
8       relationship to her on the record, please?

9               MS. TERESA LANG: My name is Teresa Logan Lang. And  
10       I am the mother of Shameese Nicole Logan.

11              MR. DESHAWN LOGAN: My name is Deshawn Logan, Sr.  
12       And I am her oldest brother.

13              THE COURT: Thank y'all.

14              I appreciate that. And I want to thank you for  
15       addressing the Court.

16              I, also, want to thank all of the family -- the  
17       victims family for the grace that you've shown during this  
18       entire process.

19              I extend to you my personal condolences. I know that  
20       this was a tragedy. And I know she was a piece of y'all.  
21       And there's a hole you'll never be able to fill. And I'm  
22       sorry that you're having to suffer through this, I really  
23       am.

24              But thank you for being here.

25              I appreciate it. And know that I hear you. I hear

1       you.

2               Okay. Anything further from the State?

3               MR. MORONEY: Nothing further, Your Honor.

4               THE COURT: Mr. Sullivan, anything you'd like to say  
5       to the Court, sir?

6               MR. SULLIVAN: Judge, I think you've heard -- you  
7       know Bobby's background. You've heard the facts of the  
8       case. I don't think I could add anything else that would  
9       aid the Court.

10              THE COURT: Mr. Smith, is there anything that you'd  
11     like to say to the Court, sir?

12              DEFENDANT BOBBY SMITH: (Defendant Bobby Smith shook  
13     his head.)

14              THE COURT: Okay, sir. Mr. Smith, I wish you luck,  
15     sir.

16              Under the law of the State of South Carolina, I don't  
17     have any discretion in the -- in the sentence that I hand  
18     down in the matter.

19                              SENTENCING FOR BOBBY LEON SMITH

20              THE COURT: With respect to the armed robbery, it is  
21     appropriate that you be sentenced to life in the South  
22     Carolina Department of Corrections without the possibility  
23     of parole.

24              With respect to accessory after the fact of murder --

25              What's the maximum possible penalty for that? I know

1       its academic.

2               MR. SULLIVAN: 15.

3               THE COURT: 15 years. The sentence of the Court is  
4       15 years.

5               With respect to possession of a weapon during the  
6       commission of a violent crime, the sentence is five years.

7               MR. SULLIVAN: Judge, I don't think that's applicable  
8       with life without parole.

9               THE COURT: I've read the statute and I read the  
10      relevant case law that y'all gave to me. And it -- and  
11      under most circumstances, a five-year sentence for the  
12      commission of a -- for possession of a weapon during the  
13      commission of a violent crime is compulsory.

14              The statute says that it's not compulsory when and if  
15      there is either a life or death sentence in a suit.  
16      The -- I believe that in the -- in the case that you sent  
17      me, the holding of the majority was that it was  
18      appropriate. A dissent said they didn't think it was  
19      appropriate under the statute because the statute says  
20      that you don't have to do it.

21              I read that as a -- as a -- just, essentially, a  
22      common sense conclusion by the legislature that it was  
23      entirely academic to sentence someone to five years if you  
24      had already sentenced them to either life or death.

25              MR. SULLIVAN: Yes; sir.

1           THE COURT: So I think it says it's not compulsory.  
2 But I don't think it precludes the Court from doing so.  
3 And as a practical matter in this case --

4           MR. SULLIVAN: It doesn't matter.

5           THE COURT: It doesn't matter a single bit. It  
6 doesn't matter a single bit.

7           MR. SULLIVAN: I just thought I would raise it.

8           THE COURT: I understand. And y'all had raised it  
9 before, and I looked at it. So I wanted to make sure  
10 that -- that I looked at that closely enough to make an  
11 intelligent decision about whether it should be -- whether  
12 it should be sentenced or not.

13           Now, I will tell you this. I'll give you 10 days to  
14 submit briefs on why it's not appropriate to sentence him  
15 to five days [sic]. And I'll amend it if you want me to,  
16 if you can convince me that it's not appropriate under the  
17 law. I'm just not convinced that it's not appropriate  
18 under the law right now.

19           MR. SULLIVAN: I think that would be a waste of  
20 everybody's time, Your Honor.

21           THE COURT: All right. Good luck to you, Mr. Smith.

22           MR. SULLIVAN: I would concert --

23           THE COURT: Yes, sir.

24           Good luck to you, Mr. Smith.

25           MR. SULLIVAN: I would like to state on the record

1       that Mr. Bobby Smith wants me to file a notice of intent  
2       to appeal. You never know what will happen these days. I  
3       could walk out of here, or whatever. But if something  
4       happens to me, I would like to reserve that right for  
5       Mr. Smith.

6           THE COURT: Okay, sir. And I.-- at the trial court  
7       level, I can't necessarily preserve it for you. However,  
8       to the extent that you have stated it on the record and to  
9       the extent that it protects you, you've got it.

