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SC Court of Appeals

22788

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

22788

Appeal from Hampton County
Honorable Perry M. Buckner, Circuit Court Judge

STATE OF SOUTH CAROLINA,

RESPONDENT,

V.

DALONTE GREEN,

APPELLANT

APPELLATE CASE NO. 2015-001059

RECORD ON APPEAL

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**THE FOLLOWING EXHIBIT IS ON FILE WITH THIS COURT:
STATE'S EXHIBIT 12 (VIDEO STATEMENTS)**

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
)
 COUNTY OF HAMPTON) CASE NO.: 2013-GS-25-00031

THE STATE OF SOUTH CAROLINA,)
)
)
 v.) TRANSCRIPT OF RECORD
)
 DALONTE GREEN,)
)
)
 DEFENDANT.)
)

MAY 4th - 7th, 2015
 COMMENCING AT HAMPTON COUNTY COURTHOUSE
 HAMPTON, SOUTH CAROLINA
 BEFORE THE HONORABLE PERRY M. BUCKNER, III, JUDGE.

APPEARANCES:

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1 Any exceptions or objections from the State of South
2 Carolina?

3 ASST. SOL. KNIGHT: No, sir.

4 THE COURT: From the defendant?

5 MR. HUGHES: No, Your Honor.

6 THE COURT: Ladies and gentlemen of the jury, we will
7 now begin the trial of the case. Please give the lawyers
8 your attention. I remind you that they are advocates of the
9 party that they represent.

10 ASST. SOL. KNIGHT: May it please the Court, Your
11 Honor?

12 THE COURT: Yes, sir, Mr. Knight.

13 OPENING STATEMENT

14 BY ASST. SOL. KNIGHT:

15 Mr. Foreman, ladies and gentlemen of the jury, this
16 case is about murder. As the judge indicated, at the end of
17 the trial, he will charge you properly what murder is. But
18 I'm going to give you an idea of what I think the law is so
19 that when you hear the testimony during the course of the
20 trial, you can sort of put it together.

21 My understanding of murder is the unlawful killing of
22 another with malice aforethought. Now, the State has to
23 prove, number one, that the defendant killed a man, Xavier
24 Rudd. Number two, that it occurred here in Hampton County;
25 no question about that. This case happened at the Paradise

1 Club in Varnville here in Hampton County.

2 You will hear witnesses testify that the defendant,
3 Dalonte Green, was there at the club for a birthday party
4 going on. He was inside the birthday party, dancing, having
5 a good time. The victim was also there. From the
6 testimony, I think you'll find that there are no hard words
7 between them two. Something happened, but no one knows what
8 that I know of.

9 Mr. Dalonte Green goes outside the club, because that's
10 where the shooting actually occurred, in the parking lot.
11 Hopefully you will see some photographs of the parking lot
12 where the shooting occurred at.

13 And the victim came out of the club, you'll hear
14 testimony that someone gave Mr. Green a gun, Mr. Green went
15 up by a van, stood by the van, waited for Mr. Rodd to come,
16 and shot him. That's the long and short of it.

17 Now, the burden is on the State to prove to you
18 everything that I've just said beyond a reasonable doubt.
19 There will be photographs. You'll hear testimony from one
20 SLED agent, from the pathologist talking about the cause of
21 death, those things that we have in every murder case in
22 South Carolina. So it won't be anything unusual. It won't
23 be a four or five day trial, so don't expect that. It's not
24 like television. There won't be any screaming or anyone
25 standing up in the back of the Court saying, "No, no, I did

1 it." You won't hear any of that. The only thing you can
2 consider is right here, what comes from this witness stand
3 and exhibits that the State and/or the defendant enter into
4 evidence. Nothing else, nothing more.

5 And part of that oath you took when Ms. Nettles gave it
6 to you that you would truly try the case through the State
7 of South Carolina and Dalonte Green. There's another part,
8 and it's those parts of this: you will look, listen, and
9 more importantly, you will remember, because at the
10 conclusion of the case, I'm going to ask you to return a
11 verdict of guilty against the defendant, Dalonte Green, for
12 murder. Thank you.

13 THE COURT: Mr. Hughes.

14 MR. HUGHES: May it please the Court?

15 THE COURT: Proceed.

16 OPENING STATEMENT

17 BY MR. HUGHES:

18 Good morning, my name is Bob Hughes. I'm with the
19 Public Defender's Office and I'm from Ridgeland, although
20 I've spent many a day, many a night, many a year in Hampton
21 County. I'm going to talk to you later about the State's
22 so-called case, but right now, the first thing I'm going to
23 do is I'm going to make you a promise. This isn't going to
24 be like anything you've been expecting. I'm going to tell
25 you a secret, too. This could get boring. I know you're

1 thinking, a murder trial, how could that get boring?
2 Thankfully, now, it is not burning up in here and we're not
3 falling asleep, but you're going to hear testimony and
4 you're going to be going, "Why are they doing this? They
5 just answered that 15 minutes ago." There are reasons for
6 it. I'm not going to get into them, but there are reasons.

7 Now, I know sitting in these nice, comfortable chairs,
8 especially after lunch, you're going to let your mind
9 wander. You're going to be going, "Where did you get that
10 tie or does he actually think those shoes go with that?"
11 Don't. Be the juror you would want to have on your jury.

12 Pay attention, listen, watch, think. There are 15 of
13 you. Y'all have more life experience, more life knowledge,
14 than any one person put together. All we ask is that you
15 use it. When this is all over, I'm going to come back to
16 you and say, "I told you, it could be boring. I told you
17 it's not going to be like anything you ever saw on
18 television."

19 If you can't hear, let the judge know. If you can't
20 see something, let the judge know. If you have to go to the
21 bathroom, let the judge know. Judge Buckner is very, very
22 good at letting y'all have breaks. Y'all are going to have
23 something in the jury room to help you stay awake. Please
24 pay close attention. Be the juror that you would want on
25 your jury. And after this is over, I'll come back to talk

1 to you. Thank you.

2 THE COURT: Call your first witness.

3 ASST. SOL. KNIGHT: Teddy Scott.

4 (Whereupon, Mr. Teddy Scott enters the courtroom and is
5 duly sworn.)

6 THE COURT: Make yourself comfortable. Pull the chair
7 up and adjust the microphone. State your full name and
8 spell your last name for the court reporter.

9 WITNESS: Teddy Scott, S-C-O-T-T.

10 THE COURT: All right. Your witness, counsel. Direct
11 examination.

12 ASST. SOL. KNIGHT: Thank you, Your Honor.

13 DIRECT EXAMINATION

14 BY ASST. SOL. KNIGHT:

15 Q May I call you Teddy?

16 A Yes, sir.

17 Q Who are you employed with, Mr. Scott?

18 A Varnville Town.

19 Q In what capacity?

20 A Police Department.

21 Q How long have you been employed with Varnville?

22 A Five years.

23 Q How long have you been in law enforcement?

24 A Thirteen years.

25 Q Here in Hampton County?

- 1 A Here and in Jasper County.
- 2 Q Were you working on or about December 1st, 2012?
- 3 A Yes, sir.
- 4 Q On the road patrol?
- 5 A Yes, sir.
- 6 Q Did you have occasion to go to Gray's Paradise Club?
- 7 A Yes, sir.
- 8 Q And is Grays in Varnville?
- 9 A Yes, sir.
- 10 Q It's in Hampton County?
- 11 A Yes, sir.
- 12 Q Upon arrival at Grays, what, if anything, did you find?
- 13 A I spoke with the club owner, which is Alfred Gray.
- 14 Q You can't testify what he said now. You talked to him?
- 15 A Yes, sir.
- 16 Q You had knowledge it was a shooting?
- 17 A I had knowledge there was shots fired.
- 18 Q Okay. What did you do after you went to Grays?
- 19 A I spoke with the club owner.
- 20 Q Okay. And was anybody in the parking lot of Grays when
- 21 you arrived?
- 22 A There was several people out there and the owner.
- 23 Q Okay. And what did you do during the course of your
- 24 investigation of this shooting?
- 25 A Can you repeat that, please?

1 Q What did you do during the course of your investigation
2 of this shooting?

3 A I started asking questions. First, I spoke with the
4 owner, Alfred Gray and went from there.

5 Q Right. Okay, so where did you go?

6 A After speaking with Alfred Gray, I went down Tillman
7 Avenue and met with another officer and the victim was
8 sitting on the side of the vehicle.

9 Q Who was the other officer you met with?

10 A Officer Chambers.

11 Q And who is he employed with?

12 A Varnville Police Department.

13 Q Okay.

14 THE COURT: Spell the last name for the court reporter.

15 MR. SCOTT: Chambers, C-H-A-M-B-E-R-S.

16 Q You say the victim was leaning against Mr. Chambers's
17 vehicle?

18 A Yes, sir.

19 Q Did you talk with the victim?

20 A I asked the victim -- after seeing he was bleeding and
21 stuff, I asked him who shot him.

22 Q Did the victim ask you anything?

23 A Mostly it was gurgle coming from him, but I do remember
24 him asking me about the ambulance.

25 Q Okay. You say you asked him who shot him. What, if

1 anything, did he say?

2 A He mumbled something, but I couldn't understand what he
3 was saying.

4 Q How close were you to him when he was mumbling?

5 A Right next to him.

6 ASST. SOL. KNIGHT: With permission from the Court, may
7 he step down?

8 THE COURT: He may. Now, Mr. Scott, you're going to
9 have your back to my court reporter, so you're going to have
10 to speak up so she can hear you, the jury can hear you, and
11 the parties can hear you.

12 (WITNESS STEPS DOWN.)

13 Q How close were you to Mr. Rodd when you asked him who
14 shot him? This close?

15 A Yes.

16 Q Where was Mr. Rodd at?

17 A He was down beside the car.

18 Q Was he on the ground or just leaning against the car?

19 A He was down inside the car.

20 Q Did he ever ---

21 THE COURT: Solicitor, for the record, indicate what
22 the witness has indicated to you other than "this close."

23 ASST. SOL. KNIGHT: About a foot. I'm sorry, Your
24 Honor.

25 Q Did the victim tell you who shot him?

1 A No, sir.

2 Q Why couldn't he tell you who shot him?

3 A He just couldn't. From the gunshot wound, and he was
4 bleeding a lot out of his mouth.

5 Q Where was Officer Chambers when you were talking with
6 the victim?

7 A Standing probably about two feet away. He was standing
8 on the other side.

9 Q Standing on the other side of the victim or the other
10 side of you?

11 A The other side of the victim.

12 Q So about two feet away from you then?

13 A Yes, sir.

14 Q Okay. Did you ask the victim if he could write the
15 names of the person who shot him down?

16 A Yes, sir.

17 Q Did he attempt to do that?

18 A Yes, sir.

19 Q Could you read what he wrote?

20 A No, sir.

21 Q Why couldn't you read it?

22 A Apparently, he was too weak and kind of out of it from
23 the gunshot wound.

24 Q Yes.

25 A So he really couldn't write anything. It was more like

1 a scribble, and I couldn't understand what it was.

2 Q How long, if you recall, did it take for EMS to get
3 there after you arrived in talking with the victim,
4 approximately?

5 A Approximately about 35 minutes.

6 Q During the 35 minutes that you were waiting for EMS to
7 arrive, at any time did the victim tell you who shot him?

8 A No, sir.

9 Q Did the victim give you a description of the person who
10 shot him?

11 A No, sir.

12 Q After EMS arrived and took care of the victim, what, if
13 anything, did you do in the course of this investigation of
14 this case?

15 A I went back down to Grays Paradise to start kind of
16 looking for some evidence.

17 Q How far is Grays Paradise to the location that you
18 found the victim, approximately?

19 A I'd say about 500 yards.

20 Q Thank you. Answer any questions that Mr. Hughes may
21 have.

22 CROSS-EXAMINATION

23 BY MR. HUGHES:

24 Q Good morning, Officer.

25 A Good morning.

1 Q Who else was with you when you were with Xavier Rodd?

2 A It was Officer Chambers with the Varnville Police
3 Department, Sgt. Wells with the Hampton Police Department,
4 and Troy Long with the Hampton County Sheriff's Department,
5 Michael Bridges with the Hampton County Sheriff's
6 Department.

7 Q How close were these officers to Mr. Rodd?

8 A They were standing further back, probably about four or
9 five feet back.

10 Q Now, you say he wrote something on some paper?

11 A He scribbled something.

12 Q Where is that paper?

13 A It was turned over to SLED.

14 Q Now, were you with him the entire time?

15 A Yes.

16 Q Always within one foot?

17 A No, sir. At one time, I left and went and got the
18 piece of paper for him to write his whoever shot him on.

19 Q This is a hard question to ask, but in your opinion,
20 did Mr. Rodd know he was dying?

21 A I can't say that, sir.

22 MR. HUGHES: No further questions, Your Honor.

23 THE COURT: Solicitor?

24 ASST. SOL. KNIGHT: Very briefly, Your Honor.

25 REDIRECT EXAMINATION

1 BY MR. KNIGHT:

2 Q Mr. Hughes asked you the third person that was there,
3 and that person was who? It was Chambers, yourself, and
4 who?

5 A Officer Bridges and Officer Vaughn with the Sheriff's
6 Department.

7 Q How about with the Varnville Police Department?

8 A Officer Chambers.

9 Q And who else?

10 A Chief Smith came.

11 Q At the beginning when you and Chambers ---

12 A It was just us two, with the Varnville Police
13 Department.

14 Q He asked you if Johnny Wells was there. Is he with the
15 Varnville Police Department?

16 A No, sir.

17 Q He's not?

18 A No, not Johnny Wells.

19 Q Is he with the Hampton Police Department?

20 A Yes, sir.

21 Q Okay. So it was you, Mr. Chambers and Johnny Wells?

22 A Yes, sir.

23 Q And where was Mr. Wells at?

24 A Mr. Wells came up, he was about a feet away, too. He
25 started asking the subject some things.

1 Q He asked the victim?

2 A The victim, yes, sir.

3 Q Did the victim reply?

4 A No, sir.

5 ASST. SOL. KNIGHT: That's all I have, Your Honor.

6 THE COURT: Recross, limited to redirect.

7 RECROSS EXAMINATION

8 BY MR. HUGHES:

9 Q Did anything distract you during that time? Were you
10 paying 100 percent attention to what was going on with Mr.
11 Rodd?

12 A I was paying 100 percent.

13 Q Okay. No further questions.

14 ASST. SOL. KNIGHT: That's all out of this witness,
15 Your Honor. May he be excused?

16 THE COURT: Any objection?

17 MR. HUGHES: Without objection.

18 THE COURT: You may step down from the witness stand
19 and you are excused from the trial of this case. You may
20 leave the courtroom. Call your next witness.

21 ASST. SOL. KNIGHT: Marion Chambers.

22 (Whereupon, Officer Marion Chambers is duly sworn.)

23 THE COURT: Have a seat for me. Adjust that chair and
24 adjust that microphone. It's going to amplify your voice.
25 State your full name and spell your last name for the court

1 reporter.

2 WITNESS: Marion Anthony Chambers, C-H-A-M-B-E-R-S.

3 THE COURT: Your witness, counsel.

4 DIRECT EXAMINATION

5 BY ASST. SOL. KNIGHT:

6 Q Mr. Chambers, who are you employed with, sir?

7 A Varnville Police Department.

8 Q And in what capacity?

9 A As a Sergeant for road patrol.

10 Q How long have you worked with the Varnville Police
11 Department?

12 A Two and a half years.

13 Q And where else have you worked in law enforcement?

14 A Estill Police Department.

15 Q How many years?

16 A Six months.

17 Q Have you always worked in law enforcement?

18 A Yes.

19 Q Were you working on or about December 1st, 2012?

20 A I was.

21 Q Did you have occasion to go to Grays Paradise Club?

22 A I did.

23 Q Approximately about what time was it?

24 A Close to 2:00 a.m.

25 Q Okay. Did you also have occasion to go on Tillman

1 Avenue and meet with a victim?

2 A I did.

3 Q You found the victim?

4 A I did.

5 Q Where was the victim at?

6 A He was exiting a residence on Tillman Avenue, walking
7 onto the roadway.

8 Q Okay. And you stopped your vehicle?

9 A I did.

10 Q Did you talk with the victim?

11 A I did.

12 Q What, if anything, did he say?

13 A Nothing.

14 Q Did you ask him who shot him?

15 A I asked him what happened to him.

16 Q What did he say?

17 A He didn't say anything.

18 Q Why couldn't he say anything?

19 A He appeared to have an injury to his neck/face area.

20 Q Was he bleeding?

21 A He was.

22 Q Profusely?

23 A Yes, sir.

24 Q Did Johnny Wells from the Hampton Police Department
25 arrive?

1 A He did.

2 Q Did Johnny Wells talk to the victim?

3 A He may have. I wasn't present for any conversement
4 with Johnny Wells and the victim.

5 Q You were not?

6 A No.

7 Q How far away were you from the victim when Johnny Wells
8 was there?

9 A A few feet.

10 Q If the victim had said anything, could you have heard
11 it?

12 A Yes, sir.

13 Q Did you hear anything?

14 A No, sir.

15 Q He was still bleeding?

16 A Yes, sir.

17 Q Couldn't talk?

18 A No, sir.

19 Q That's all I have. Answer any questions that Mr.
20 Hughes may have.

21 THE COURT: Cross-Examination.

22 CROSS-EXAMINATION

23 BY MR. HUGHES:

24 Q Why did you go to Tillman Avenue?

25 A We had a report for shots fired.

1 Q That was at Gray's Paradise?

2 A Which is on Tillman Avenue.

3 Q Okay, I'm sorry. I did not know that. But you went
4 somewhere else on Tillman Avenue. Why did you go there?

5 A I stopped on the residence of Tillman Avenue because
6 the victim walked out to the roadway while I was coming down
7 the road.