10       MR. SULLIVAN: If I'm unavailable or something --

11       THE COURT: I got you. I can't make any guarantees  
12       to you. But, certainly, you are on the record having made  
13       that request.

14       MR. SULLIVAN: Thank you, Your Honor.

15       THE COURT: Thank you, sir.

16       Now, we'll move to Mr. Jahru Smith.

17       And, again, we've given Mr. Jahru Smith the  
18       opportunity to participate in this trial from inception.  
19       He elected not to participate in the trial. And he has  
20       made a further election not to participate in sentencing.  
21       And I'm not going to make him. Again, I don't think it  
22       profits any of us to have a struggle in the holding cell  
23       with officers and Mr. Smith to compel him to be here in  
24       the courtroom this afternoon, so I'm not going to require  
25       him to be here. I don't think it compromises his due

1 process rights in any way.

2 So is there anything further from the State with  
3 respect to sentencing on Mr. Jahru Smith?

4 MR. MORONEY: No, Your Honor.

5 THE COURT: Okay. Mr. Kornfeld, do you take  
6 exception to the assertion from the State that he has --  
7 that is, that Mr. Smith has a prior conviction for armed  
8 robbery, that is bank robbery from 1985, sir?

9 MR. KORNFELD: Your Honor, I don't take exception  
10 that he had an armed robbery -- bank robbery from 1985.

11 I do take exception that that was a federal armed  
12 bank robbery. And the statute that gives the State the  
13 right to seek life without parole is SC 17-25-45. And  
14 it's very clear in the statute that's enumerated to armed  
15 robbery -- and they list the actual statutory number.  
16 They do not reference or allow you to act outside the  
17 scope to include federal armed bank robbery, Your Honor.

18 THE COURT: Okay. Mr. Moroney, what's the State's  
19 position on that, sir?

20 MR. MORONEY: Your Honor, with respect to statute  
21 17-25-45, I'm reading right here subsection one, In  
22 particular, a person must be sentenced to a term of  
23 imprisonment for life without the possibility of parole  
24 when that person has either one or more prior convictions  
25 for a most serious offense, or -- and this is where it

1 becomes applicable -- Subsection B, a federal or  
2 out-of-state conviction for an offense that would be  
3 classified as a most serious offense under this section.

4 THE COURT: Okay.

5 MR. MORONEY: So it's the State's position that armed  
6 robbery at the federal level would, also, be armed robbery  
7 at the state level, thus being a most serious offense and  
8 would classify.

9 THE COURT: All right. Good enough.

10 I do agree that under the statute that federal  
11 armed -- bank robbery is equivalent to a state armed  
12 robbery. Therefore, it would qualify under the statute.

13 Now, are you -- are you -- under the statute, are you  
14 suggesting that that is a most serious offense and there's  
15 only one additional strike that is required under the law,  
16 or that it is a serious offense and these convictions  
17 today amount to two additional strikes?

18 MR. MORONEY: I'm under the impression that the armed  
19 robbery would carry two strikes as a most serious offense  
20 from that prior conviction already, Your Honor.

21 THE COURT: All right. Mr. Kornfeld, anything  
22 further with respect to the legal issues for life without  
23 the possibility of parole?

24 MR. KORNFIELD: Yes, Your Honor.

25 The statute, also, says that the Defendant and his

1       counsel should be served 10 days before. There is a  
2       signed piece of paper that you have up there that alleges  
3       to be an affidavit, but it is not an affidavit. There's  
4       nothing to say that that is an affidavit. An affidavit  
5       has to be notarized or witnessed. That is not.

6       So there's no way that they've complied with -- have  
7       followed the statute that they must follow in a case like  
8       this when you're trying to put somebody away for the rest  
9       of their life, Your Honor.

10       THE COURT: Are you saying that it has to be in the  
11       form of an affidavit per the statute?

12       MR. KORNFELD: Well, I'm not -- it doesn't say that,  
13       Your Honor. I'm just saying how do they prove that  
14       otherwise without -- I mean, you could prove it other  
15       ways, I think.

16       THE COURT: Well, as an officer of the Court,  
17       Mr. Moroney is making a representation that he was served.  
18       I'll accept that representation.

19       If it's incorrect, then he's subject to the perjury  
20       laws under the State. And he's subject to having his  
21       license suspended.

22       MR. KORNFELD: Did you serve -- you didn't serve him  
23       personally with that?

24       MR. MORONEY: No.

25       If I could clarify, Your Honor.

1 THE COURT: Sure.

2 MR. MORONEY: I have the affidavits he's referencing  
3 right here. An investigator in our office, Greg Williams,  
4 served both attorneys and both Defendants personally. And  
5 he signed --

6 MR. KORNFELD: And I object to that. That's hearsay.

7 THE COURT: Well, this isn't an evidentiary standard,  
8 at this point, that is for admission to a jury. If  
9 there's an affidavit in the record -- do you take  
10 exception to the fact that it was signed, or do you just  
11 take exception to the form of proof?