8 Q Had y'all gotten a report from 9-1-1?

9 A We did got a call for shots fired.

10 Q No, I mean concerning someone approaching a house?

11 A We did.

12 Q And did that report tell you that somebody had banged
13 on the door and was asking to come in?

14 A No.

15 Q So how did you know that was the victim?

16 A I didn't know that was the victim walking. I just saw
17 someone bleeding, walking down the road.

18 Q What time of day was this?

19 A This was in the evening time.

20 Q You have your search lights on?

21 A I had my operating lights on my vehicle; not my search
22 lights.

23 Q And you were not present the entire time that Mr. Wells
24 and Mr. Rodd were together?

25 A No, sir.

1 Q And did you hear Sgt. Scott and Mr. Rodd talking?

2 A No, sir.

3 Q So you weren't there the entire time that Mr. Scott was
4 with Mr. Rodd?

5 A No, sir.

6 Q And how long had you been with Varnville at the time of
7 the shooting?

8 A Two months.

9 MR. HUGHES: No further questions, Your Honor.

10 ASST. SOL. KNIGHT: May he be excused, Your Honor?

11 THE COURT: Any objection?

12 MR. HUGHES: No objection.

13 THE COURT: Mr. Chambers, you may step down and you are
14 excused from the trial of this case. You may leave the
15 courtroom. Call your next witness.

16 ASST. SOL. KNIGHT: Renatta Ford.

17 (Whereupon, Ms. Renatta Ford enters the courtroom and
18 is sworn by the Clerk of Court.)

19 THE COURT: Have a seat on the witness stand for me,
20 Ms. Ford. Pull that chair and adjust that microphone. It's
21 going to amplify your voice. I want you to use it, because
22 I want people at the end of the jury box to hear you. State
23 your full name and spell your last name for the court
24 reporter.

25 MS. FORD: My name is Renatta Louise Ford, F-O-R-D.

1 THE COURT: Very good. Speak up and speak clearly.
2 Your witness, Counsel.

3 DIRECT EXAMINATION

4 BY ASST. SOL. KNIGHT:

5 Q Ms. Ford, who are you employed with?

6 A Hampton County EMS.

7 Q And how long have you been employed with EMS?

8 A I've been with Hampton County EMS since June 6th, 2006.

9 Q And prior to that, who were you employed with?

10 A Carolina Medcare, a private ambulance service.

11 Q Are you an emergency medical technician?

12 A I'm a nationally registered paramedic.

13 Q Okay. Were you working on or about December 1st, 2012?

14 A Yes, I was.

15 Q Did you have occasion in your capacity in working with
16 the Hampton County EMS to go to Tillman Avenue?

17 A Yes.

18 Q What, if anything, did you find once you arrived?

19 A When we were toned out, our dispatch went and said that
20 we have a gunshot victim that was shot in the cheek and when
21 we arrived, we found the patient that had a gunshot wound.

22 Q Where was the gunshot wound?

23 A When we first arrived on scene, the patient was sitting
24 against the patrol car. The patient had apneal breathing.
25 Apneal breathing is when your respiration is very slow and

1 labored. He had a lot of blood around him. We couldn't
2 find out where the blood was coming from. We went and cut
3 his clothes to find out where the blood was coming from, but
4 we still couldn't find it. Once we got in the back of the
5 truck and did our full assessment, we realized that the
6 damage was to his mouth on the right side.

7 Q Did he have any other wounds?

8 A We couldn't find any other injuries. When we went and
9 exposed the patient, what we did was we got in the back of
10 the truck and cut his clothes off, palpated his front, his
11 back, and once he went and pointed to his mouth, that's when
12 we realized all his teeth on the right side was shattered.

13 Q Now, you said he pointed to his mouth?

14 A He pointed to his mouth.

15 Q Could he communicate and talk to you?

16 A That's all he did the whole time was point to his
17 mouth; no verbal communication at all.

18 Q No verbal communication at all?

19 A No.

20 Q I noticed in your report that you wrote that he became
21 agitated. What does that mean to you?

22 A When I put agitated, he couldn't -- he was having
23 problems breathing. He had blood clots coming out of his
24 mouth, so it was continuous suctioning. So when he pointed
25 to his mouth, it let us -- well, my partner, Scott Jarrell,

1 know to go and suction his mouth. So the only time I really
2 see that type of agitation is when someone is having an
3 asthma attack and unable to breathe. So he wasn't
4 combative. He was agitated, had anxiety, you know, on the
5 verge of panicking because he was having issues breathing.

6 Q But he couldn't communicate with you?

7 A No.

8 Q And what, if anything, did you do after you treated
9 him?

10 A What we did was, I did my initial assessment. I
11 started IV's. We already had a helicopter, LifeNet Four,
12 from Walterboro in route before we left the scene, because
13 the quicker they could come to us, the quicker that he could
14 go to a trauma center. And what the main thing we did was
15 start IV's, make sure we had enough fluid. I was watching
16 his cardiac rhythm, and suctioning was the main thing to
17 make sure that the blood clots that was coming out of his
18 mouth had his airway clear.

19 Q At that time that you were treating him, was death
20 imminent for him?

21 A I cannot say that. When I had him in the back of the
22 truck he had a heart rate. He had a lot of blood loss, but I
23 can only talk about how he was in the back of the ambulance.

24 Q How was his heart rate?

25 A His heart rate was within normal limits, but the lower

1 part of it.

2 Q Thank you, ma'am.

3 ASST. SOL. KNIGHT: That's all I have for this witness.

4 CXROSS-EXAMINATION

5 BY MR. HUGHES:

6 Q Now, how long after you got the report that you had a
7 victim, did it take y'all to get there?

8 A My report is in the back, but it didn't take us too
9 long. We went straight on scene, because usually when EMS
10 has arrived to a gunshot wound, if law enforcement is not on
11 scene, we have to wait until the scene is clear, but since
12 law enforcement was on scene, we went straight from our EMS
13 station in Hampton on Second Street straight to the scene on
14 Tillman.

15 Q And when you got there, did you have him upright or did
16 you put him on a back board?

17 A The patient was already upright, seated against the
18 patrol car. His head was down. He had abnormal breathing,
19 so his respiratory rate was not the best. So when we went
20 and opened his airway, his breathing quality got a little
21 bit better, but not much.

22 Q When you had him in the ambulance, was he on a back
23 board?

24 A Yes, he was.

25 Q Okay. So he was lying prone?

1 A He was lying prone.

2 Q And that's when he became agitated about breathing?

3 A He was already agitated, but the more blood that was
4 coming out, that increased his agitation and anxiety.

5 Q So if he's lying on his back and there is blood going
6 in this throat, that would constrict his airway?

7 A We were suctioning him, so when he would point to his
8 mouth, that's when we made sure that, you know, we would
9 suction him more regular. But he was doing better than when
10 he was outside on the street.

11 Q But you weren't there when he was being interviewed by
12 law enforcement?

13 A No.

14 Q It was only after the shooting, and y'all didn't get
15 there until about 30 minutes after the shooting?

16 A It shouldn't be 30 minutes. If you could hand me my
17 report, I could go and tell you the exact time. It was not
18 30 minutes. As soon as EMS was toned out, me and my partner
19 got in the ambulance. We went straight to the scene and I
20 know it's maybe two miles, two and a half miles down; so
21 it's not that long.

22 Q But not from how long it took y'all to get the call to
23 get there, but you don't know when he was shot compared to
24 when y'all got there?

25 A We don't get that information.

1 Q Okay. So it could have been a period of time, but you
2 got there as fast as you possibly could?

3 A When dispatch went and notified me, me and my partner
4 got there as soon as possible.

5 Q And you did everything you could for Mr. Rodd?

6 A Yes, I did.

7 Q Do you feel like he felt he was dying?

8 ASST. SOL. KNIGHT: Objection.

9 THE COURT: Rephrase that question, counsel.

10 ASST. SOL. KNIGHT: Yes, I don't understand it.

11 THE COURT: Hold on a second. Rephrase it for me so I
12 can hear it.

13 Q Would your gut say that he thought he was dying?

14 THE COURT: Sustained.

15 MR. HUGHES: No further questions, Your Honor.

16 ASST. SOL. KNIGHT: May she be excused and go to
17 Walterboro to pick up her child? She lives in Colleton
18 County, Your Honor.

19 MR. HUGHES: Without objection at all, Your Honor.

20 THE COURT: Step down and you are excused from the
21 trial of this case. Drive carefully. Call your next
22 witness.

23 ASST. SOL. KNIGHT: Markeisha Smith.

24 Whereupon, Ms. Markeisha Smith enters the courtroom
25 and is duly sworn by the clerk of court.

1 THE COURT: Have a seat on the witness stand. Watch
2 your step. Adjust that microphone. I want you to use it
3 because it's going to amplify your voice. I want to make
4 sure that very last juror can hear every word you say. So
5 state your name and spell your last name for the court
6 reporter.

7 MS. SMITH: Markeisha Danielle Alante Smith, S-M-I-T-H.

8 THE COURT: You've got to speak up a little bit, Ms.
9 Smith. You've got a timid voice, so I want you to speak up
10 for me. Your witness, counsel, direct examination.

11 DIRECT EXAMINATION

12 BY ASST. SOL. KNIGHT:

13 Q Ms. Smith, do you live here in Varnville?

14 A Yes.

15 Q Where do you work at?

16 A The Easy Shop.

17 Q Easy Shop?

18 A Uh-huh (affirmative).

19 Q Do you recall December 1st, 2012?

20 A A little bit.

21 Q What was that day for you?

22 A My birthday.

23 Q Okay. And were you going to a birthday party?

24 A Yes, it was my birthday party.

25 Q It was your birthday party?

1 A Yes.

2 Q And where were you having your birthday party at?

3 A At Gray's Paradise.

4 Q That's in Varnville?

5 A Yes, sir.

6 Q What time did you get to the birthday party?

7 A Between 10 and 11.

8 Q Okay. Who went to the birthday party with you?

9 A Oh, it was me and a few of my friends. I had a passion
10 party earlier and we just ---

11 Q A passion party earlier?

12 A Yes, sir.

13 Q Okay. And then you went to Gray's Paradise?

14 A Yes, sir.

15 Q With your friends?

16 A Yes, sir.

17 Q Okay. Do you know the defendant, Dalonte Green?

18 A I mean, I know of him, but I don't know him.

19 Q Did you see him in the club that night, at the party?

20 A Yes, sir, I did.

21 Q Okay.

22 ASST. SOL. KNIGHT: May I approach, Your Honor?

23 THE COURT: You may.

24 Q I show you State's Exhibit Number Nine and ask if you
25 can identify that.

1 A Yes, sir.

2 THE COURT: As to State's Nine, Mr. Hughes?

3 MR. HUGHES: No objection.

4 THE COURT: Ladies and gentlemen of the jury, State's
5 Exhibit Number Nine will be admitted into evidence in the
6 trial of this case. You may publish to the jury.

7 (WHEREUPON, STATE'S EXHIBIT NUMBER NINE, PHOTO, IS
8 RECEIVED INTO EVIDENCE.)

9 Q Now, State's Exhibit Number Nine, who is in that
10 photograph?

11 A Dalonte and his girlfriend.

12 Q Do you know his girlfriend's name?

13 A No, I don't.

14 Q Did you take that picture in the club?

15 A No, I didn't.

16 Q Someone took it for you?

17 A Yes.

18 Q On your iPad?

19 A Yes.

20 Q And did you turn it over to law enforcement?

21 A No.

22 Q How did you get it to law enforcement?

23 A I had emailed them some pictures that were on there
24 that they needed.

25 Q So you just emailed all the pictures that were people

1 inside the club?

2 A Yes.

3 Q Okay. Did you go outside of Gray's Paradise during
4 your party?

5 A No, I didn't.

6 Q You did not?

7 A No.

8 Q Okay. Thank you. Ask you, have you ever seen that
9 shirt before?

10 A Yes, sir.

11 Q Where did you see it at?

12 A He wore it that night to my party.

13 Q Does that look like the same shirt that is in State's
14 Exhibit Number Nine?

15 A Yes, sir.

16 Q Thank you, ma'am. Answer any questions that Mr. Hughes
17 may have.

18 CROSS-EXAMINATION

19 BY MR. HUGHES:

20 Q I'm going to show you what's been marked as State's
21 Exhibit Nine. Did you take this picture?

22 A No, sir, I did not.

23 Q How are you able to recognize who is in that picture?

24 A I mean, I did see them in the party. That's my -- the
25 girl he is with is my little sister's friend. They came

1 together.

2 Q You can look in this picture and recognize somebody in
3 here?

4 A Yes, sir, I can.

5 Q Mr. Knight has been talking to you, correct?

6 A Yes, sir.

7 Q What color tie does he have on?

8 A Who?

9 Q The gentleman that just talked to you. What color tie
10 does he have on?

11 A I wasn't paying attention.

12 Q You just talked to that man three minutes ago and you
13 don't remember what color tie he had on, but you remember a
14 shirt from over two years ago?

15 A Yes, sir, I do.

16 Q What color is this shirt?

17 A This is plaid.

18 Q Okay. But let's see, I see green, correct?

19 A Yes, sir.

20 Q And blues and pinks?

21 A Yes, sir.

22 Q And dark blues and brown buttons, correct?

23 A Yes, sir.

24 MR. HUGHES: May I approach, Your Honor?

25 THE COURT: You may.

1 Q I want you to look at State's Number Nine and I want
2 you to point on that picture where the pinks are, the greens
3 are.

4 THE COURT: Step back, Mr. Hughes, so the jury can see
5 the witness.

6 A I can't.

7 MR. HUGHES: May I approach again, Your Honor?

8 Q But you tell me and you tell this jury that you can
9 identify this shirt after two years out of a picture that
10 you did not take and you can identify the people in it?

11 A Yes, sir.

12 ASST. SOL. KNIGHT: Your Honor, is he arguing to the
13 jury? He's walking up and down in front of them.

14 THE COURT: I understand, counsel. Just a moment.
15 Counsel approach.

16 (Whereupon, a bench conference is held off the record
17 and out of the hearing of the jury.)

18 THE COURT: Proceed.

19 Q Was anybody else at that club wearing a shirt like
20 that?

21 A No, sir, not that I can recall.

22 Q No other plaid shirts?

23 A No, sir, not that I can recall, no.

24 Q Not that you can recall?

25 A No, sir.

1 Q Did you look through your photographs?

2 A Yes, sir, I did.

3 Q And nobody else was wearing a shirt like that?

4 A No, sir.

5 MR. HUGHES: No further questions, Your Honor.

6 THE COURT: Redirect?

7 REDIRECT EXAMINATION

8 BY ASST. SOL. KNIGHT:

9 Q Do you recall how many pictures you took that night or
10 was taken on your IPAD?

11 A It was a lot. It was a lot of pictures.

12 Q You just don't recall how many?

13 A I don't. I know it was many.

14 Q Thank you, ma'am.

15 ASST. SOL. KNIGHT: May she be excused?

16 THE COURT: Just a moment. Recross, limited to
17 redirect.

18 MR. HUGHES: No questions.

19 THE COURT: As to this witness, counsel?

20 MR. HUGHES: No objection.

21 THE COURT: Ms. Smith, you may step down from the
22 witness stand and you are excused from the trial of this
23 case. You may leave the courtroom. Call your next witness.

24 ASST. SOL. KNIGHT: Chief Tyrone Smith.

25 (Whereupon, Chief Tyrone Smith is duly sworn by the

1 Clerk of court.

2 THE COURT: Good morning, Chief.

3 CHIEF SMITH: Good morning.

4 THE COURT: Have a seat. You know what to do. State
5 your name and spell your last name.

6 CHIEF SMITH: Tyrone Smith, S-M-I-T-H.

7 THE COURT: Your witness, counsel.

8 DIRECT EXAMINATION

9 ASST. SOL. KNIGHT:

10 Q Officer, you're the Chief of Police of Varnville?

11 A Yes, sir.

12 Q And were you working on December 1st, 2012?

13 A No, sir. I got a call to the house.

14 Q Oh, you were at home?

15 A Yes, sir.

16 Q And did you have an occasion to go to the Gray's
17 Paradise Club?

18 A Yes, sir.

19 Q What, if anything, did you find at Grays Paradise Club?

20 A Dispatch called me and stated there was a shooting at
21 Gray's Paradise. I went straight to Grays Paradise. Upon
22 my arrival to Grays Paradise, I seen EMS down the road on
23 Tillman Avenue. One of the people told me the victim was
24 there, so I went down to Tillman Avenue.

25 Q Okay.

1 ASST. SOL. KNIGHT: May I approach, Your Honor?

2 THE COURT: You may.

3 Q I show you a series of photographs and ask you if you
4 can identify them.

5 THE COURT: Give me the number, solicitor.

6 ASST. SOL. KNIGHT: Oh, I'm sorry. State's Exhibit
7 Number one, State's Exhibit Number Two, State's Exhibit
8 Number Three, State's Exhibit Number Four, State's Exhibit
9 Number Five, State's Exhibit Number Six, and State's Exhibit
10 Number Seven.