12 MR. KORNFELD: I take exception to the fact that it  
13 was -- it can't be proven without you being able to  
14 question him or cross-examine him. I don't know -- we  
15 haven't been afforded that right. Just somebody signed a  
16 piece of paper. That's my issue with it, Your Honor.

17 THE COURT: What I'm going to do is I'm going to  
18 make, again, a Court's Exhibit the notice that was handed  
19 to me by the State together with the certified copy of the  
20 prior conviction.

21 And then after Ms. Jenkins finishes marking this,  
22 I'll take those affidavits as well.

23 (WHEREUPON, Court's Exhibit No. 4 was marked for  
24 identification and admitted into evidence.)

25 THE COURT: Okay. I take notice of these affidavits,

1       which reflect that --

2               Who is it with your office who -- who --

3       MR. MORONEY: Investigator Gregory Williams.

4       THE COURT: Investigator Gregory Williams. I note,  
5       for the record, that they are not notarized.

6               Would you like to call Mr. Williams to the courtroom  
7       and swear him in?

8       MR. KORNFELD: Yes.

9       THE COURT: Okay. Is Mr. Williams available?

10       (WHEREUPON, there was no response.)

11       THE COURT: Is Mr. Williams available?

12       MR. MORONEY: I can check and see.

13       THE COURT: Yeah. We've got nothing but time.  
14       Mr. Smith is not going anywhere.

15               Okay. Now, while we're waiting for that, I know,  
16       Mr. Kornfeld, you may have had additional legal issues?

17                               MOTIONS

18       MR. KORNFELD: Yes, Your Honor.

19               I make a motion that the right to the LWOP that  
20       Mr. Moroney elected to serve my client with is in  
21       violation of the equal protection clause. It's at the  
22       sole discretion of the Solicitor. It's arbitrary and  
23       capricious. And there's no standard for which they can  
24       bring it or not bring it.

25       THE COURT: All right. I think that is a -- a matter

1 which has been resolved by the courts in the State of  
2 South Carolina here before based on the applicable case  
3 law and decisions of the Supreme Court.

4 I'll respectfully deny your motion.

5 Anything else?

6 MR. KORNFELD: Since we've got a minute, can I put a  
7 couple other motions on the record?

8 THE COURT: Yeah. Absolutely.

9 MR. KORNFELD: I reassert, on behalf of my client,  
10 his motion concerning the fact that he wanted to represent  
11 himself and fire me, but for the fact that he could not  
12 see and he needed glasses and was unable to get them.

13 And I, also, put on the record, again, the motion  
14 that his previous lawyer should have been suppressed or  
15 forbidden from testifying against him because it's so  
16 egregious and in violation of the rules.

17 THE COURT: Okay. Thank you.

18 And I know we've discussed those. And, again, the  
19 prior ruling stands with respect to the request to  
20 represent himself. I, actually, again, granted his  
21 motion. But it was obvious after the fact that that was  
22 simply a pretextual motion in an attempt to delay the  
23 trial.

24 So I asked you -- or, actually, I ordered you to  
25 maintain your representation.

1           With respect to the -- the testimony of Ms. Gorton, I  
2           think it's clear from the record that he waived that  
3           attorney-client privilege with respect to the  
4           representations about the whereabouts of the gun.

5           MR. KORNFELD: I would like to make another motion.

6           THE COURT: Wait for Mr. Moroney to come back.

7           MR. KORNFELD: Okay.

8           THE COURT: Mr. Moroney is Mr. Weston's lawyer. He  
9           can't go forward without him.

10          MR. KORNFELD: Okay.

11          (Pause.)

12          THE COURT: Is he coming back?

13          MR. MORONEY: Your Honor, Mr. Greg Williams, it's my  
14          understanding he left at 4:00. He's home right now. We  
15          could call him -- we just called two cell phones that he  
16          has and left messages with him. We, certainly, could  
17          bring him back this evening once we get in touch with him.  
18          We could, also, have him come in the morning, if that's in  
19          your -- it's, obviously, in Your Honor's discretion.

20          THE COURT: Yes, sir.

21          MR. MORONEY: And, again, we would just note that the  
22          statute does not make any mention of this requirement for  
23          an affidavit.

24          THE COURT: And I don't -- I think it's entirely  
25          academic as well inasmuch as he could be sentenced for

1 life on the underlying murder, notwithstanding the LWOP  
2 provision.

3 So I just want to make sure that there aren't any  
4 issues. Mr. Smith has created issues by virtue of the  
5 fact that he's elected not to participate. And I just  
6 want to make sure that the record is clear that I have  
7 bent over backwards to be fair to him, to listen to each  
8 and every motion and considered them, and to make sure  
9 that there's no stone that is left unturned.

10 And if in this instance, if Mr. Williams comes in and  
11 says -- you know, there's a possibility he comes in and  
12 says, yeah, I just signed those because it was late in the  
13 day and I wanted to go home. Well, we're going to find  
14 out. We're going to find out. And because, again, I want  
15 to be fair to Mr. Smith.