11 THE COURT: One through Seven, inclusive?

12 ASST. SOL. KNIGHT: Yes, sir.

13 THE COURT: Mr. Hughes?

14 MR. HUGHES: No objections.

15 THE COURT: Ladies and gentlemen of the jury, State's
16 Exhibits One, Two, Three, Four, Five, Six, and Seven will be
17 admitted into evidence in the trial of this case without
18 objection. You may publish to the jury.

19 (WHEREUPON, STATE'S EXHIBIT NUMBER ONE THROUGH SEVEN,
20 ALL PHOTOS, ARE RECEIVED INTO EVIDENCE.)

21 THE COURT: You may publish to the jury.

22 ASST. SOL. KNIGHT: May I approach, Your Honor?

23 THE COURT: You may.

24 Q I show you State's Exhibit Number Six, what does that
25 show?

1 A State Exhibit Number Six, it shows a dirt road, which
2 is German Street, in the town of Varnville. It also shows
3 the housing area right beside the club with a blue van
4 parked right in front of it.

5 Q I show you State's Exhibit Number Seven, what does it
6 show?

7 A Exhibit Number Seven show the club, Grays Paradise. On
8 the right side of the club is a house, and the owner of the
9 house is the Dobson family.

10 Q I show you State's Exhibit Number Five. What does it
11 show?

12 A Once again, State Exhibit Number Five shows German
13 Street again, but you mainly see the van, which is the
14 housing area on the left side of the club.

15 Q I show you State's Exhibit Number Four. What does it
16 show?

17 A Grays Paradise and the Dobson residence.

18 Q I show you State's Exhibit Number Three.

19 A Dirt road, German Street.

20 Q I show you State's Exhibit Number Two.

21 A That's the garage area with the blue Ford van.

22 Q State's Exhibit Number One.

23 A Club, Grays Paradise, and the housing area with the
24 blue van out there.

25 ASST. SOL. KNIGHT: May I approach the witness, Your

1 Honor?

2 THE COURT: You may.

3 Q I show you State's Exhibit Number Ten and ask if you
4 can identify it, sir.

5 A Yes, sir.

6 THE COURT: As to State's Ten, Mr. Hughes?

7 MR. HUGHES: No objection.

8 THE COURT: Are you offering it, Solicitor?

9 ASST. SOL. KNIGHT: Yes, sir.

10 THE COURT: Ladies and gentlemen of the jury, State's
11 Exhibit Number Ten will be admitted into evidence in the
12 trial of this without objection. State's Ten is in
13 evidence. You may publish.

14 (WHEREUPON, STATE'S EXHIBIT NUMBER TEN, PICTURE OF MAN
15 WEARING PLAID SHIRT, IS RECEIVED INTO EVIDENCE.)

16 Q What does State's Exhibit Number Ten show?

17 A It shows the plaid in color shirt, the multi-color
18 shirt.

19 Q Did you recover that shirt?

20 A Yes, sir.

21 Q Okay. Where did you recover it at?

22 A I recovered that shirt on Maple Street. It's a
23 residence behind the Dobson house, approximately 35 feet
24 from the club.

25 Q Okay. It looks like a wooded area.

1 A No, it's a residence, but the -- it's an abandoned
2 residence.

3 Q Okay.

4 A But the shrubbery have grown up.

5 Q Okay. Did you have any problems getting to that shirt
6 that is shown in State's Exhibit Number Ten?

7 A No, sir.

8 Q Did you get any thorns on you?

9 A No, sir, not with that one, sir.

10 Q Okay. I show you now, see if you can identify this,
11 sir.

12 ASST. SOL. KNIGHT: May I approach the witness, Your
13 Honor?

14 THE COURT: Yes, sir.

15 A Yes, sir. This is the shirt that I found on December
16 11th, and took photos of.

17 THE COURT: Has it been marked?

18 ASST. SOL. KNIGHT: No, sir, not yet.

19 THE COURT: Have the court reporter mark it.

20 (Whereupon, court reporter marks the exhibit.)

21 Q Again, I'm going to show you State's Exhibit Number
22 Eleven, only as an exhibit at this point. Is this the shirt
23 -- any objection, Mr. Hughes?

24 MR. HUGHES: Exhibit only?

25 ASST. SOL. KNIGHT: Yes, sir.

1 MR. HUGHES: To an exhibit only, no objection.

2 Q Okay. State's Exhibit Number Eleven, did you recover
3 this out of the woods by Ms. Dobson's house?

4 A Yes, sir.

5 ASST. SOL. KNIGHT: We would move it into evidence,
6 Your Honor.

7 THE COURT: As to State's Eleven?

8 MR. HUGHES: No objection, Your Honor.

9 THE COURT: Ladies and gentlemen of the jury, State's
10 Exhibit Number Eleven will be admitted into evidence in the
11 trial of this case without objection. State's Eleven is in
12 evidence. You may publish the exhibits to the jury.

13 (WHEREUPON, STATE'S EXHIBIT NUMBER ELEVEN, PLAID SHIRT,
14 IS RECEIVED INTO EVIDENCE.)

15 ASST. SOL. KNIGHT: State's Exhibit Number Ten is in
16 evidence. May I approach again, Your Honor?

17 THE COURT: You may.

18 Q What kind of bushes are these where you recovered the
19 shirt?

20 A Those are hedge bushes.

21 Q I'm sorry?

22 A Those are hedge bushes that grow wild, yes, sir.

23 Q Do they have thorns on them?

24 A No, sir. The thorns came earlier when we was looking
25 in the woods, the wooded area, on the left side of the club.

1 Q Okay. Did you get any thorns on you?

2 A Yes, sir.

3 ASST. SOL. KNIGHT: Your Honor, that's all the
4 questions I have for this witness at this time; subject to
5 recalling him later.

6 THE COURT: Cross-examination?

7 MR. HUGHES: Yes, Your Honor.

8 CROSS-EXAMINATION

9 BY MR. HUGHES:

10 Q Morning, Chief.

11 A How are you doing, sir.

12 Q When was Xavier Rodd killed? What date?

13 A The shooting occurred on December 1st.

14 Q December 1st?

15 A 2012.

16 Q And you found the shirt on December the 11th?

17 A Yes, sir.

18 Q And it was about how far from Grays Paradise?

19 A It was approximately 75 yards from Grays Paradise on
20 the right side behind Ms. Dobson's residence. There's a
21 church and an abandoned house.

22 Q But it was within 100 yards?

23 A Yes, sir.

24 Q And how far was Xavier Rodd from Club Paradise when
25 officers got to him?

1 A He was -- Xavier, the victim was found on Tillman
2 Avenue.

3 Q Okay. I believe earlier testimony was about 500 yards?

4 A Yes, sir.

5 Q How many officers were there that night from all
6 organizations?

7 A Probably about six.

8 Q Okay. We had, how many from Varnville? Who did we
9 have from Varnville?

10 A Three.

11 Q We had yourself, Chambers, and Scott?

12 A Yes, sir.

13 Q And was anybody there from Hampton Police Department?

14 A They say Johnny Wells was there, but I didn't see him.

15 Q You didn't see him?

16 A No, sir.

17 Q And anybody from the sheriff's department?

18 A Lt. Troy Long and Michael Bridges.

19 Q And how about from SLED?

20 A SLED didn't get there until about 6:00 a.m. that
21 morning.

22 Q Okay. How many people came from SLED?

23 A Two.

24 Q What were they there for?

25 A Forensics.

1 Q Okay. They were looking for evidence?

2 A Yes, sir.

3 Q And what was the sheriff's department doing there?

4 A They was there responding to the shooting.

5 Q Okay. So the sheriff's department has jurisdiction in
6 all of Hampton County, so they were there?

7 A Yes, sir.

8 Q But you were lead, correct?

9 A Sir?

10 Q Who was the lead investigator?

11 A I was.

12 Q And ---

13 MR. HUGHES: No further questions, Your Honor.

14 THE COURT: Redirect?

15 ASST. SOL. KNIGHT: Your Honor, that's all I have at
16 this time, subject to recalling him on another matter.

17 THE COURT: You may step down, Chief. Call your next
18 witness.

19 ASST. SOL. KNIGHT: Dontae Collins.

20 (Brief pause in the courtroom.)

21 ASST. SOL. KNIGHT: Your Honor, may we take a break at
22 this point?

23 THE COURT: Very well. Mr. Foreman, ladies and
24 gentlemen of the jury, I'm going to take my mid-morning
25 break at this point and let you stretch your legs and use

1 the restroom. Please do not discuss the case. You've not
2 heard all of the evidence in the case or my charge on the
3 law. I'll be back with you just as quickly as I can. You
4 may retire to your jury room at this time.

5 (10:30 A.M., WHEREUPON, THE JURY EXITS THE COURTROOM
6 AND THE FOLLOWING IS HELD ON THE RECORD.)

7 THE COURT: All right. Mr. Knight, I'm going to need
8 to see you and Mr. Hughes in my chambers.

9 (Off the record at 10:30 a.m.; back on the record at
10 10:50 a.m.)

11 THE COURT: Is the State ready to proceed?

12 ASST. SOL. KNIGHT: Yes, Your Honor.

13 THE COURT: Is the defendant ready to proceed?

14 MR. HUGHES: Yes, Your Honor.

15 THE COURT: Bring us the jury, please.

16 ASST. SOL. KNIGHT: Judge, this is the one I think we
17 need to have an ---

18 THE COURT: Hold on. Just a moment. Tell them to keep
19 the jury.

20 ASST. SOL. KNIGHT: We need to have an in camera
21 hearing on the next witness for his refusal to testify.

22 THE COURT: And his name?

23 ASST. SOL. KNIGHT: Taylor McQuire. He's right out
24 there.

25 THE COURT: All right. Bring him out.

1 (Whereupon, Taylor McQuire enters the courtroom and is
2 duly sworn.)

3 THE COURT: Have a seat on the witness stand for me,
4 Mr. McQuire. She's going to pull that microphone over
5 to you. Let the record reflect, Becky, that we're outside
6 the presence of the jury. The witness has been sworn.

7 State your full name and spell your last name for me.

8 WITNESS: Taylor McQuire, M-C-Q-U-I-R-E.

9 THE COURT: All right. Counsel, your witness.

10 DIRECT EXAMINATION

11 BY ASST. SOL. KNIGHT:

12 Q Mr. McQuire, you were subpoenaed as a witness in this
13 case?

14 A Yes, sir.

15 Q You've got to speak up, now, I can't hear you.

16 A Yes, sir.

17 Q I did an interview with you a few weeks ago, did I not?

18 A Yes, sir, but I don't want to answer any questions.

19 Q Okay. Did you also do an interview that was videotaped
20 with Chief Smith?

21 A Yes, sir. It was a couple years back.

22 Q Couple years back? And it was in reference to the
23 death of Mr. Rodd, Xavier Rodd, and the allegations were
24 against Mr. Dalonte Green; is that correct?

25 A Yes, sir.

IN CAMERA EXAMINATION
Direct examination of Taylor McQuire by Asst. Sol. Knight

1 Q And you gave a statement on video, did you not?

2 A Yes, sir.

3 Q But you refuse to testify today?

4 A Yes, sir.

5 ASST. SOL. KNIGHT: Your Honor?

6 THE COURT: Mr. McQuire, I need to advise you now that
7 you're under subpoena and you're require to testify. You
8 have the right to claim your Fifth Amendment privilege if
9 you feel that your testimony might incriminate you.
10 However, you cannot just refuse to testify; do you
11 understand that? You're under oath and you have to testify
12 to the truth to the best of your knowledge; do you
13 understand that?

14 MR. MCQUIRE: (NODS HEAD AFFIRMATIVELY.)

15 THE COURT: All right. Ask a question, Solicitor.

16 Q Mr. McQuire, did you tell Chief Smith on the video that
17 you saw the defendant, Dalonte Green, with a gun outside the
18 club?

19 A Yes, sir.

20 Q And that he was hiding behind the van?

21 A Yes, sir.

22 Q And that when Xavier came out of the club, Dalonte
23 stood up -- he was squatting down and he stood up and shot
24 him; is that correct? Is that what you told him?

25 A I was backing out.

1 Q Yeah, but you saw the shooting?

2 A I saw him standing up. I can't say he shot him. I
3 can't say he shot him for sure.

4 Q But you heard the gunshot?

5 A Yeah, I heard the gunshots, but I can't say he shot
6 him.

7 Q Do you know where he was standing at by the van?

8 A Yes, sir.

9 Q Was there anyone else standing by the van other than
10 him?

11 A No, sir.

12 Q And the gunshot that you heard came from the area where
13 the van was?

14 A I mean, I can't say exactly where it came from, because
15 it was just a loud bang.

16 Q There was nobody else outside there?

17 A Huh?

18 Q Nobody else was out there?

19 A Oh, yes, sir.

20 Q Okay.

21 ASST. SOL. KNIGHT: He puts the gun in the hand of the
22 defendant.

23 THE COURT: Anything else on direct?

24 ASST. SOL. KNIGHT: No, sir.

25 THE COURT: For in camera, Mr. Hughes, cross-

1 examination?

2 MR. HUGHES: Not for in camera, Your Honor.

3 THE COURT: Very well. Are you ready to proceed now in
4 the presence of the jury, Solicitor?

5 ASST. SOL. KNIGHT: Yes, sir. Assuming he's not taking
6 the Fifth.

7 THE COURT: Don't make a statement. Are you ready to
8 proceed with this witness?

9 ASST. SOL. KNIGHT: Yes, sir. I'm going to call him as
10 a witness.

11 THE COURT: Have him re-sworn in the presence of the
12 jury. Bring me the jury, please.

13 (11:10 A.M., WHEREUPON, THE JURY ENTERS THE COURTROOM
14 AND THE FOLLOWING IS HELD ON THE RECORD.)

15 THE COURT: Madame Clerk, please swear the witness in
16 the presence of the jury.

17 MADAME CLERK: Place your left hand on the Bible and
18 raise your right hand.

19 (Whereupon, the witness, Taylor McQuire, is duly
20 sworn.)

21 THE COURT: State your full name for the record. Spell
22 your last name for the court reporter.

23 WITNESS: Taylor McQuire, M-C-Q-U-I-R-E.

24 THE COURT: Your witness, counsel, direct examination.

25 ASST. SOL. KNIGHT: Thank you, Your Honor.

1 DIRECT EXAMINATION

2 BY ASST. SOL. KNIGHT:

3 Q Mr. McQuire, you live here in Hampton County?

4 A Yes, sir.

5 Q In Varnville?

6 A Yes, sir.

7 Q Did you graduate from high school?

8 A Yes, sir.

9 Q Any college?

10 A A little.

11 Q A little college? Do you know the defendant, Dalonte

12 Green? A We went to school.

13 Q Okay. Do you know the victim, Xavier Rodd, R-O-D-D?

14 A No, sir.

15 Q You don't know him?

16 A No, sir.

17 Q Were you at the Grays Paradise on December 1st, 2012?

18 A Yes, sir.

19 Q Who did you go to Grays with?

20 A My cousin.

21 Q What is your cousin's name?

22 A Dante.

23 Q Dante who?

24 A Collins.

25 Q Collins. Did you see Clarence Riley and Dalonte Green?

- 1 A Yes, sir.
- 2 Q You got to speak up. I can't understand you.
- 3 A Yes, sir.
- 4 Q Did you talk to either one of them?
- 5 A Um, yeah. Well, I asked one of them for a cigarette.
- 6 Q Okay. Do you recall what kind of clothes Dalonte had
- 7 on?
- 8 A I can't remember.
- 9 Q Okay. Where were you at when you saw Clarence and
- 10 Dalonte?
- 11 A My car.
- 12 Q Your car? Who was in the car with you?
- 13 A My cousin.
- 14 Q Dionte?
- 15 A No, Dante.
- 16 Q Dante? Okay. Did you see Dalonte with a gun?
- 17 A Yes, sir.
- 18 Q How far away were you from Dalonte when you saw him
- 19 with the gun?
- 20 A About from here to that second pew.
- 21 Q Here?
- 22 A Yeah.
- 23 Q It's about 15 or 20 feet?
- 24 A Yes, sir.
- 25 Q Okay, sir. When you saw Dalonte with a gun, where was

1 he at?

2 A Huh?

3 Q When you saw Dalonte with a gun, where was he at?

4 A Like I say, about 15 to 20 feet on the side of me.

5 Q Okay. I'd like to show you State's Exhibit Number One.

6 Do you recognize that?

7 A Yes, sir.

8 Q Where was Dalonte standing at when you saw him with the
9 gun?

10 A He was nowhere in this picture here.

11 Q He was further back?

12 A Yes, sir.

13 Q I show you State's Exhibit Number two. Where was
14 Dalonte at?

15 A He was right about here.

16 Q Here?

17 A Right up in that area, yes, sir.

18 Q Would you place an X where he was at and put your
19 initials by it, please?

20 A (Witness complies.)

21 ASST. SOL. KNIGHT: With permission from the Court, may
22 he step down?

23 THE COURT: He may.

24 ASST. SOL. KNIGHT: Step down, Mr. McQuire.

25 THE COURT: Mr. Hughes, you want to come around outside

1 the jury box so you can see what's being shown to the jury?

2 MR. HUGHES: Thank you, Your Honor.

3 Q Now, you have to speak up so this young lady can hear
4 you. State's Exhibit Number Two, you marked an X right
5 there is where Dalonte was when you saw him with the gun?

6 A That's right.

7 Q All right. You may sit down.

8 A (Witness sits back on the witness stand.)

9 Q Did you ever get out of your car?

10 A No.

11 Q Or your cousin, he didn't get out the car either?

12 A No, nobody.

13 Q When you saw Dalonte with the gun, did he have anything
14 wrapped around the gun?

15 A I can't remember.

16 Q Can't remember? Okay. Was Clarence there outside
17 Grays Paradise at the time the gun went off? Clarence
18 Riley.

19 A (Inaudible.)

20 Q I'm sorry, I can't hear you.

21 A No, sir.

22 ASST. SOL. KNIGHT: Judge, I apologize. I just can't
23 hear him.

24 THE COURT: You've got to speak up for me, Mr. McQuire,
25 so they can hear you. Use the microphone and speak up. Ask

1 a question, Counsel.

2 Q How was the lighting that night?

3 A Dark.

4 Q It was dark. Where you marked on State's Exhibit
5 Number Two, is there lighting on that side of the building?

6 A Yes, sir, a little bit.

7 Q Okay. Once you heard the gun go off, what did you do?

8 A Get out of there.

9 Q Were you driving the car?

10 A Yes, sir.

11 Q Okay.

12 ASST. SOL. KNIGHT: If the Court could indulge me one
13 moment.

14 Q Mr. McQuire, after the shooting and you left, did you
15 tell anybody about it?

16 A Sir?

17 Q Did you tell anybody about the shooting after the
18 shooting?

19 A Me and my cousin was talking.

20 Q Any family members you tell?

21 A Yes, my grandmother.

22 Q Okay. Answer any questions that Mr. Hughes may have.

23 THE COURT: Mr. Hughes?

24 MR. HUGHES: May it please the Court?

25

1 CROSS-EXAMINATION

2 BY MR. HUGHES:

3 Q Good morning.

4 A Morning.

5 Q Where were you parked that night?

6 A On the side of the club.

7 MR. HUGHES: May I approach the witness, Your Honor?

8 THE COURT: You may.

9 Q I show you what's marked as State's Exhibit Five. Is
10 where you parked in that picture?

11 A Yes, sir.

12 Q Where is that?

13 A About right here. (Witness indicating.)

14 THE COURT: Put your initials by it, please.

15 Q And how many cars were in the parking lot?

16 A I can't recall.

17 Q Two?

18 A It was more than two. It was a party going on.

19 Q Ten?

20 A I can't remember. I know it was more than two, but I
21 can't -- I don't know.

22 Q Was the parking lot crowded?

23 A Yes, it was kind of crowded.

24 Q And street lights all over the place at Grays Paradise?

25 A Mostly on the side. They got a little spotlight in the

1 front.

2 Q But it was dark where you say you saw Dalonte?

3 A Sir?

4 Q It was dark where you say you saw Dalonte?

5 A Yes, it was dim light.

6 Q Do you have a cell phone?

7 A Sir?

8 Q Do you have a cell phone?

9 A Yes, sir.

10 Q Did you have it with you that night?

11 A Yeah.

12 Q Call anybody that night?

13 A No.

14 Q But your cell phone was working?

15 A Yeah, it was working.

16 Q Call 9-1-1?

17 A No.

18 Q Did whoever was in the car with you call 9-1-1?

19 A No.

20 MR. HUGHES: No further questions, Your Honor. Oh, one
21 other one if I may.

22 Q Had you been drinking that night?

23 A No, sir. Smoking, but not drinking.

24 Q Smoking pot?

25 A Yes, sir.

1 Q How much?

2 A About a blunt or two.

3 MR. HUGHES: No further questions, Your Honor.

4 THE COURT: Redirect?

5 ASST. SOL. KNIGHT: No, sir. May he be excused?

6 THE COURT: Any objection?

7 MR. HUGHES: No objection.

8 THE COURT: Mr. McQuire, you may step down and you are
9 excused from the trial of this case. Call your next
10 witness.

11 ASST. SOL. KNIGHT: Clarence Riley.

12 (Whereupon, Mr. Clarence Riley enters the courtroom and
13 is duly sworn by the Clerk of Court.)

14 THE COURT: Have a seat on the witness stand. Pull
15 that microphone over to you. Adjust your chair. Speak up
16 for me. State your full name and spell your last name for
17 the court reporter.

18 MR. RILEY: Clarence Riley, R-I-L-E-Y.

19 THE COURT: Your witness, Counsel. Direct examination.

20 DIRECT EXAMINATION

21 BY ASST. SOL. KNIGHT:

22 Q Mr. Riley, did you go to Grays Paradise Club on
23 December 1st, 2012?

24 A Yes, sir.

25 Q Okay. Who did you go to the club with?

1 A Dalonte Green.

2 Q Are you related to Dalonte?

3 A No.

4 Q Do you know Xavier Rodd?

5 A (Shakes head.)

6 THE COURT: You have to say yes or no; you can't shake
7 your head.

8 A No.

9 Q Did you talk to Dalonte that evening before the alleged
10 shooting?

11 A Yes, sir.

12 Q What, if anything, did he tell you?

13 A Nothing. Just wanted to go to the party that day.

14 Q Later that night, what did he tell you?

15 A Nothing.

16 Q Nothing?

17 A No, just chilling.

18 Q Just chilling?

19 A Yeah.

20 Q Okay. So you weren't talking about anything?

21 A No, I mean, just girls and the party, stuff like that.

22 Q Okay. Well, let's -- did you give Dalonte a gun that
23 night?

24 A Yes, sir.

25 Q Okay. Now, why did you give him the gun?

1 A Because he asked for it.

2 Q Okay. Did he give you any reason for wanting a gun?

3 A No.

4 Q Didn't say anything; just wanted a gun?

5 A Yeah.

6 Q Okay. After you gave Dalonte the gun, what did you do?

7 A Went back into the club.

8 Q With who?

9 A With Takea and Tutu.

10 Q When you gave Dalonte the gun, what kind of shirt did
11 he have on?

12 A A white one.

13 Q When you gave him the gun?

14 A A white one.

15 Q A white one?

16 A Yeah.

17 Q I show you State's Exhibit Number Eleven, did he have
18 this on at the time?

19 A It was around his shoulder.

20 Q Oh, it was around his shoulder.

21 A About right here.

22 Q Okay.

23 ASST. SOL. KNIGHT: May I approach the witness, Your
24 Honor?

25 THE COURT: You may.

1 Q This is State's Exhibit Number Eleven. He had it
2 around his shoulder like this? Like this? Or how?

3 A Like this.

4 Q Okay. On the right shoulder, State's Exhibit Number
5 Eleven?

6 A Yeah.

7 Q When you handed him the gun?

8 A Yeah.

9 Q After you handed him the gun, what did you do now?

10 A I went back in the club.

11 Q With a girl?

12 A Back into Grays Paradise with two girls.

13 Q Okay. While inside the club, did you find out about a
14 shooting?

15 A Yeah, because you know it was commotion if somebody
16 says somebody is shooting outside.

17 Q Okay. When you were going back inside the club with
18 two girls, how many people were outside in the parking lot?

19 A That I don't remember.

20 Q A lot or a few?

21 A A few.

22 Q Okay. Did you see Dalonte after the shooting?

23 A Minutes later, yeah.

24 Q Okay. What kind of shirt did he have on then?

25 A Just the white shirt.

1 Q White shirt? Okay. Did you and Dalonte and the girls
2 leave the club?

3 A Yes, sir.

4 Q Where did y'all go?

5 A McDonalds.

6 Q What was Dalonte's attitude while y'all were going?

7 A Well, it was just like somebody like he was running or
8 something, like he just was out of breath.

9 Q Oh, when he came to your car, he was out of breath?

10 A No, that's when he was in the car and we was riding.

11 Q Oh, okay. I got ya.

12 A He was just out of breath.

13 Q I got ya.

14 A He had to catch his breath.

15 Q What was his girlfriend's name; do you recall?

16 A Takea.

17 Q Was she in the car with y'all after the shooting?

18 A Yes, sir.

19 Q What was she doing to Dalonte?

20 A Picking something off his shirt.

21 Q The white shirt?

22 A Yeah.

23 Q Okay. Where did y'all go after the shooting, you and
24 the two girls and Dalonte?

25 A McDonalds.

1 Q McDonalds? Okay. When did you retrieve the gun from
2 Dalonte?

3 A That night.

4 Q That night? Okay. What did you do with the girls and
5 Dalonte that night after y'all left McDonalds?

6 A I dropped Dalonte and his girlfriend off and then I
7 went home; and the other girl, she went with me.

8 Q Okay. You had the gun at that time, right?

9 A Yes, sir.

10 Q What did you do with the gun that night?

11 A I didn't do nothing right then.

12 Q Okay.

13 A But the next day, I did something with it. I didn't do
14 nothing that night.

15 Q What did you do with the gun the next day?

16 A I got rid of it, because I heard that he did something
17 with the gun that I had in my hand.

18 Q Okay.

19 A Shit, I ain't want it. I didn't want it in my hands,
20 if somebody did something with it.

21 Q What did you do with the gun?

22 A I took it to my grandma's house.

23 Q Okay. What did you do with it at your grandmoma's
24 house?

25 A Buried it.

1 Q Buried it? Okay. In the yard? In the woods? Or
2 where?

3 A In the woods.

4 Q Okay. During the party, Ms. Smith's birthday party,
5 did you see Dalonte in the club?

6 A Yeah, we was together.

7 Q I'm sorry?

8 A We was together. You said Dalonte?

9 Q Yeah, inside the club.

10 A We was together.

11 Q Together? And did you see Xavier?

12 A I think I seen him in there.

13 Q Were they close together or not?

14 A No.

15 Q Do you know if they talked to each other during the
16 course of -- while y'all were in the club?

17 A No.

18 Q Prior to Dalonte asking you for the gun, did you see
19 Victor Pope?

20 A I seen him.

21 Q Did you know if Dalonte talked to him?

22 A No.

23 Q Outside the club at that time, just before you gave him
24 the gun, was Dontae Collins out there?

25 A I don't know.

1 Q Where did you have the gun at before you gave it to
2 Dalonte?

3 A On my waist.

4 Q On your waist? Had you been carrying it all night?

5 A Huh?

6 Q Had you been carrying the gun all night?

7 A No.

8 Q Well, where was the gun at then?

9 A In my car.

10 Q In your car? Okay. Dalonte give you any reason for
11 asking for the gun?

12 A No.

13 Q When you gave Dalonte the gun, where was he at; do you
14 recall?

15 A He was over there by that van.

16 Q Okay.

17 ASST. SOL. KNIGHT: May I approach the witness, Your
18 Honor?

19 THE COURT: You may.

20 Q I show you State's Exhibit Number Five. Can you mark
21 where Dalonte was when you gave him the gun?

22 THE COURT: Is there already a mark on there?

23 ASST. SOL. KNIGHT: Yes, sir.

24 THE COURT: Then have him put his initials on it.

25 ASST. SOL. KNIGHT: Yes, sir.

1 Q Put a check mark where you saw Dalonte, and put your
2 initials by it when you handed him the gun.

3 A (Witness complies.)

4 Q Thank you.

5 ASST. SOL. KNIGHT: With permission from the Court, may
6 he step down?

7 THE COURT: He may. Mr. Hughes, you may come around.
8 Mr. Riley, you may step down from the witness stand in front
9 of the jury box with the solicitor. Speak up, please, Mr.
10 Riley. The court reporter has to be able to hear you.

11 Q On State's Exhibit Number Five, you placed a check mark
12 there and your initials where Dalonte was when you gave him
13 the gun?

14 A Yes, sir.

15 Q Okay. Take a seat, please, Mr. Riley.

16 A (Witness complies.)

17 Q Clarence, after giving him the gun, what did you do?

18 A I went back into the club.

19 Q Why did you go back into the club?

20 A Because, I mean, I wanted to go back with Anthony, we
21 were trying to chill. I just wanted to go back in.

22 Q The two girls?

23 A Uh-huh (affirmative).

24 Q Were you concerned about you giving Dalonte the gun?

25 Is that why you went back into the club?

1 A No, I wasn't concerned.

2 Q Were you also charged in this incident?

3 A Yes, sir.

4 Q What were you charged with? Do you recall?

5 A Accessory.

6 Q Okay. Did Xavier have a nickname or a street name?

7 A I ain't never know him.

8 Q You didn't know him?

9 A Unh-unh.

10 Q Did you have any problems that night at the club with
11 anybody?

12 A No, sir.

13 Q Mr. Riley, if you would be so kind to answer any
14 questions that Mr. Hughes may have, okay? You've got to
15 speak up.

16 CROSS-EXAMINATION

17 BY MR. HUGHES:

18 Q Good morning, Mr. Riley.

19 A How you doing?

20 Q Doing fine, sir. What were you wearing that night?

21 A I can't really remember, but I know I had on blue jeans
22 and a red shirt.

23 Q Didn't you also have on a plaid shirt?

24 A Yeah, I did.

25 Q Like that one right there?

- 1 A No.
- 2 Q Similar to that one?
- 3 A No.
- 4 Q But it was a plaid shirt?
- 5 A Yeah.
- 6 Q Now, how much had you had to drink that night?
- 7 A I can't remember all of that.
- 8 Q Had you been smoking any?
- 9 A I don't smoke.
- 10 Q What were you drinking?
- 11 A Coronas, some vodka, and that was about it.
- 12 Q Now, you were charged as accessory to this crime?
- 13 A (Witness nods head.)
- 14 THE COURT: You have to say yes or no.
- 15 A Oh, yes, sir.
- 16 Q Worked out a deal with the Solicitor's Office for your
- 17 testimony?
- 18 A No.
- 19 Q So you're just doing this for no deal whatsoever?
- 20 A No deal.
- 21 Q Not going to get any type of sweetheart deal at all?
- 22 A No, if there ain't something that I don't know about.
- 23 Q Where's the gun?
- 24 A I ain't know.
- 25 Q Did you recover it?

1 A No.

2 Q Take law enforcement to where it was buried?

3 A Yeah.

4 Q Did they dig it up?

5 A No.

6 Q So there's no evidence that you got rid of the gun?

7 A No.

8 Q And you were charged in this crime, also?

9 A Yes.

10 Q And you were wearing a plaid shirt that night?

11 A Yes.

12 Q And it was your -- you think it was your gun that shot

13 Xavier Rodd?

14 A I don't know.

15 Q But you were supposed to have gotten rid of the gun,

16 but you can't find it, even though you buried it?

17 A Yeah.

18 Q Anybody else have a gun there that night that you know

19 of?

20 A No, sir.

21 Q Have you ever gone to Grays Paradise with anybody else

22 that had a gun?

23 A No, sir.

24 Q Why did you have a gun?

25 A Cause I had it, just had it.

1 MR. HUGHES: Begging the Court's indulgence for a
2 second.

3 (Brief pause.)

4 Q How old are you?

5 A Twenty.

6 Q And two years ago, you would have been -- at the time
7 of this you were 17 or 18?

8 A I don't remember.

9 Q When's your birthday?

10 A [REDACTED].

11 Q What year?

12 A 1994.

13 Q So you would have been 18, I believe.

14 A Yeah.

15 Q Where did you get the beer?

16 A Out the club.

17 Q And the vodka?

18 A From the liquor store.

19 MR. HUGHES: No further questions, Your Honor.

20 THE COURT: Redirect?

21 ASST. SOL. KNIGHT: None, Your Honor. We ask that he
22 be excused.

23 THE COURT: Any objection?

24 MR. HUGHES: No objection.

25 THE COURT: Mr. Riley, you may step down and you are

1 excused from the trial of this case. Call your next
2 witness.

3 ASST. SOL. KNIGHT: Rashad Tevin Platts.

4 (Whereupon, Mr. Rashad Kevin Platts enters the
5 courtroom and is duly sworn by the Clerk of Court.)

6 THE COURT: Have a seat on the witness stand. Make
7 yourself comfortable. Pull the chair up. I want you to use
8 that microphone. It's going to amplify your voice. State
9 your full name and spell your last name for the court
10 reporter.

11 MR. PLATTS: Tevin Rashad Platts, P-L-A-T-T-S.

12 THE COURT: Speak up, Mr. Platts, so everybody can hear
13 you in the courtroom. Your witness, Counsel. Direct
14 examination.