16 Okay. And I -- you know, I think probably at this  
17 juncture in the day, again, inasmuch as Mr. Smith is in  
18 custody -- what we'll do is we will reconvene tomorrow  
19 morning at 9:30 and have Mr. Williams here at 9:30. And  
20 we can swear him in and take testimony with respect to the  
21 affidavits that he signed.

22 MR. MORONEY: Okay, Your Honor.

23 THE COURT: All right. We'll be in recess. And  
24 we'll reconvene at 9:30.

25 Please transport the Defendant, Mr. Smith, again

1 tomorrow morning. Okay. He may not want to participate,  
2 but I'm going to give him the opportunity.

3 THE COURTROOM DEPUTY: Yes, sir.

4 THE COURT: All right. Thank you.

5 (WHEREUPON, the proceedings were concluded at  
6 approximately 4:53 p.m., to be reconvened on  
7 Friday, March 16, 2018.)

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1                    FRIDAY, MARCH 16, 2018

2            THE COURT: It's my understanding that Mr. Jahru  
3            Smith has been transported to the courthouse.

4            Do we know whether he wants to enter the courtroom  
5            for purposes of the remaining business we have before the  
6            Court?

7            THE COURTROOM DEPUTY: I will check.

8            THE COURT: Okay. Will you mark these?

9            (WHEREUPON, Court's Exhibit No. 5 was marked for  
10           identification and admitted into evidence.)

11           THE COURT: Is he downstairs?

12           THE COURTROOM DEPUTY: Yes, sir, he is.

13           THE COURT: All right. Let the officers know that I  
14           will be requiring him to come in for purposes of  
15           sentencing.

16           If he resists, I don't want to create a situation  
17           where there's going to be a fight. If he resists, then  
18           you can advise me of the same. And we can make a  
19           determination of whether he's refusing to come into the  
20           courtroom.

21           But I'm not going to give him the option with regard  
22           to sentencing. I'm going to order him to come into the  
23           courtroom at that point. Okay. But, again, I'm not  
24           trying to create a situation where y'all are having to  
25           fight with him. I don't want that to happen. Okay.

1 (Pause.)

2 THE COURTROOM DEPUTY: Judge, he's refusing.

3 THE COURT: Okay. Good enough.

4 When we adjourned yesterday, there was a question  
5 of -- of the efficacy and validity of the affidavits of  
6 service of the LWOP notice on the Defendant, Mr. Jahru  
7 Smith. I believe that Mr. Greg Williams, who was the  
8 affiant on the affidavit of service, is present and  
9 prepared to testify as to the validity of the affidavit.

10 So, Mr. Moroney, you may call Mr. Smith [sic] to the  
11 stand for the purpose of asking him whether, in fact,  
12 under oath, he served these notices on the Defendants.

13 MR. MORONEY: Your Honor, the State calls Gregory  
14 Williams.

15 THE CLERK: Sir, please, place your left hand on the  
16 Bible and raise your right hand.

17 WHEREUPON,

18 GREGORY WILLIAMS,

19 after first having been duly sworn, testified as follows:

20 THE CLERK: Thank you.

21 Please be seated.

22 And please state your name for the record.

23 THE WITNESS: Investigator Gregory Williams.

24 THE CLERK: Thank you..

25 THE COURT: And just for the record, Mr. Moroney,

1 I've marked all four of the affidavits of service as  
2 Court's Exhibit No. 5. And I'll hand it to Mr. Williams  
3 for his review.

4 You may proceed.

5 DIRECT EXAMINATION

6 BY MR. MORONEY:

7 Q Good morning, Mr. Williams.

8 A Good morning.

9 Q Where do you currently work?

10 A For the Thirteenth Circuit Solicitor's Office.

11 Q And what is your job title there?

12 A I'm a criminal investigator.

13 Q And does your duties in that role, as investigator,  
14 include, at times, serving life without parole notice on  
15 Defendants and attorneys?

16 A Yes.

17 Q In the incident case against Jahru Smith and Bobby  
18 Smith, did you have the occasion to serve both Defendants  
19 and the attorneys with notice of life without parole?

20 A I did.

21 Q Okay. I believe what you have in front of you is  
22 what's been marked as Court's Exhibit 5. Take a look at  
23 that, and let me know if you recognize it.

24 A I do recognize it.

25 Q And what are those in front of you?

1       A     This is the affidavit of service that I filled out  
2       and signed on, the date that I served the Defendant and his  
3       attorney.

4       Q     And what are the dates on those affidavits of  
5       service?

6       A     The 2nd of March of 2018.

7       Q     And you personally served each Defendant, Jahru Smith  
8       and Bobby Smith?

9       A     I did.

10      Q     As well as their attorneys, Alex Kornfeld -- or their  
11      office, and Tim Sullivan?

12      A     I did.

13           MR. MORONEY:   Okay.   Thank you.

14           Please answer any questions Mr. Kornfeld may have for  
15      you.

16                           CROSS-EXAMINATION

17      BY MR. KORNFELD:

18      Q     Mr. Williams, did you, specifically, yourself hand  
19      the notice of LWOP directly to Jahru Smith?

20      A     I did.

21      Q     And where was he when you gave him the notice of  
22      LWOP?

23      A     He was in the Anderson County Detention Center.

24      Q     Okay.   And is there a reason that you didn't have the  
25      affidavit notarized -- or why didn't you have the

1 affidavit notarized?

2 A It was not notarized because this [sic] was no  
3 investigator here at the time.

4 Q Okay. And you testified that you served both  
5 attorneys with the LWOP. But can you elaborate on that?  
6 Define it -- because you're not saying that you handed me  
7 LWOP notice, are you, Mr. Williams?

8 A I am saying I hand delivered it, put in the  
9 Defendant's hand.

10 Q Right.

11 A And I delivered it to your office and gave it to  
12 whoever works for you.

13 MR. KORNFELD: Okay. No further questions.

14 Thank you, Mr. Williams.

15 THE COURT: All right. Thank you, Mr. Williams.

16 I appreciate it, sir.

17 Thank you for being here this morning.

18 THE WITNESS: Yes, sir.

19 THE COURT: All right. Mr. Kornfeld, any additional  
20 arguments related to the LWOP notice, sir?

21 MR. KORNFELD: No, Your Honor. There's no other  
22 arguments that -- for th LWOP. I do -- can I just go  
23 ahead and -- for efficiency --

24 THE COURT: Sure. Absolutely.

25 MR. KORNFELD: I would respectfully disagree with not

1       only the Court of Appeals interpretation, but your  
2       interpretation of 16-23-490. And, as you stated before,  
3       it's purely academic. But the statute, I think, is clear  
4       where it says the mandatory five-year sentence for  
5       possession of a firearm during the commission of a violent  
6       crime shall not be imposed when the Defendant is sentenced  
7       to death or to life without parole for the violent crime.

8               That is it, Your Honor.

9               THE COURT: Okay. Good enough.

10              And, again, we had that discussion yesterday.

11              MR. KORNFELD: I understand. I just didn't make the  
12       argument for my client.

13              THE COURT: I'm comfortable in that regard. The  
14       ruling that I set forth yesterday stands.

15              Okay. I want to be very careful how we proceed. I  
16       recognize that it is appropriate, it's lawful, and it's  
17       required that the Defendant be present for sentencing.  
18       And I want -- and I am requiring him to be present for  
19       sentencing. But I do want to exercise common sense as  
20       well.

21              So, at this point, I'm not asking him nicely whether  
22       he wants to come into the courtroom. I'm -- he needs to  
23       be brought into the courtroom.

24              Now, however, having said that, I want to be very  
25       clear. If he begins fighting and it turns into or,

1 clearly -- it is clearly evident the officers -- from the  
2 officers perspective that a physical confrontation is  
3 evident, we're going to exercise common sense.

4 And in order to preserve officers safety and, also,  
5 in order to ensure that Mr. Smith isn't injured, then if  
6 he physically refuses, then we'll proceed in his absence.  
7 So I just want to make very clear that that's the way to  
8 proceed.

9 THE COURTROOM DEPUTY: Yes, sir.

10 THE COURT: So if you would, please, have him brought  
11 into the courtroom.

12 THE COURTROOM DEPUTY: I will.

13 (Pause.)

14 (WHEREUPON, Defendant Jahru Smith entered the  
15 courtroom.)

16 THE COURT: Good morning, Mr. Smith.

17 How are you today, sir?

18 (WHEREUPON, there was no response.)

19 THE COURT: Okay. Anything further from the State  
20 with respect to sentencing?

21 MR. MORONEY: Nothing, Your Honor.

22 THE COURT: Okay. And from the Defense?

23 MR. KORNFELD: Your Honor, due to the notice that you  
24 found as appropriate given in this case of LWOP, anything  
25 I say would be of no value to this Court as your hands are

1 tied by the legislature to follow what I would argue is  
2 overreaching in the balance of powers.

3 But there's nothing I can say here today that can --  
4 can allow me to argue any mitigating factors that would do  
5 anything whatsoever, Your Honor.

6 SENTENCING FOR JAHRU HAROLD SMITH

7 THE COURT: Okay. Under the requisite statute for  
8 the offense of murder, Mr. Smith, you are hereby sentenced  
9 to life without the possibility of parole.

10 For armed robbery, you're sentenced to life in the  
11 Department of Corrections without the possibility of  
12 parole.

13 And for possession of a weapon during a violent  
14 crime, you're sentenced to five years. That is  
15 concurrent. Credit for any time you may have served.