15 ASST. SOL. KNIGHT: Thank you, Your Honor.

16 DIRECT EXAMINATION

17 BY ASST. SOL. KNIGHT:

18 Q Do you go by Tevin or Rashad?

19 A Tevin -- or either one.

20 Q I'm sorry?

21 A Either one.

22 Q Okay. Can I call you Tevin?

23 A Yes.

24 Q Tevin, did you go to Grays Paradise Club on December
25 the 1st, 2012?

1 A Yeah.

2 Q Who did you go to the club with?

3 A Dalonte and Clarence.

4 Q Dalonte Green, the defendant, and Clarence Riley?

5 A Yeah.

6 Q You have to speak up, now. You have to answer the
7 questions. You can't shake your head, okay?

8 A Okay.

9 Q I don't mean to preach, but I have to hear you, too.
10 What time did y'all get to the club?

11 A I don't remember.

12 Q Okay. Are you related to Dalonte?

13 A Yes.

14 Q Is he your cousin?

15 A Cousin.

16 Q Do you know Xavier Rodd?

17 A My cousin.

18 Q Is there a street name?

19 A Not that I know of.

20 Q Okay. Who do you see outside of the club later that
21 evening when you decide to leave?

22 A Clarence and Dalonte. I told them I was about to go,
23 so they came to see why I was leaving.

24 Q Okay. Where were they at when you saw them outside the
25 club when you were leaving?

1 A Coming to the car I was getting in.

2 Q Where was the car at that you were getting in?

3 A On the dirt road.

4 Q The dirt road by the stop sign?

5 A Yes.

6 ASST. SOL. KNIGHT: May I approach the witness, Your
7 Honor?

8 THE COURT: You may.

9 Q I show you State's Exhibit Number Three. Is that the
10 stop sign you're talking about?

11 A Yeah.

12 Q On State's Exhibit Number Three, would you place an X
13 where the car was that you got in when you were leaving?
14 And put your initials by it.

15 A By this dirt road here?

16 Q Wherever the car was that you were leaving in. Put
17 your initials by it, please.

18 A (Witness complies.)

19 Q Thank you, sir. Your car was there in State's Exhibit
20 Number Three, right?

21 A I'd say about right there.

22 Q Okay. Where was Dalonte and Clarence at?

23 A On the side I was at.

24 Q That's when you were talking to them when you were
25 leaving?

1 A Yeah.

2 Q Was there anybody else in this area?

3 A There was cars outside.

4 Q Any people walking around?

5 A No.

6 Q No?

7 A Not that I know of.

8 Q Okay. Did you see Victor Polk out there?

9 A I seen him leaving.

10 Q Where was he at?

11 A They was in a truck.

12 Q Victor was in a truck?

13 A Yeah.

14 Q He was leaving at the time you were leaving?

15 A I don't know, I left.

16 Q Okay.

17 ASST. SOL. KNIGHT: That's all I have, Your Honor.

18 THE COURT: Cross-examination?

19 MR. HUGHES: No questions, Your Honor.

20 THE COURT: As to this witness, Solicitor?

21 ASST. SOL. KNIGHT: May he be excused, Your Honor?

22 THE COURT: Any objection, Mr. Hughes?

23 MR. HUGHES: No, Your Honor.

24 THE COURT: Mr. Platts, you may step down from the

25 witness stand and you are excused from the trial of this

1 case. Call your next witness.

2 ASST. SOL. KNIGHT: Your Honor, at this time, the State
3 and the defendant have entered into a stipulation. I would
4 like to publish it.

5 THE COURT: You may publish to the jury. Is-that
6 correct, Mr. Hughes?

7 MR. HUGHES: Yes, Your Honor.

8 THE COURT: You may publish, Solicitor. Ladies and
9 gentlemen, recalling my earlier explanation, a stipulation
10 is an agreement between the parties that a fact is true. In
11 this case, the parties have entered into a stipulation that
12 will be published to you by the Solicitor, rather than
13 calling a witness and having the witness testify. Both
14 sides agree that the facts in the stipulation are correct
15 and true. You may publish, Solicitor.

16 ASST. SOL. KNIGHT: Your Honor, the stipulation is
17 relative to the Hampton County Coroner. The coroner would
18 have testified, and we both agree, as stated that Xavier
19 Rodd died here in Hampton County and that the coroner
20 identified him as Xavier Rodd, and requested an autopsy at
21 the Medical University of South Carolina. The coroner had
22 him transferred to the Medical University of South Carolina
23 for an autopsy.

24 THE COURT: Does the stipulation also include the place
25 of death?

1 ASST. SOL. KNIGHT: Well, Judge, I don't think so
2 because we don't know where he actually died at, to tell you
3 the truth. It could have been in the ambulance, could have
4 been in the airplane above us, it could have been in Hampton
5 County. I'm not going to mislead the Court on the
6 stipulation.

7 THE COURT: Mr. Hughes, has the Solicitor accurately
8 stated the stipulation?

9 MR. HUGHES: Yes, Your Honor.

10 THE COURT: Very well. Call your next witness.

11 ASST. SOL. KNIGHT: May I approach? Mr. Hughes and I?

12 THE COURT: Counsel approach.

13 (Whereupon, a bench conference is held off the record
14 and out of the hearing of the jury.)

15 THE COURT: Mr. Foreman, ladies and gentlemen of the
16 jury, I'm going to stop at this point and let you have an
17 opportunity to get lunch; it's noon. We're going to start
18 back at 1:30 this afternoon.

19 Please do not discuss the case with anyone or with each
20 other. You have not heard all of the evidence in this case.
21 We're arranging to have people come from out of town so that
22 we can start back, because I want to try to get as much work
23 done today so I can get you home in a timely fashion. Thank
24 you very much for your cooperation. You may leave the
25 courtroom at this time. Be back in your jury room before

1 1:30. Thank you.

2 (12:00 P.M., WHEREUPON, THE JURY EXITS THE COURTROOM
3 AND THE FOLLOWING IS HELD ON THE RECORD.)

4 THE COURT: We are in recess until 1:30.

5 (Whereupon, the trial in this case is in recess for
6 lunch from 12:05 P.M. until 1:30 P.M.)

7 THE COURT: Is the State ready to proceed?

8 ASST. SOL. KNIGHT: Yes, sir.

9 THE COURT: Is the defendant ready to proceed?

10 MR. HUGHES: Yes, Your Honor. I have a matter that I
11 need to get your assistance on.

12 THE COURT: Counsel approach.

13 (Whereupon, a bench conference is held off the record.)

14 THE COURT: Let the record reflect that Mr. Hughes
15 tells me has subpoenaed a witness named Johnny Wells,
16 formerly with the Hampton Police Department, and he has not
17 shown, so I have sent Mr. Billy Jarrell to bring him to
18 Court. Is that right, Mr. Hughes?

19 MR. HUGHES: Yes, Your Honor. Thank you.

20 THE COURT: Does that take care of your matter?

21 MR. HUGHES: It does, thank you.

22 THE COURT: Solicitor, is the State ready?

23 ASST. SOL. KNIGHT: I also have a matter. Dontae
24 Collins was subpoenaed to be here. He's not here. I would
25 ask the Sheriff's Department for their assistance in

IN CAMERA HEARING OF JOSEPH SMOAKS
Direct examination of Joseph Smoaks by Asst. Sol. Knight

1 finding him.

2 THE COURT: All right. Who have I got in here from the
3 Sheriff's Department? I want Dontae Collins here. He is
4 under subpoena, Solicitor?

5 ASST. SOL. KNIGHT: Yes, sir.

6 THE COURT: Go get him and bring him. Solicitor, I
7 don't intend to waste this time. Let's go with another
8 witness.

9 ASST. SOL. KNIGHT: Joseph Smoaks, in camera hearing,
10 Your Honor.

11 (Whereupon, Mr. Joseph Smoak enters the courtroom and
12 is duly sworn by the Clerk of Court.)

13 THE COURT: Watch your step right there. Have a seat.
14 She's going to pull that microphone up to you. Begin by
15 stating your full name and spelling your last name.

16 MR. SMOAK: Joseph Smoaks, S-M-O-A-K-S.

17 THE COURT: All right. Your witness, counsel.

18 DIRECT EXAMINATION

19 BY ASST. SOL. KNIGHT:

20 Q Mr. Smoaks, you gave a statement to Chief Tyrone Smith
21 on January 17th concerning the events of the shooting at the
22 Paradise Club on December the 1st, 2012; is that correct?

23 A Correct.

24 Q I interviewed you yesterday and you advised me, and I'm
25 quoting, "I will not testify."

IN CAMERA HEARING OF JOSEPH SMOAKS
Direct examination of Joseph Smoaks by Asst. Sol. Knight

1 A Right.

2 Q Is that correct?

3 A That's correct.

4 THE COURT: Mr. Smoaks, you don't have the right not to
5 testify. You can claim your Fifth Amendment privilege if
6 the testimony were to incriminate you. I have no idea what
7 the testimony is about. Does this testimony involve Mr.
8 Smoaks in any way?

9 ASST. SOL. KNIGHT: No, sir.

10 THE COURT: You can claim the Fifth Amendment
11 privilege, otherwise you're required to answer the questions
12 and I've ordered you to do so. Proceed, Solicitor.

13 ASST. SOL. KNIGHT: I can ask him questions now?

14 THE COURT: Yes, sir.

15 IN CAMERA DIRECT EXAMINATION

16 BY ASST. SOL. KNIGHT:

17 Q Did you have an occasion to meet with Dalonte Green at
18 the Hampton County Detention Center?

19 A Yeah.

20 Q Did y'all go out on rec together?

21 A No.

22 Q Y'all didn't?

23 A Unh-unh.

24 Q Did Mr. Green tell you that Clarence Riley gave him a
25 gun?

1 A No.

2 Q Did Mr. Green tell you he shot Xavier Rodd?

3 A No.

4 Q And that he was going to kill him?

5 A No.

6 Q And did he tell you that he shot Mr. Rodd in the mouth?

7 A No.

8 Q Did you also tell Pastor Brown about this?

9 A No.

10 THE COURT: That's the questions I would ask him, Your
11 Honor.

12 THE COURT: I understand. Any cross-examine of this
13 witness, Mr. Hughes?

14 MR. HUGHES: No, Your Honor.

15 THE COURT: All right. Solicitor, it's my intention to
16 have him re-sworn in front of the jury and then you decide
17 how you want to handle it; do you understand?

18 ASST. SOL. KNIGHT: Yes, sir.

19 THE COURT: Bring us the jury, please.

20 (1:40 P.M., WHEREUPON, THE JURY ENTERS THE COURTROOM
21 AND THE FOLLOWING IS HELD ON THE RECORD.)

22 THE COURT: Madam Clerk, please swear the witness.

23 (Whereupon, Mr. Joseph Smoaks is duly sworn.)

24 DIRECT EXAMINATION

25 BY ASST. SOL. KNIGHT:

1 Q Mr. Smoaks, where do you presently reside?

2 A Say that again.

3 Q Where do you presently live at?

4 A Stay in Estill, Hampton County.

5 Q Are you presently incarcerated?

6 A Yeah.

7 Q Where at?

8 A Turbeeville.

9 Q Okay. Did you give a video recorded statement to Chief
10 Tyrone Smith on January the 17th, 2013, relative to the
11 death of Xavier Rodd and Dalonte Green?

12 A Yes, I did.

13 Q You did?

14 A Uh-huh (affirmative).

15 Q And what did you say in that statement?

16 A I can't remember.

17 THE COURT: Judge, can we refresh his memory by playing
18 the video?

19 THE COURT: Yes, you can.

20 ASST. SOL. KNIGHT: I have it right here.

21 THE COURT: Ladies and gentlemen of the jury, let me
22 know if anyone can't see or hear.

23 (Video begins playing at 1:44 p.m.; video ends at 1:48
24 p.m.)

25 ASST. SOL. KNIGHT: That's all he testified to.

1 THE COURT: Are you finished with showing the video?

2 ASST. SOL. KNIGHT: Yes, sir.

3 THE COURT: Direct examination, Solicitor.

4 ASST. SOL. KNIGHT: Okay, Your Honor.

5 Q Mr. Smoaks, you just saw the video of yourself on
6 January 17th, 2013. Do you recognize yourself?

7 A Uh-huh (affirmative).

8 THE COURT: Don't say uh-huh (affirmative). Say yes or
9 no.

10 A Yes.

11 Q Who was "Monkey" that you were referring to?

12 A I don't know who "Monkey" is. Like I was saying, I was
13 -- I was -- put it like this, I was afraid. The same thing
14 I was telling him, so I heard what somebody else said to try
15 and use my advantage by going to Chief Tyrone and telling
16 him lies.

17 Q So everything you said on January 17th, 2013, was a
18 lie?

19 A Was a lie. And I'm willing to own up to my
20 responsibilities.

21 Q We're not talking about your responsibilities. We're
22 talking about the statement you gave to Chief Smith.

23 A The statement I gave? That statement I gave him was a
24 lie.

25 Q Okay, sir. Answer any questions Mr. Hughes has.

1 THE COURT: Mr. Hughes?

2 MR. HUGHES: No questions for this witness, Your Honor.

3 THE COURT: As to this witness?

4 ASST. SOL. KNIGHT: May he be excused and sent back to
5 Turbeeville?

6 THE COURT: Any objection?

7 MR. HUGHES: No objection.

8 THE COURT: You may step down. You're excused.

9 ASST. SOL. EVANS: Dr. Lee Marie Tormos.

10 (Whereupon, Dr. Lee Marie Tormos enters the courtroom
11 and is duly sworn by the Clerk of Court.)

12 THE COURT: Use that microphone. It's going to amplify
13 your voice. State your full name and spell your last name,
14 please, for my court reporter.

15 DR. TORMOS: My name is Dr. Lee Marie Tormos, T-O-R-M-
16 O-S.

17 THE COURT: Your witness, Counsel. Direct examination.

18 DIRECT EXAMINATION

19 BY ASST. SOL. EVANS:

20 Q Doctor, what are you a doctor of?

21 A I'm a forensic pathologist.

22 Q And where do you practice at?

23 A I practice at the Medical University of South Carolina.

24 Q How long have you been at MUSC?

25 A I am almost at my five year mark.

1 Q And were you in practice before that?

2 A I worked as a medical examiner in Puerto Rico for two
3 years before moving here.

4 Q Can you tell us a little bit about your educational
5 background and training?

6 A Sure. After completing a Bachelor's Degree in general
7 sciences, I took my medical school training at the
8 University of Puerto Rico, and then I did my anatomic and
9 clinical pathology training at the University of Puerto
10 Rico. Then, I worked for two years as a medical examiner,
11 for one year as a surgical pathologist, and then I moved
12 here to South Carolina, to Charleston, specifically,
13 completed my Forensic Pathology Fellowship and have been
14 here at MUSC ever since.

15 Q And that's been about five years?

16 A That was five years ago, almost.

17 Q What do you do on a day to day basis? What is forensic
18 pathology?

19 A Forensic pathology is the examination of the body, both
20 externally and internally, looking for the cause and manner
21 of death of an individual and what leads to the individual's
22 demise.

23 Q And how many times have you looked at a body to
24 determine what the death was caused by in those five years,
25 approximately?

1 A Over a thousand times.

2 Q Have you ever been in a courtroom like this to testify
3 before?

4 A Yes, sir.

5 Q About how many times would you say?

6 A In South Carolina, over 20 times.

7 Q And any other jurisdictions?

8 A No.

9 Q Okay.

10 ASST. SOL. EVANS: Your Honor, at this point, the State
11 would offer Dr. Tormos as an expert.

12 THE COURT: Any objection as to qualifications, Mr.
13 Hughes?

14 MR. HUGHES: As to her being a Forensic Pathologist?
15 None whatsoever, Your Honor.

16 THE COURT: Ladies and gentlemen, you're about to hear
17 the testimony of a witness who claims to have special
18 knowledge, skill, experience, training, or education in the
19 field of forensic pathology.

20 Normally, the law does not permit witnesses to get on
21 the witness stand and give opinion testimony or conclusion
22 testimony. An exception to our opinion rule exists for
23 those witnesses we call expert witnesses. In this case, the
24 Court has qualified the witness in the field of forensic
25 pathology. The witness will be permitted to give her

1 opinion as an expert in the matters in which she claims to
2 be so skilled.

3 In determining the weight to be given such opinion, you
4 should consider the qualifications and the credibility or
5 the believability of the expert, the reasons given for her
6 opinion. You are not bound by such expert opinion. You
7 give it the weight, if any, to which you deem it should be
8 entitled. The witness is qualified, without objection, in
9 forensic pathology. You may proceed, Solicitor. Direct
10 examination.

11 ASST. SOL. EVANS: Thank you, Your Honor.

12 Q Doctor, can you tell us what goes into an autopsy when
13 you encounter a dead body?

14 A Okay. A body is brought to our facility where it is
15 scheduled for an autopsy. At the beginning of the workday,
16 we bring the body into the autopsy room. It looks sort of
17 like an O.R. type thing inside the hospital. We put the
18 body on the table. We examine the body as it arrives to our
19 facility with the clothes on. Then, proceed to remove the
20 clothing, remove any personal effects, gather external
21 evidence that may be deemed necessary, clean the body,
22 examine the body. All of this is being photographed.

23 Then, after taking measurements and documenting
24 everything on our chart, we then proceed to an internal
25 examination where we examine all of the organs by taking

1 them out of the body, weighing them, and examining them on
2 the table.

3 We also take biopsies for examination of the tissue
4 under the microscope and after everything is completed, we
5 send the body to the funeral home, and then wait for other
6 test results to come in, and in approximately 30 to 60 days,
7 find out the final report putting everything together from
8 the investigation, the lab results, our autopsy findings,
9 into one cohesive statement.

10 Q Were you working at MUSC in this capacity in December
11 of 2012?

12 A Yes, I was.

13 Q On December the 2nd were you working?

14 A Yes.

15 Q And did you have occasion on that day to encounter a
16 patient by the name of Xavier Rodd?

17 A Yes.

18 Q And why was that?

19 A We did the autopsy at 9:00 a.m. on December 2nd, 2011.
20 The decedent's name was Xavier Rodd and he was brought into
21 our office because he was, according to the coroner, there
22 was sustaining gunshot wounds.