16 Good luck to you, sir.

17 (WHEREUPON, Defendant Jahru Smith exited the  
18 courtroom.)

19 THE COURT: Okay. Anything further for the record in  
20 this matter?

21 MR. MORONEY: Nothing from the State, Your Honor.

22 THE COURT: All right. Thank you.

23 \*\*\*\*\*END OF TRANSCRIPT OF RECORD\*\*\*\*\*  
24  
25

CERTIFICATE OF REPORTER

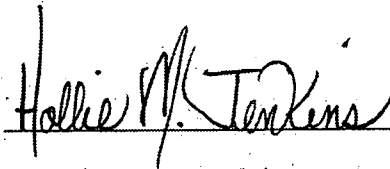
STATE OF SOUTH CAROLINA )

COUNTY OF GREENVILLE )

I, HOLLIE JENKINS, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete Transcript of Record of the proceedings had and the evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Greenville County, South Carolina, on the 12th, 13th, 14th, 15th and 16th days of March, 2018.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

August 14, 2018



Hollie M. Jenkins, Court Reporter

My Commission Expires: 09/24/20

I give Cass Horton permission to  
try to locate the victim's gun w/ assistance  
of law enforcement.

2-18-15

DL

Mayflower

Dunham  
P  
3

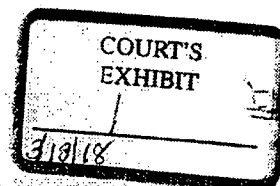
D

Feb 3

Robert Lee.

Reagan Turn Circle

2 Mayflower Ave



**WITNESSES**

Lloyd C. Newman

Greenville County Sheriffs Office

2/13/2015

**ARREST WARRANT NUMBER**

2015A2330201035

**ACTION OF GRAND JURY**

**TRUE BILL**

*Thomas J. Padgett*

**FOREMAN GRAND JURY**

*Foreperson of Grand Jury*

**VERDICT**

*Foreperson of Petit Jury*

*Date:*

**DOCKET NO. 2015-GS-23-**

**LBP**

002034

**The State of South Carolina**

**County of Greenville**

**COURT OF GENERAL SESSIONS**

**August TERM 2015**

**THE STATE**

**vs.**

**JAHRU HAROLD SMITH**

*[Signature]*

**Indictment for**

**0139**

**ARMED ROBBERY**

**VIOLATION §16-11-0330**

**RECEIVED**

**APR 24 2015**

**Clerk of Court  
Greenville County**

STATE OF SOUTH CAROLINA     )  
                                          )  
COUNTY OF GREENVILLE     )

INDICTMENT FOR  
ARMED ROBBERY

At a Court of General Sessions, convened on

AUG 23 2016

the Grand Jurors of Greenville

County present upon their oath:

That JAHRU HAROLD SMITH did in Greenville County, on or about the 3rd day of February, 2015, while armed with a deadly weapon, or while alleging either by action or words he was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery would reasonably believe to be a deadly weapon, take by means of force or intimidation, goods or monies described as: a SC Identification Card and/or a Financial Transaction Card and/or a Mobile Phone from the person or presence of SHAMESE LOGAN. This is in violation of §16-11-330 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.

*Shirley L. Lassiter*  
SOLICITOR

BAR # 69114

**WITNESSES**

Lloyd C. Newman

Greenville County Sheriffs Office

2/13/2015

**ARREST WARRANT NUMBER**

2015A2330201031 and 2015A2330201033

**ACTION OF GRAND JURY**

**TRUE BILL**

**FOREMAN GRAND JURY**

*Foreperson of Grand Jury*

**VERDICT**

*Foreperson of Petit Jury*

*Date:*

**DOCKET NO. 2015-GS-23-**

**LBP**

002033

**The State of South Carolina**

**County of Greenville**

**COURT OF GENERAL SESSIONS**

**August**

*2016*  
**TERM 2015**

**THE STATE**

**vs.**

**JAHRU HAROLD SMITH**

**Indictment for**

**0116 and 0549**

**MURDER and POSSESSION OF A WEAPON  
DURING THE COMMISSION OF A VIOLENT  
CRIME**

**VIOLATION §16-03-0010 and §16-23-0490**

**RECEIVED**

**APR 24 2015**

**Clerk of Court  
Greenville County**

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF GREENVILLE )

INDICTMENT FOR  
 MURDER and POSSESSION OF A WEAPON DURING THE  
 COMMISSION OF A VIOLENT CRIME

AUG 23 2016

At a Court of General Sessions, convened on

the Grand Jurors of Greenville

County present upon their oath:

**COUNT 1 — MURDER**

That JAHRU HAROLD SMITH did in Greenville County, on or about the 3rd day of February, 2015, unlawfully and with malice aforethought kill SHAMICE LOGAN by means of shooting her with a handgun, and that SHAMICE LOGAN died as a proximate result thereof. This is in violation of §16-3-10 of the South Carolina Code of Laws (1976) as amended.

**COUNT 2 — POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME**

That JAHRU HAROLD SMITH did in Greenville County, on or about the 3rd day of February, 2015, possess or visibly display a handgun during the commission or attempted commission of a violent crime, to wit: MURDER. This is in violation of §16-23-490 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.

*Shirley B. Ladd*  
 SOLICITOR

BAR # 69114

## STATE OF SOUTH CAROLINA

## IN THE COURT OF GENERAL SESSIONS

661

COUNTY OF Greenville  
 STATE VS.  
Jahru Harold Smith

AKA:  
 Race: BLACK Sex: M Age: 54  
 DOB: [REDACTED] SS#: [REDACTED]  
 Address: [REDACTED] Ave.  
 City, State, Zip: Greenville, SC 29605  
 DL#: [REDACTED] SID#: [REDACTED]

\*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was  
 TO: Armed Robbery

INDICTMENT/CASE#: 2015GS2302834

A/W#: 2015A2330201035

Date of Offense: 2/3/2015

S.C. Code §: 16-11-0330(A)

CDR Code #: 0139

## SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

in violation of § 16-11-0330(A) of the S.C. Code of Laws, bearing CDR Code # 0139  
☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC §17-25-45  
 w/minor 1st or Lewd Act)

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)

The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST: [Signature] 101814  
Moroney, Brian SC Bar#

Defendant

KORNFELD, ALEX

79046

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,  
 for a determinate term of LIFE days/months/years or ☐ under the Youthful Offender Act not to exceed        years  
 and/or to pay a fine of \$       ; provided that upon the service of        days/months/years and/or payment  
 of \$       ; plus costs and assessments as applicable\*; the balance is suspended with probation for       

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of  
 probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:

☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied  
 by the State Department of Corrections.

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic  
 Violence) to ship, transport, possess, or receive a firearm or ammunition.

## SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$        plus 20% fee: \$       

Payment Terms:       

☐ Set by SCDPPPS       

Recipient:       

\*Fine:        \$

§ 14-1-206 (Assessments 107.5 %)        \$

§ 14-1-211(A)(1) (Conv. Surcharge) \$100        \$ 100.00

§ 14-1-211(A)(2) (DUI Surcharge) \$100        \$

§ 56-5-2995 (DUI Assessment) \$12        \$

§ 56-1-286 (DUI Breath Test) \$25        \$

Proviso 61.6 (Public Def/Probation) \$500        \$

§ 14-1-212 (Law Enforce. Funding) \$25        \$ 35.00

§ 14-1-213 (Drug Court Surcharge) \$150        \$

§ 50-21-114 (BUI Breath Test Fee) \$50        \$

§ 56-5-2942(J) (Vehicle Assessment) \$40/ea        \$

3% to County (if paid in installments)        \$ 3.75

TOTAL        \$ 108.75

Clerk of Court/ Deputy Clerk Paul B. Wickman

Court Reporter: [Signature]

CCA/217 (07/2016)

## PTUP

       days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp.       

May serve W/E beginning       

Substance Abuse Counseling ☐

Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly  
 pmts. of \$        beginning       

\$        paid to Public Defender Fund

Other:       

☐ Appointed PD or appointed other counsel,  
 Proviso 61.6 requires \$500 be paid to Clerk  
 during probation and shall be collected before  
 any other fees.

Presiding Judge       

Judge Code: 215-8

Sentence Date: 3-16-2018

## STATE OF SOUTH CAROLINA

662  
COUNTY OF Greenville  
STATE VS.

Jahru Harold Smith

AKA:

Race: BLACK Sex: M Age: 54

DOB: [REDACTED] SS#: [REDACTED]

Address: [REDACTED] Ave.

City/State/Zip: Greenville, SC 29605

DL#: [REDACTED] SID#: [REDACTED]

\*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was  
TO: Murder

## IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2015GS2302833

A/W#: 2015A2330201031

Date of Offense: 2/3/2015

S.C. Code § 16-03-0010

CDR Code #: 0116

## SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

in violation of § 16-03-0010 of the S.C. Code of Laws, bearing CDR Code # 0116

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)  
The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Moroney, Brian

101814  
SC Bar#

Defendant

KORNFELD, ALEX

79046

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of LIFE days/months/years or ☐ under the Youthful Offender Act not to exceed \_\_\_\_\_ years

and/or to pay a fine of \$ \_\_\_\_\_; provided that upon the service of \_\_\_\_\_ days/months/years and/or payment

of \$ \_\_\_\_\_; plus costs and assessments as applicable\*; the balance is suspended with probation for \_\_\_\_\_