23 Q And he was deceased at that time?

24 A Yes, sir.

25 Q What did you do when you encountered his body?

1 A We proceeded with the standard autopsy procedure. We
2 examined the body as it came into the autopsy room. Looked
3 at the clothing, looked at the medical intervention,
4 documented everything, and then proceeded with the autopsy.

5 Q What, if anything, did you find?

6 A We found that the decedent had sustained two gunshot
7 wounds.

8 Q And where were those?

9 A Okay, the first gunshot wound was a gunshot wound to
10 the face; specifically, the lower lip. The body when it
11 first arrived at the autopsy room had a lot of blood
12 emanating from the mouth and nose area. The blood had dried
13 and we examined the wound externally, cleaned it up, and
14 then look at the wound internally during the autopsy
15 procedure. The gunshot wound to the mouth entered the right
16 lower lip, right here, and then it proceeded to fracture the
17 teeth, the mandible. It went across the tongue, diagonally,
18 from front to back and towards the left, and then out into
19 the back of the throat. When you open your mouth and look
20 in the mirror, that area right there. The bullet then
21 embedded itself on the back of the throat.

22 We did recover a projectile on the back of the throat
23 on the left side and also a projectile fragment on the
24 tongue. That projectile, particularly, was the lethal
25 projectile, because when it embedded on the back of the

1 throat it lacerated the jugular vein, which is a vein that
2 drains the blood from the brain. And that's why he was
3 bleeding so profusely and he had all that dried blood on his
4 face and his nose. He was also bleeding internally into the
5 chest cavities and it was also going down his windpipe and
6 into his lungs. He was aspirating blood.

7 Q Doctor, what does aspirating mean?

8 A He was breathing in the blood. It was going into his
9 lungs.

10 Q Please continue.

11 A Okay. The other gunshot wounds projectory was deemed
12 non-fatal. It was to the right arm. Specifically, on the
13 medial aspect right above the elbow, right here. It goes
14 upwards and comes out the lateral aspect of the right arm.
15 So it enters near the elbow and comes out the side of the
16 arm. It only hit skin, subcutaneous tissue, and muscle; it
17 did not fracture the bone, and we would have deemed this a
18 flesh wound.

19 Q And what does that mean?

20 A That means that even though it would have been painful
21 to move, it would not have been incapacitating to that
22 extremity.

23 Q So the first shot that you were referring to in his
24 jaw, that was the one that in your final determination was
25 the cause?

1 A The cause of death was the laceration to the jugular
2 vein with the shot that was sustained to the lower lip and
3 across the mouth and into the back of the throat.

4 Q What were the effects that specifically caused his
5 demise? What about what the bullet did, because you talked
6 about several things that it did. What officially and
7 scientifically led to his death?

8 A Scientifically, he bled out. He bled out due to
9 laceration of the vein. He bled out the mouth into his
10 lungs and into his chest cavity.

11 Q So there was blood inside his body, but not in the
12 right place?

13 A There was blood in his chest cavity where it's not
14 supposed to be. There was also blood in his lungs that he
15 breathed in, and there was also a lot of blood that came out
16 of his mouth and his face in general.

17 Q Did you find anything else in examining his body?
18 Anything related to a gun?

19 A Anything related to a gun?

20 Q Yes, ma'am.

21 A No, that was it.

22 Q Were you able to make a determination as to how far
23 this bullet came or find any evidence leading to that?

24 A Okay. Let's start with the bullet wound to the arm.
25 He was wearing a hoodie sweatshirt and we did not receive

1 the right sleeve area. It had been cut off by the emergency
2 responders, and as such, we were not able to examine the
3 clothing. By looking at the wound on the arm, I cannot tell
4 how far away the gun was from the body regarding the arm
5 wound.

6 However, regarding the facial wound, when we examined
7 it externally, as I told you before, he had a lot of blood,
8 dry blood, on his face and we could not see any evidence
9 that would suggest a close range wound on the outside, but
10 when we examined the tissues on the inside, specifically,
11 the tongue, we saw what looked like soot, and we put it in
12 the microscope. We put a section in and examined it under
13 the microscope and there are particles that are consistent
14 with soot on the surface of the tongue. And as such, that
15 tells me that the muzzle of the gun was very, very close to
16 his face.

17 ASST. SOL. EVANS: Begging the indulgence of the Court.
18 Those are all of the questions I have at this time, Your
19 Honor.

20 Q Please answer any questions that Mr. Hughes may have.

21 THE COURT: Cross-examination.

22 MR. HUGHES: Thank you, Your Honor.

23 CROSS-EXAMINATION

24 BY MR. HUGHES:

25 Q Good afternoon, Doctor.

1 A Hi.

2 Q Just a few quick questions. I'm a little confused.

3 You say the jugular was severed?

4 A Yes, the internal jugular vein was severed, yes.

5 Q And approximately how long does it take a person to

6 bleed out if the jugular vein is severed?

7 A I cannot answer that. That depends on a lot of

8 factors, such as how fast the heart is beating, the size of

9 the individual, and the hydration status and their blood

10 volume.

11 Q Rough approximation?

12 A He would have survived several minutes, maybe even an

13 hour.

14 Q Would have been conscious during a lot of this, if it,

15 say, took him 30 to 40 minutes to bleed out, he would have

16 been conscious for a good period of this?

17 A I'm afraid I don't know precisely.

18 Q Would you be surprised to find out that he walked

19 approximately 500 yards after being shot?

20 A I would not be surprised, no.

21 Q Would you be surprised if he talked to people after

22 being shot?

23 A I would be surprised because the gunshot went through

24 his tongue, and his mandible was fractured, so if he talked,

25 then he could very well have uttered sound, but he might not

1 have been easy to understand because of the trauma to the
2 tongue and to the lip.

3 Q But it is possible for him to have talked?

4 A Yes. Yes.

5 Q And something that has bothered me, you said there was
6 blood in his lungs?

7 A Yes, sir.

8 Q And that's because he breathed in?

9 A Yes, as the jugular vein is bleeding into the back of
10 the throat, then the blood starts trickling down and some of
11 it got into his windpipe.

12 Q I have no further questions.

13 MR. HUGHES: No further questions, Your Honor.

14 THE COURT: Redirect?

15 ASST. SOL. EVANS: No, sir, Your Honor.

16 THE COURT: As to this witness?

17 ASST. SOL. EVANS: May she be excused and allowed to
18 return to MUSC.

19 THE COURT: Any objection to this witness being
20 excused?

21 MR. HUGHES: None whatsoever, Your Honor.

22 THE COURT: Doctor, you may step down from the witness
23 stand and you are excused from the trial of this case.
24 Please drive carefully. Call your next witness.

25 ASST. SOL. EVANS: Jennifer Stoner.

1 (Whereupon, Jennifer Stoner enters the courtroom and is
2 duly sworn by the Clerk of Court.)

3 THE COURT: Please have a seat. How are you this
4 afternoon?

5 MS. STONER: I'm good. How are you?

6 THE COURT: Good. That microphone is going to amplify
7 your voice. State your full name and spell your last for
8 the court reporter, please.

9 MS. STONER: Jennifer Stoner, S-T-O-N-E-R.2

10 THE COURT: Your witness, Counsel. Direct examination.

11 ASST. SOL. EVANS: Thank you, Your Honor.

12 DIRECT EXAMINATION

13 BY ASST. SOL. EVANS:

14 Q Ms. Stoner, where do you work?

15 A I work with the South Carolina Law Enforcement Division
16 in the trace evidence section.

17 Q Is that what we normally call SLED?

18 A It is.

19 Q Up in Columbia?

20 A Yes.

21 Q And what is trace evidence?

22 A Trace evidence is one of the divisions in the forensic
23 lab. We analyze a whole different type of evidence. We
24 analyze gunshot residue, paint, fiber, glass, explosives,
25 arson evidence, and tape.

1 Q And how did you learn or where and how did you learn
2 how to analyze these things?

3 A The requirement to be hired in that department was a
4 Bachelor of Science degree in Chemistry, which I received in
5 1997. Upon completion of my degree, I interned in the drug
6 analysis section where I was hired at SLED. I worked for a
7 year there. Then, I transferred into trace evidence and
8 began a three-year training program in that department. I
9 trained under the senior analyst who was a Lieutenant, and I
10 took several classes and courses in continuing education
11 classes since that time.

12 Q And how long has that been overall?

13 A Since 1998.

14 Q You've been in this department of SLED for that time?

15 A Yes, sir.

16 Q Seventeen years?

17 A Yes, sir.

18 Q Approximately how many gunshot residue examinations
19 have you performed over those 17 years?

20 A I've performed or reviewed in excess of 1,000 gunshot
21 residue kits.

22 Q And how many times have you testified in a courtroom
23 such as this?

24 A This will be, I think, 87 times.

25 ASST. SOL. EVANS: Your Honor, at this point, the State

1 would tender Lt. Stoner as an expert in the field of
2 forensic analysis.

3 THE COURT: Any objection?

4 MR. HUGHES: For gunshot residue, I have no objections,
5 Your Honor.

6 THE COURT: Well, he said forensic analysis. You mean
7 trace evidence gunshot residue, Solicitor?

8 ASST. SOL. KNIGHT: Yes, Your Honor.

9 THE COURT: Any objection, Mr. Hughes?

10 MR. HUGHES: None whatsoever.

11 THE COURT: Very well. Ladies and gentlemen, recalling
12 my earlier instruction to you concerning expert testimony.
13 The witness is qualified in the field of gunshot residue
14 trace evidence, without objection. Proceed, Solicitor.

15 ASST. SOL. EVANS: Thank you, Your Honor.

16 Q Lieutenant, did you have the occasion to perform any
17 analysis on the case we're here on today?

18 A On SLED lab number L1215657, I did perform analysis on
19 some clothing.

20 Q And when was that?

21 A The analysis started on 5-17-2013.

22 Q What did you examine at that time?

23 A I examined what was submitted as Item Number 18, which
24 was a blue, white and pink plaid shirt.

25 ASST. SOL. KNIGHT: May I approach the witness, Your

1 Honor?

2 THE COURT: You may.

3 Q Lieutenant, I'm about to show you what's been
4 previously marked as State's Exhibit Number Eleven.

5 ASST. SOL. EVANS: May I approach the witness, Your
6 Honor?

7 THE COURT: You may.

8 A This is actually how the evidence is submitted to us in
9 the laboratory. It comes in a sealed container. They give
10 it a unique lab number and item number. In this case, this
11 shirt was Item 18 and it was in this box. And on the
12 collar, there is the item number, the lab number, and the
13 initials so I can identify these items.

14 Q And who marks that?

15 A This was marked by me.

16 Q Is this the same shirt, then, that you analyzed at that
17 time?

18 A Yes.

19 Q Thank you. Would you walk us through that analysis
20 that you performed on October of 2013 on State's Exhibit
21 Number Eleven?

22 A When we receive clothing for gunshot residue analysis,
23 what the agencies are requesting is that we collect samples
24 from the clothing to determine if there is any gunshot
25 residue present on the clothing. In this case, I have a

1 shirt. I have looked at the box to determine if it was
2 sealed and initialed, and it was, because I have no
3 documentation to indicate otherwise. We open the item up,
4 place it in a clean room where we have what we call white
5 butcher paper, place the item on that and just physically
6 write down a description of what we have. We then take
7 particle lifts, which are very small adhesives, kind of like
8 a Band-Aid adhesive. It's round and it has a holder on it
9 so you can hold it. We take particle lifts from different
10 areas of that shirt to possibly see if there is any gunshot
11 residue present. In this case, I took a sample from the
12 right sleeve, the left sleeve, the right chest, and the left
13 chest area.

14 Q Why do you take samples, as opposed to doing the whole
15 shirt?

16 A What we're looking for is to see if that object was
17 near a weapon when it was fired. If someone is firing a
18 weapon, most of the gunshot residue will be deposited on the
19 front and on the sleeves, which are the areas closest to the
20 weapon. So that is why we concentrate on those areas.

21 Q Let's back up, what is gunshot residue exactly?

22 A Gunshot residue is a term we use to describe elements
23 that are formed when a weapon is fired and they deposit on
24 anything in the vicinity. In this case, we specifically
25 look for barium, antimony and lead. We look for particles

1 that are molten in nature and have those three elements
2 present.

3 Q Why is that indicative of a weapon being fired?

4 A These three elements are found as a primer composition
5 of a weapon. When a gun is fired, there's a high heat, high
6 pressure situation, so when the firing pin is activated and
7 the gun discharges, you have a lot of heat and a lot of
8 pressure. So these elements, these barium, antimony and
9 lead, they become molten and they disperse, and when they
10 dry or when they condense, they will be in a round form and
11 they will contain these elements of gunshot residue.

12 Q And that is consistent across different types of
13 firearms?

14 A It is, unless you are using lead-free ammunition in
15 which you don't see the lead and there are some other
16 military grade ammunition which we actually have not seen,
17 but potentially we could.

18 Q So in this case, you're analyzing a shirt. Is there
19 another type of analysis you could do? Any other things you
20 could look at?

21 A For gunshot residue, in particular?

22 Q Yes, ma'am.

23 A No, not in this case.

24 Q And how long can gunshot residue stay on a shirt such
25 as State's Exhibit Eleven?

1 A Whenever a weapon is fired, it can deposit on a
2 person's hands. If it deposits on your hands, within six
3 hours, there will be no residue left. And that's just from
4 normal everyday activity, sweating, washing your hands,
5 wiping your hands, putting them in and out of your pocket.
6 Anything that you touch will remove that residue. With
7 clothing, it will stay on the clothing until it is
8 physically removed. If you're wearing a shirt and you fire
9 a gun -- if you're hunting and you fire a gun, and you hang
10 that shirt up after your hunting trip, that gunshot residue
11 can stay on there for months if it's not tampered with in
12 your closet.

13 Q What kind of tampering would it take for the residue to
14 be removed?

15 A Wearing it, washing it, any activity or anything
16 touches it can take it off.

17 Q So if it's still and not disturbed, it should stay?

18 A It should.

19 Q What did you find when you analyzed State's Exhibit
20 Eleven?

21 A When I analyzed the shirt, which was our Item Number
22 Eighteen, I found gunshot residue and particles that are
23 consistent with gunshot residue on the shirt.

24 Q And which samples -- or lay it out specifically for us.

25 A On the right sleeve, I found particles of gunshot

1 residue. On the right chest, I found gunshot residue
2 particles and particles that are consistent with gunshot
3 residue. Consistent particles mean that I only had two of
4 the elements that are present. Gunshot residue means that I
5 had barium, antimony and lead. A consistent particle means
6 that I'm missing one of the elements. On the left sleeve, I
7 found gunshot residue and consistent particles. And on the
8 left chest, I found gunshot residue and consistent
9 particles.

10 Q What, if anything, did that indicate to you?

11 A That this shirt was near a weapon when it was
12 discharged?

13 Q Could you say when that occurred?

14 A Could I say when it occurred?

15 Q Yes.

16 A I could not.

17 Q And why is that?

18 A Because the gunshot residue will stay on the shirt
19 until it is physically removed, so the shirt could have been
20 worn the day before, a gun could have been fired, and then
21 the shirt put up and put on again. I cannot timestamp an
22 inanimate object which is clothing. The only thing we can
23 determine within a timeframe is if it's collected on a
24 living person.

25 Q But you were able to reach a conclusion as to whether

1 or not it was near a firearm when that firearm was fired?

2 A I was.

3 Q And what was that conclusion again?

4 A That this shirt was in the vicinity to the discharge of
5 a firearm.

6 Q Those are all the questions I have. Please answer any
7 questions that Mr. Hughes may have.

8 THE COURT: Cross-examination.

9 CROSS-EXAMINATION

10 BY MR. HUGHES:

11 Q I apologize, what is your title?

12 A I'm a Lieutenant.

13 Q Lieutenant, excuse me, you said this was the shirt you
14 examined, State's Number Eleven?

15 A Yes, our Item 18.

16 Q Who does this shirt belong to?

17 A When it was submitted to us, I don't have any knowledge
18 of the collection; I just have what they submit it as. In
19 this case, it was submitted as "a sweatshirt belonging to
20 suspect."

21 Q Okay. But you have no way of knowing that this
22 actually belongs to the suspect?

23 A I do not.

24 Q Okay. Any other piece of forensic evidence on this
25 shirt?

1 A It depends on what the submitting agency asks for. I
2 mean, in this case, if you're just looking for GSR, that was
3 all I was asked to look for. If there is a robbery, I may
4 be asked to look for fibers. In this case, I was not. I
5 think there was a DNA request on this shirt as well, but
6 that is not the department I work in, so I would not have
7 any knowledge of what their report stated.

8 Q So you do not know who this shirt belongs to?

9 A I do not.

10 Q Now, you said gunshot residue stays on clothing until
11 it is removed?

12 A Yes, sir.

13 Q I suppose if I stuffed the shirt in a washing machine,
14 that would remove it?

15 A Yes, sir.

16 Q How about if I left it out in the weather for ten days?

17 A That could remove it, yes.

18 Q Now, did you find anything on the right sleeve?

19 A I did.

20 Q And the left sleeve?

21 A I did.

22 Q And the right front?

23 A The right chest, yes, sir.

24 Q But a person had to be wearing that shirt to get that
25 gunshot residue on it, correct?

1 A Or it could have just been in the vicinity of the
2 discharge of that firearm. More than likely they are being
3 worn for where the residue is deposited.