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

## SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP

Total: \$ \_\_\_\_\_ plus 20% fee: \$ \_\_\_\_\_

Payment Terms: \_\_\_\_\_

☐ Set by SCDPPPS \_\_\_\_\_

Recipient: \_\_\_\_\_

|                                        |         |           |
|----------------------------------------|---------|-----------|
| *Fine:                                 |         | \$        |
| § 14-1-206 (Assessments 107.5 %)       |         | \$        |
| § 14-1-211(A)(1) (Conv. Surcharge)     | \$100   | \$ 100.00 |
| § 14-1-211(A)(2) (DUI Surcharge)       | \$100   | \$        |
| § 56-5-2995 (DUI Assessment)           | \$12    | \$        |
| § 56-1-286 (DUI Breath Test)           | \$25    | \$        |
| Proviso 61.6 (Public Def/Probation)    | \$500   | \$        |
| § 14-1-212 (Law Enforce. Funding)      | \$25    | \$ 25.00  |
| § 14-1-213 (Drug Court Surcharge)      | \$150   | \$        |
| § 50-21-114 (BUI Breath Test Fee)      | \$50    | \$        |
| § 56-5-2942(J) (Vehicle Assessment)    | \$40/ea | \$        |
| 3% to County (if paid in installments) |         | \$ 3.75   |

TOTAL

\$ 128.75

Clerk of Court/ Deputy Clerk

Court Reporter: Jenkins

SCCA/217 (07/2016)

Sitting Judge

Judge Code: 2158

Sentence Date: 3-16-2018

## STATE OF SOUTH CAROLINA

## IN THE COURT OF GENERAL SESSIONS

663

COUNTY OF Greenville  
STATE VS.

Jahru Harold Smith

AKA:

Race: BLACK Sex: M Age: 54

DOB: [REDACTED] SS#: [REDACTED]

Address: [REDACTED] Ave.

City, State, Zip: Greenville, SC 29605

DL#: [REDACTED] SID#: [REDACTED]

\*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was  
TO: Possession of weapon during violent crime

INDICTMENT/CASE#: 2015GS2302833

A/W#: 2015A2330201033

Date of Offense: 2/3/2015

S.C. Code §: 16-23-0490

CDR Code #: 0549

## SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

in violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code # 0549

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Moroney, Brian

101814  
SC Bar#

Defendant

KORNFELD, ALEX

79046  
SC Bar#WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,  
for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed \_\_\_\_\_ years  
and/or to pay a fine of \$ \_\_\_\_\_; provided that upon the service of \_\_\_\_\_ days/months/years and/or payment  
of \$ \_\_\_\_\_; plus costs and assessments as applicable\*; the balance is suspended with probation for \_\_\_\_\_months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of  
probation, which are incorporated by reference.☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied  
by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic  
Violence) to ship, transport, possess, or receive a firearm or ammunition.

## SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ \_\_\_\_\_ plus 20% fee: \$ \_\_\_\_\_

Payment Terms: \_\_\_\_\_

☐ Set by SCDPPPS \_\_\_\_\_

Recipient: \_\_\_\_\_

\*Fine: \_\_\_\_\_ \$

§ 14-1-206 (Assessments 107.5 %) \_\_\_\_\_ \$

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \_\_\_\_\_ \$ 100.00

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \_\_\_\_\_ \$

§ 56-5-2995 (DUI Assessment) \$12 \_\_\_\_\_ \$

§ 56-1-286 (DUI Breath Test) \$25 \_\_\_\_\_ \$

Proviso 61.6 (Public Def./Probation) \$500 \_\_\_\_\_ \$

§ 14-1-212 (Law Enforce. Funding) \$25 \_\_\_\_\_ \$ 25.00

§ 14-1-213 (Drug Court Surcharge) \$150 \_\_\_\_\_ \$

§ 50-21-114(BUI Breath Test Fee) \$50 \_\_\_\_\_ \$

§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \_\_\_\_\_ \$

3% to County (if paid in installments) \_\_\_\_\_ \$ 3.15

TOTAL \$ 138.15

Clerk of Court/ Deputy Clerk Paul B. Wickenman

Court Reporter: [REDACTED]

SCCA/217 (07/2016)

PTUP \_\_\_\_\_

\_\_\_\_\_ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. \_\_\_\_\_

May serve W/E beginning \_\_\_\_\_

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly

pmts. of \$ \_\_\_\_\_ beginning \_\_\_\_\_

\$ \_\_\_\_\_ paid to Public Defender Fund

Other: \_\_\_\_\_

☐ Appointed PD or appointed other counsel,  
Proviso 61.6 requires \$500 be paid to Clerk  
during probation and shall be collected before  
any other fees.

Presiding Judge \_\_\_\_\_

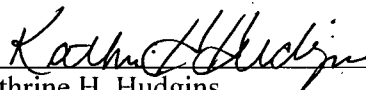
Judge Code: 2158

Sentence Date: 3-18-2018 [37]

## 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,



Kathrine H. Hudgins  
Appellate Defender

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

ATTORNEY FOR APPELLANT

This 9<sup>th</sup> day of September, 2019.

**RECEIVED**  
SEP 09 2019  
SC Court of Appeals