4 Q And things like weather and washing would get rid of
5 the gunshot residue over a period of time?

6 A Would what?

7 Q Weather and washing would get rid of gunshot residue?

8 A Yes, sir.

9 Q And you don't know when gunshot residue got on that
10 shirt?

11 A I do not.

12 MR. HUGHES: No further questions, Your Honor.

13 THE COURT: Redirect?

14 ASST. SOL. EVANS: Briefly, Your Honor.

15 REDIRECT EXAMINATION

16 BY ASST. SOL. EVANS:

17 Q You testified on cross examination a moment ago that
18 something like leaving your shirt out for 10 days could
19 remove gunshot residue?

20 A Yes.

21 Q But you have no knowledge as to whether it would or did
22 in this case?

23 A In this case, I have no knowledge other than this shirt
24 was submitted to me for analysis.

25 Q And you were able to form an opinion about whether

1 there was any gunshot residue on it?

2 A I was.

3 Q And that opinion was that there was?

4 A That there was gunshot residue on the shirt.

5 ASST. SOL. EVANS: That's all I have.

6 THE COURT: Recross, limited to redirect?

7 MR. HUGHES: No further questions.

8 THE COURT: As to this witness?

9 ASST. SOL. EVANS: Ask that she be excused, Your Honor.

10 THE COURT: Any objection, Mr. Hughes?

11 MR. HUGHES: None whatsoever.

12 THE COURT: Lt. Stoner, you may step down from the
13 witness stand and you're excused from the trial of this
14 case. You may leave the courtroom. Call your next witness.

15 ASST. SOL. KNIGHT: May we approach, Your Honor?

16 THE COURT: Counsel approach.

17 (Whereupon, a bench conference is held off the record
18 and out of the hearing of the jury.)

19 THE COURT: Mr. Foreman, ladies and gentlemen of the
20 jury, I need to take up a quick matter of law. I'll be with
21 you in just a moment. Please retire to your jury room. Do
22 not discuss the case.

23 (WHEREUPON, THE JURY EXITS THE COURTROOM AND THE
24 FOLLOWING IS HELD ON THE RECORD.)

25 THE COURT: Mr. Hughes says he wants time with a

1 witness. Mr. Knight says he wants time with a witness.

2 ASST. SOL. KNIGHT: I want time to find my witness.

3 THE COURT: You can send someone, but the train is
4 going down the track. We will take about ten minutes. I
5 need to see the lawyers in chambers.

6 (2:20 p.m., WHEREUPON, THERE IS A BRIEF RECESS. AT
7 2:30, THE TRIAL RESUMES AND THE FOLLOWING IS PLACED ON THE
8 RECORD.)

9 THE COURT: Is the State ready to proceed?

10 ASST. SOL. KNIGHT: Well, I have one matter, Your
11 Honor. We have a source on my next witness, Dontae Collins.
12 He cannot be found at this juncture. One of two things, I
13 would move for a continuance for the rest of the afternoon
14 to see if we can find him or if we can't get that then I
15 would move that he be picked up for failure to comply with a
16 Court Order.

17 THE COURT: Mr. Hughes?

18 MR. HUGHES: I have no grievance either way, Your
19 Honor. I have no objection to either one of those.

20 THE COURT: Solicitor, do you have any reason to
21 believe if I gave you this afternoon that you could locate
22 him?

23 ASST. SOL. KNIGHT: The only thing that leads me to
24 believe they could locate him is his father is here, his
25 family is here. He's been here all the time. He went in

1 and talked with Chief Smith earlier. He came in, I think,
2 to see us when I interviewed him. That's the only thing,
3 plus he works, but he's not at work today. That's what I
4 was advised by Chief Smith. That's as far as I can tell
5 you. Anything further is I just don't know.

6 THE COURT: Is that your sole remaining witness?

7 ASST. SOL. KNIGHT: Yes, sir.

8 THE COURT: Counsel approach.

9 (Whereupon, a bench conference is held off the record.)

10 THE COURT: Madam Clerk, please swear the defendant.

11 (Whereupon, the defendant, Dalonte Green, is duly sworn
12 by the Clerk of Court.)

13 THE COURT: State your name for the record.

14 DEFENDANT: Dalonte Green.

15 THE COURT: Mr. Green, we have not quite reached the
16 close of the State's case. I understand there is one
17 additional witness and they've asked me for a continuance.
18 Your lawyer tells me that he does not oppose the
19 continuance. He wants additional time to prepare before
20 your case is presented. When the State rests, whether it be
21 this afternoon or tomorrow, you will have the right at that
22 point to testify in your own behalf. However, no one can
23 make you testify; you understand that? It's not your
24 lawyer's decision, it's your decision; you understand that?

25 DEFENDANT: Yes, sir.

1 THE COURT: In the event you have a record for any
2 conviction involving any dishonesty or false statement, or
3 for a crime punishable by imprisonment for more than one
4 year, and this Court determines that the probative value of
5 admitting this evidence outweighs its prejudicial effect to
6 you, the Solicitor would be able to introduce his record for
7 impeachment purposes to attack your credibility or
8 believability.

9 If you elect not to take the witness stand, I will
10 charge the jury that they are not to give the fact that you
11 did not testify any consideration whatsoever. And there is
12 to be absolutely no prejudice to you because you did not
13 testify. The decision as to whether or not you testify will
14 be left entirely up to you. You can certainly talk with
15 your attorney, but the ultimate decision is your decision
16 and not anyone else's. Do you understand that?

17 DEFENDANT: Yes, sir.

18 THE COURT: Have you understood what I've just advised
19 you?

20 DEFENDANT: Yes, sir .

21 THE COURT: Do you wish to testify at this time in the
22 trial of this case?

23 DEFENDANT: No, sir.

24 THE COURT: You do not?

25 DEFENDANT: No, sir.

1 THE COURT: Very well. You may return to your seat.

2 MR. HUGHES: Your Honor, for the record, I do want my
3 client to understand that that decision is his and he can
4 change his decision at any time before the end of the trial.

5 THE COURT: That is correct. Do you understand that,
6 Mr. Green?

7 DEFENDANT: Yes, sir.

8 THE COURT: And this is your decision and not anyone
9 else's decision?

10 DEFENDANT: Yes, sir.

11 THE COURT: Very well. All right, Solicitor, in light
12 of the fact that you have a witness situation that you think
13 you need a little additional time, it's about 12 minutes to
14 3:00, I'm going to grant your motion for continuance since
15 you only have the remaining witness. Mr. Hughes, you will
16 have to be prepared to go forward in the morning, unless you
17 want to go ahead and take testimony out of order at this
18 time.

19 MR. HUGHES: Your Honor, I would prefer to wait until
20 after the State has rested.

21 THE COURT: Very well. In that case, then, the Court
22 continues the case until first thing in the morning. We
23 will start back in the morning. Bring us the jury, please.

24 (2:52 P.M., WHEREUPON, THE JURY ENTERS THE COURTROOM
25 AND THE FOLLOWING IS HELD ON THE RECORD.)

1 THE COURT: Mr. Foreman, ladies and gentlemen of the
2 jury, a matter has arisen that requires me to have to take
3 some additional time that I had not anticipated when we
4 began this trial, but I'm still going to be mindful of your
5 time.

6 We will complete this trial tomorrow, ladies and
7 gentlemen. I need to have some additional time this
8 afternoon, which does not involve you. For that reason, I
9 want to be mindful of your time, so we're going to stop at
10 this point this afternoon. Please be in your jury room
11 prior to 10:00 and please be here on time.

12 I'm going to start back at 10:00 in the morning.
13 Please do not discuss the case with anyone overnight. We
14 will finish this trial promptly in the morning. You may
15 leave the courtroom at this time.

16 (2:54 P.M., WHEREUPON THE JURY EXITS THE COURTROOM AND
17 THE FOLLOWING IS HELD ON THE RECORD.)

18 THE COURT: All right, Solicitor, as to this case,
19 we're continued at your request without objection until
20 10:00 a.m. tomorrow morning. Are there any other matters
21 you wish to call today?

22 ASST. SOL. KNIGHT: No, sir.

23 THE COURT: Mr. Hughes, does the public defender have
24 any matters they wish to call?

25 MR. HUGHES: I do not, Your Honor.

1 THE COURT: This Court is adjourned for the evening.

2 (3:20 P.M., WHEREUPON, COURT IS ADJOURNED IN THE TRIAL
3 OF THIS CASE. COURT IS RESUMED THE FOLLOWING MORNING. AT
4 9:35 A.M., THE FOLLOWING IS PLACED ON THE RECORD OUTSIDE THE
5 PRESENCE OF THE JURY.)

6 THE COURT: Mr. Knight, I gave you a continuance
7 yesterday in order for you to procure a witness who you had
8 subpoenaed who you were not able to get here. I understand
9 you have him now.

10 ASST. SOL. KNIGHT: Yes, sir. I appreciate the
11 continuance for us to get him.

12 THE COURT: And?

13 ASST. SOL. KNIGHT: I have a housekeeping matter before
14 I call him.

15 THE COURT: All right.

16 ASST. SOL. KNIGHT: As you recall, yesterday Joseph
17 Smoaks testified and then we published to refresh his memory
18 and the jury saw what his testimony was with Chief Tyrone
19 Smith.

20 THE COURT: They saw what his statement was earlier
21 with Chief Smith, but Mr. Smoaks said he gave a statement,
22 that was the statement he gave, but he says that the
23 statement was a lie.

24 ASST. SOL. KNIGHT: Yes, sir. I would like to move at
25 this time State's Exhibit Number Twelve into evidence.

1 THE COURT: Mr. Hughes?

2 MR. HUGHES: Your Honor, I have no objection to the
3 jury seeing Mr. Smoaks again.

4 THE COURT: What number would it be?

5 ASST. SOL. KNIGHT: Number Twelve, Your Honor.

6 THE COURT: State's Exhibit Number Twelve will be
7 admitted into evidence without objection.

8 (WHEREUPON, STATE'S EXHIBIT TWELVE, VIDEO STATEMENT, IS
9 RECEIVED INTO EVIDENCE.)

10 THE COURT: Now, Mr. Knight, let's go back to the issue
11 we discussed earlier, and that is the issue of this witness.
12 Do you have him?

13 ASST. SOL. KNIGHT: Yes, sir.

14 THE COURT: Do you want to call him in the presence of
15 the jury?

16 ASST. SOL. KNIGHT: No, sir. I want an in camera
17 hearing.

18 THE COURT: And why do you want an in camera hearing?

19 ASST. SOL. KNIGHT: Because I have a suspicion, only a
20 suspicion, that he is going to refuse to testify.

21 THE COURT: I see. Mr. Hughes, any objection to
22 calling him in camera?

23 MR. HUGHES: No, Your Honor.

24 THE COURT: Very well. Call your witness, Mr. Knight.

25 ASST. SOL. KNIGHT: Dontae Collins.

IN-CAMERA EXAMINATION
Direct examination of Dontae Collins by Asst. Sol. Knight

1 A I mean, I already told them I don't know nothing, so.

2 THE COURT: Well, Mr. Knight can ask you questions, but
3 I'm ordering you to answer them. Proceed.

4 Q Mr. Collins, did you go to the Paradise Club in
5 Varnville on December the 1st, 2012?

6 A Yeah, I went there.

7 Q Who did you go with?

8 A My cousin.

9 Q What's your cousin's name?

10 A Taylor.

11 Q Taylor who?

12 A McQuire

13 Q Okay. Were you in the car with Mr. McQuire the whole
14 time?

15 A Yeah.

16 Q The whole time, you didn't go inside?

17 A No.

18 Q Okay. Did you see Dalonte Green?

19 A No.

20 Q You did not?

21 A No.

22 Q You didn't see him in the corner by the van as being
23 the only person there?

24 A No.

25 Q Okay.

1 ASST. SOL. KNIGHT: That's the questions I would ask
2 him. I would also ask to publish his statement that he gave
3 ---

4 Q Did you give a statement to Chief Tyrone Smith?

5 A I told him I don't know nothing.

6 ASST. SOL. KNIGHT: I would like to publish that
7 statement to the jury at an appropriate time.

8 MR. HUGHES: I would object to that, Your Honor. He is
9 here to testify. There's no need to publish a statement he
10 did earlier.

11 THE COURT: Counsel approach.

12 (Whereupon, a bench conference is held off the record.)

13 THE COURT: Proceed.

14 Q Mr. Collins, did you give a statement in this matter?

15 A I did.

16 Q What were the contents of that statement?

17 A I don't know nothing.

18 Q I can't hear you, sir.

19 A Telling him that I didn't see anything.

20 Q Telling who, sir?

21 A Tyrone.

22 Q Tyrone who, sir?

23 A Tyrone Smith.

24 Q He's the Chief?

25 A Yeah.

IN-CAMERA EXAMINATION
Direct examination of Dontae Collins by Asst. Sol. Knight

1 Q You did not tell him that Dalonte shot the gun?

2 A No.

3 Q You did not tell him that Dalonte was the only one by
4 the van with the gun?

5 A No.

6 ASST. SOL. KNIGHT: Your Honor, I think that's entirely
7 contradictory from the statement he gave to Chief Smith.

8 THE COURT: Is this a written statement?

9 ASST. SOL. KNIGHT: No, it's a video.

10 THE COURT: Mr. Hughes?

11 MR. HUGHES: Your Honor, I would ask if he was under
12 oath when he gave that statement or Your Honor, we just had
13 a prior inconsistent statement. If he wants to testify ---

14 THE COURT: Mr. Knight, I'll allow you to refresh his
15 memory by showing him the statement at this time, and then
16 I'll allow you to explore further before we go any further.

17 ASST. SOL. KNIGHT: Okay.

18 THE COURT: You agree, Mr. Hughes?

19 MR. HUGHES: In camera, no problem, Your Honor.

20 (Whereupon, video equipment is set up. Video statement
21 begins play at 10:13 a.m.; video ends at 10:16 a.m.)

22 ASST. SOL. KNIGHT: That's all I have, Your Honor.

23 THE COURT: Cross-examination?

24 MR. HUGHES: No, Your Honor.

25 THE COURT: All right. Mr. Knight, as to this witness?

IN-CAMERA EXAMINATION
Direct examination of Dontae Collins by Asst. Sol. Knight

1 ASST. SOL. KNIGHT: As to this witness, I would call
2 him when the jury comes in, ask him the same questions, and
3 publish his statement to the jury showing his inconsistency.

4 THE COURT: Very well. Bring us the jury, please.

5 (10:30 a.m., HEREUPON, THE JURY ENTERS THE COURTROOM
6 AND THE FOLLOWING IS HELD ON THE RECORD.)

7 THE COURT: Good morning, ladies and gentlemen of the
8 jury. I apologize I had to take up a matter of law this
9 morning. Thank you for being here on time. Madam Clerk,
10 please swear the witness in the presence of the jury.

11 (Whereupon, Mr. Dontae Collins is duly sworn by the
12 Clerk of Court.)

13 THE COURT: Come on up to the microphone. State your
14 full name and spell your last name for the court reporter.

15 MR. COLLINS: Dontae Collins, D-O-N-T-A-E C-O-L-L-I-N-
16 S.

17 THE COURT: Your witness, Counsel.

18 DIRECT EXAMINATION

19 BY ASST. SOL. KNIGHT:

20 Q Mr. Collins, did you go to Grays Paradise Club on
21 December 1st, 2012?

22 A Yes, sir.

23 THE COURT: Speak up, now.

24 ASST. SOL. KNIGHT: I can't hear you.

25 Q Who did you go to Grays Paradise Club with?

1 A Taylor McQuire.

2 Q Taylor McQuire. Who is Taylor McQuire?

3 A My cousin.

4 Q Okay. Y'all were in the car together?

5 A Yes.

6 Q Did you see Clarence Riley?

7 A No.

8 Q You did not see Clarence. Did you talk to Clarence?

9 A No.

10 Q Did you see Dalonte Green?

11 A (NO RESPONSE.)

12 Q I'm sorry, you have to answer the question.

13 A No.

14 Q You didn't see him at all?

15 A No.

16 Q Do you recall Mr. Collins giving a statement to Chief
17 Tyrone Smith on or about December the 8th, 2012?

18 A Yes.

19 Q You did give him one?

20 A Nods head.

21 Q All right. Was that statement the truth of the matter?

22 A Unh-unh.

23 ASST. SOL. KNIGHT: Your Honor, I'd like to play that
24 videotape at this time to refresh his memory.

25 MR. HUGHES: I have no objections, Your Honor.

1 THE COURT: Proceed.

2 THE COURT: ladies and gentlemen of the jury, let me
3 know if you can't hear, see or understand.

4 (Whereupon, video begins at 10:31 a.m.; video ends at
5 10:34 a.m.)

6 SST. SOL. KNIGHT: May I proceed, Your Honor?

7 THE COURT: Proceed.

8 Q Mr. Collins, the playing of that video refresh your
9 memory of the statement you gave to Chief Tyrone Smith on
10 December 8th?

11 A Yes, but I lied, and I didn't see Dalonte shoot
12 anybody.

13 Q So you lied then?

14 A Yeah.

15 ASST. SOL. KNIGHT: That's all I have with him, Your
16 Honor.

17 THE COURT: Cross-examination?

18 MR. HUGHES: No questions.

19 THE COURT: As to this witness, Solicitor?

20 ASST. SOL. KNIGHT: May he be excused, Your Honor?

21 THE COURT: Any objection, Mr. Hughes?

22 MR. HUGHES: None, Your Honor.

23 THE COURT: Mr. Collins, you may step down and you are
24 excused from the trial of this case. Call your next
25 witness.

1 ASST. SOL. KNIGHT: Your Honor, one other thing. That
2 video that we just played for the Court is on State's
3 Exhibit Number 12. It has already been put into evidence.

4 THE COURT: Mr. Hughes, are you aware of that?

5 MR. HUGHES: I am not, but I would have no objection.

6 THE COURT: No objection? All right. State's Exhibit
7 Number 12 contains the video of Mr. Collins?

8 ASST. SOL. KNIGHT: Yes, sir.

9 THE COURT: And it is in evidence without objection.
10 Mr. Hughes says that he is aware of that and has no
11 objection. Proceed.

12 ASST. SOL. KNIGHT: Your Honor, the State rests.

13 THE COURT: All right. Mr. Foreman, ladies and
14 gentlemen of the jury, I need to take up a quick matter of
15 law. I'm going to ask you to step to your jury room. I
16 will be right back with you. Please do not discuss the
17 case.

18 (10:45 A.M., WHEREUPON, THE JURY EXITS THE COURTROOM
19 AND THE FOLLOWING IS HELD ON THE RECORD.)

20 THE COURT: Mr. Hughes?

21 MR. HUGHES: Your Honor, since the State has rested,
22 I'm going to move to dismiss. No witness has identified my
23 client as the Dalonte Green that people are saying was at
24 Grays Paradise that night. The State has not established
25 any form of identification that this is the person they were

1 talking about.

2 THE COURT: Solicitor?

3 ASST. SOL. KNIGHT: Your Honor, Ms. Smith who had gone
4 to a passion party and then went to the Paradise for her
5 birthday party identified him as Dalonte Green.

6 THE COURT: I also believe there is in evidence now the
7 video statement of Mr. Smoaks, is there not? In which he
8 identified Mr. Green as the -- he denied it on the witness
9 stand, but he gave a statement earlier saying that Dalonte
10 Green was the person who did the shooting at the club; is
11 that correct?

12 ASST. SOL. KNIGHT: That's correct, yes, sir.

13 MR. HUGHES: Your Honor, but they have not identified
14 this gentleman as the Dalonte Green that they are talking
15 about.

16 THE COURT: I believe that goes to the weight, Mr.
17 Hughes, and of course, you had the right to cross-examine
18 any witness to see whether or not they were referring to
19 another Dalonte Green. I believe there is sufficient
20 evidence to submit the case to the jury. Your motion for
21 directed verdict is respectfully denied.

22 MR. HUGHES: Thank you, Your Honor.

23 THE COURT: You and your client come around and be
24 sworn by the clerk, Mr. Hughes.

25 (Mr. Hughes and the defendant, Mr. Dalonte Green,

1 approach the bench and Mr. Dalonte Green is duly sworn by
2 the Clerk.)

3 THE COURT: Step up to the microphone for me. State
4 your full name for the record.

5 MR. GREEN: Dalonte Green.

6 THE COURT: All right, Mr. Green, at this time, I'm
7 going to explain to you again certain of your rights.
8 Solicitor, before we begin, it's my understanding from you
9 at our conference in chambers that Mr. Green does have a
10 criminal record for burglary; is that correct?

11 ASST. SOL. KNIGHT: That's correct. Burglary second,
12 Your Honor.

13 THE COURT: Which you think is impeachable?

14 ASST. SOL. KNIGHT: Yes, sir.

15 THE COURT: And that's the only conviction that you are
16 aware of?

17 ASST. SOL. KNIGHT: Yes, sir.

18 THE COURT: And that's the only conviction that you are
19 aware of, Mr. Hughes?

20 MR. HUGHES: Yes, sir.

21 THE COURT: All right. Mr. Green, I'm going to explain
22 to you certain of your rights. If you do not understand
23 anything that I say, please let me know. If you want me to
24 explain anything in further detail, please let me know. Do
25 you understand?

1 MR. GREEN: Yes, sir.

2 THE COURT: Now, we've reached the stage in the trial
3 where the State has now rested and you may present your
4 defense. You have the right to testify in your own behalf.
5 However, as I told you earlier in the trial, no one can make
6 you testify.

7 In the event you have a record for any conviction
8 involving dishonesty or a false statement or for a crime
9 punishable by imprisonment for more than one year, and this
10 Court determines as a matter of law that the probative value
11 of admitting this evidence outweighs its prejudicial effect
12 to you, the Solicitor would be able to introduce your record
13 for impeachment purposes to attack your credibility or your
14 believability. And it's my understanding you have a prior
15 conviction for burglary, second, is that correct?

16 MR. GREEN: Yes, sir.

17 THE COURT: If you elect not to take the witness stand,
18 I will charge the jury that they are not to give the fact
19 that you did not testify any consideration whatsoever. And
20 there is to be absolutely no legal prejudice to you because
21 you did not testify. You have the constitutional right to
22 remain silent.

23 The burden of proof remains on the State of South
24 Carolina to prove guilt beyond a reasonable doubt. The
25 decision as to whether or not you testify will be left

1 entirely up to you as to whether or not you wish to testify.
2 You told me earlier you didn't think you wanted to, but I
3 told you that you could change your mind and it was entirely
4 up to you. You may talk with your attorney, but it is not
5 your attorney's decision; it is only your decision; do you
6 understand what I've told you?

7 MR. GREEN: Yes, sir.

8 THE COURT: Have you had sufficient time to discuss
9 this with your attorney?

10 MR. GREEN: Yes, sir.

11 THE COURT: Have you made a decision as to whether or
12 not you wish to testify in the trial of this case?

13 MR. GREEN: Yes, sir.

14 THE COURT: And what is your decision?

15 MR. GREEN: No, sir.

16 THE COURT: You do not wish to testify?

17 MR. GREEN: No, sir.

18 THE COURT: And is that your decision and not anyone
19 else's?

20 MR. GREEN: Yes, sir.

21 THE COURT: Did anyone force you into that?

22 MR. GREEN: No, sir.

23 THE COURT: You made that decision of your own free
24 will and accord?

25 MR. GREEN: Yes, sir.

1 THE COURT: Did anyone threaten you into making that
2 decision?

3 MR. GREEN: No, sir.

4 THE COURT: It was your free, voluntary and intelligent
5 decision understanding what I have advised you?

6 MR. GREEN: Yes, sir.

7 THE COURT: Very well. You may return to your seat.
8 Mr. Hughes?

9 MR. HUGHES: Your Honor, I will be calling Johnny Wells
10 to the stand to testify in a dying declaration on the
11 victim's part. I believe the State has an objection to that
12 and I think we might want to get that out of the way before
13 we bring the jury in.

14 THE COURT: Very well. Call your witness in camera so
15 that we can deal with it.

16 MR. HUGHES: Johnny Wells.

17 (Whereupon, Mr. Johnny Wells enters the courtroom and
18 is duly sworn by the Clerk of Court.)

19 THE COURT: Have a seat. Adjust that microphone.
20 It's going to amplify your voice. State your full name and
21 spell your last name for my court reporter.

22 MR. WELLS: My name is Johnny Anthony Wells, W-E-L-L-S.

23 THE COURT: Your witness, Mr. Hughes.

24 MR. WELLS: May it please the Court, Your Honor?

25

IN CAMERA HEARING OF JOHNNY WELLS
Direct Examination of Johnny Wells by Mr. Hughes

1 DIRECT EXAMINATION

2 BY MR. HUGHES:

3 Q Mr. Wells, were you in the vicinity of Grays Paradise
4 the night of December 1st, 2012?

5 A Yes, sir, I was.

6 Q Did you have a chance to talk with Xavier Rodd?

7 A Yes, sir, I did.

8 Q Do you recall what happened that night?

9 A Yes, sir, I do.

10 Q Would you please tell us what happened?

11 A I was working as an officer with the Hampton Police
12 Department, Sergeant, night shift. We got a call, shots
13 fired, at Grays Paradise. I began to respond to the call.
14 And I recall passing by the Department of Motor Vehicles
15 headed towards the call and I waited, I pulled over at that
16 point. I waited for some other officers to arrive, because
17 I felt I needed backup for that type of incident. As I
18 proceeded, some other officers came on scene. We were
19 running code three, blue lights and sirens. One of the most
20 serious calls that we ever face, shots fired.

21 Q Mr. Wells, while we're in camera, let's just go to when
22 you were with Xavier Rodd, okay? Did you meet up with Mr.
23 Rodd that night?

24 A I need you to repeat that. I didn't hear you.

25 Q Were you with Mr. Xavier Rodd that night?

1 A I responded to the scene. I was not with him prior to
2 this incident.

3 Q Okay. After you got on scene, did you have occasion to
4 meet with Mr. Xavier Rodd?

5 A Yes, sir, I did.

6 Q Okay. Just tell the Court what happened after you met
7 with Mr. Xavier Rodd.

8 A I noticed him walking down the street and he was saying
9 he got shot. At the time, you really couldn't see any blood
10 or anything when he said he got shot. He said, "I got
11 shot," that's what he said when I encountered him. And at
12 that time, there was other officers on scene and we was
13 trying to find out who shot him. About that time, he
14 started to fall to the ground and I grabbed him. He was
15 bleeding; blood was all over the place. It was kind of
16 muffled with his talking, but there was something in his
17 mouth, which was a lot of blood, and a lot of blood was
18 coming out, and it was very difficult to understand exactly
19 what he was saying, but he was trying to say something. In
20 my experience with law enforcement and dealing with this
21 type of situation, it appeared to me that he was about to
22 die. So at that time, I never asked him who shot him, there
23 was another officer who asked him who shot him. But I was
24 there; I asked him do he believe in God. And at that time,
25 he spoke clearer than I have ever heard him speak during the

IN CAMERA HEARING OF JOHNNY WELLS
Direct Examination of Johnny Wells by Mr. Hughes

1 whole confrontation. His response was, "Yeah. Yeah, yeah,
2 yeah, yeah, yeah. Yeah." That's what he said when I asked
3 him do he believe in God.

4 And when he said that, in my mind I was thinking of
5 John 3 and 16, "For God so loved the world that He gave His
6 only begotten Son that whosoever believeth in Him should not
7 perish but have everlasting life." So I wanted to make sure
8 that he believed that because I knew that this was a very
9 critical moment. So at that point, I began to pray for him
10 as I held him as he was taking his last breath.

11 Q Did he answer the question of who killed him?

12 A Well, I do believe he said a name.

13 Q Do you recall that name?

14 A Yes, I do.

15 Q What was it?

16 A The name I heard him say at that time was Douglas.

17 Q And you were sure enough to write that time in an
18 incident report?

19 A Yes, sir, I did.

20 MR. HUGHES: Your Honor, that would be basically ---

21 THE COURT: That's your proffer?

22 MR. HUGHES: That's my proffer. Cross-examination.

23 CROSS-EXAMINATION

24 BY ASST. SOL. KNIGHT:

25 Q Mr. Wells, you said he was mumbling and he was spitting

IN CAMERA HEARING OF JOHNNY WELLS
Cross-Examination of Johnny Wells by Asst. Sol. Knight

1 up blood; is that correct?

2 A I said -- yes, I did say that.

3 Q So he was mumbling and spitting up blood, and who was
4 the other officer who was there at the scene when you got
5 there?

6 A I don't know. There were several officers. The
7 particular officer that I recall who asked him the question
8 was Officer Teddy Scott.

9 Q Teddy Scott. And when Teddy Scott asked him the
10 question, where was Teddy Scott at in relation to where Mr.
11 Rodd was at?

12 A We were all within an arm's reach of him.

13 Q Arm's reach? Was Mr. Scott standing up or kneeling
14 down?

15 A He was standing at one point, and then he asked him,
16 "Who shot you?" and he said, "Douglas," and then Teddy said,
17 "What?" He said, "Douglas." He said, "What did you say?"

18 Q Did he repeat himself? "Douglas" more than once?

19 A Yes, he did.

20 Q Even though he is spitting out blood and mumbling?

21 A Yes.

22 Q Okay. Where were you at, at this time?

23 A I was holding Mr. Rodd in my hand.

24 Q In your hand. So you were actually, physically holding
25 him?

IN CAMERA HEARING OF JOHNNY WELLS
Cross-Examination of Johnny Wells by Asst. Sol. Knight

1 A Yes, his blood was on my hands and my body.

2 Q Did he scream out, "Douglas," or just say, "Douglas,"
3 mumble. Can you describe in the mumbling tone that you
4 previously testified to how he said Douglas?

5 THE COURT: Repeat the question.

6 ASST. SOL. KNIGHT: I would ask him to describe -- he
7 said the victim was mumbling. I want him to describe the
8 mumbling and the word Douglas in one sentence.

9 Q How did he do that?

10 A I don't know how he do that.

11 Q But he was mumbling, correct?

12 A He wasn't really mumbling. He answered the question.
13 He was saying, "My mouth, my mouth." I know he said,
14 "Douglas," and he also said, "I don't wanna die." That's
15 what I recall.

16 ASST. SOL. KNIGHT: That's all I have, Your Honor.

17 THE COURT: Redirect?

18 MR. HUGHES: Nothing.

19 THE COURT: Very well. Just stay right there for me.
20 Solicitor, I understand you have an objection to this
21 testimony.

22 ASST. SOL. KNIGHT: Yes, sir. It hasn't been
23 established, A, that the victim, Mr. Rodd, believes death
24 was imminent. I don't hear any testimony either from a
25 medical expert, anybody at the scene, or from EMS -- the

1 people who testified earlier from EMS, none. So that's the
2 problem I'm having with it. I think that's part of the
3 criteria to get a dying declaration in is that the victim
4 believed that death was imminent.

5 THE COURT: Is there also not an issue as to third
6 party guilt, Solicitor?

7 ASST. SOL. KNIGHT: Yes, sir, that's what it appears.
8 There's got to be more testimony from the defendant as to
9 the person, time, and place who did the killing; the third
10 party, so to speak. We don't have anything. As I see the
11 case law, and I'm sure the Court has this case, because I
12 think you showed it to me, State v. Holmes, the criteria it
13 laid out there. Hasn't been met in this case in his
14 testimony at all.

15 THE COURT: Why not?

16 ASST. SOL. KNIGHT: Because there is no testimony
17 evidence to that effect from another person. And we don't
18 know who Douglas is. There is no description of Douglas. I
19 mean, Douglas is just nothing.

20 THE COURT: Mr. Hughes?

21 MR. HUGHES: Your Honor, I cannot identify who Douglas
22 is because of the one witness I have as to who Douglas was.

23 THE COURT: Now, don't get into something that hasn't
24 been testified. We base it on the evidence in this case and
25 not on what you think you could have done.

1 MR. HUGHES: Well, Your Honor, I have a dying
2 declaration.

3 THE COURT: You agree that I also have to evaluate not
4 only -- you agree that it's hearsay?

5 MR. HUGHES: It's hearsay.

6 THE COURT: And you believe that it comes under
7 804(b)(2), which says that in prosecution for homicide, a
8 statement made by a declarant while believing that the
9 declarant's death was imminent concerning the cause and
10 circumstances of what declarant believe to be impending
11 death, it falls within the exception or an exception to the
12 hearsay rule. Is that your position?

13 MR. HUGHES: That is my position.

14 THE COURT: Doesn't the Court have to also evaluate the
15 evidence under South Carolina's third party guilt evidence
16 rule?

17 MR. HUGHES: Well, Your Honor, I'm not exactly saying
18 that the third party did it. I'm just wanting the jury to
19 hear the victim's final words.

20 THE COURT: I understand you do, but it also generates
21 the issue of third party guilt. Since you don't know who
22 Douglas is and there's been no evidence about a Douglas at
23 the scene. What you seek to admit, Mr. Hughes, and I
24 certainly will allow you to call Mr. Wells as a witness
25 since he certainly can testify to what he observed, where he

1 was, who was with him, anything you choose to seek. The
2 question is the question of hearing this statement of
3 Douglas. You seek to admit hearsay evidence under
4 804(b)(2), which says as I told you, a statement made by
5 declarant while believing that declarant's death was
6 imminent concerning the cause or circumstances of what
7 declarant believed to be impending death.

8 The statement can be admissible as a dying declaration
9 as an exception to the hearsay rule. It does not make any
10 difference, Mr. Hughes, from my research, the length of time
11 the declarant lives after making any declaration. That is
12 immaterial.

13 There's a case on that, the Hall case; it's an old one,
14 1926. The problem I see here is that I also have to
15 evaluate it under third party guilt. Evidence that is
16 offered by you, and that's what you're doing in your case,
17 offered by the accused as to the commission of a crime by
18 another person must be limited to such facts as are
19 inconsistent with the defendant's own guilt, and to such
20 facts as raised a reasonable inference or presumption as to
21 his own innocence.

22 Evidence which can have no other effect other than to
23 cast a bare suspicion upon another or to raise a conjectural
24 inference as to the commission of the crime by another is
25 not admissible under our rules for third party guilt. I've

1 looked at a number of third party guilt cases, including the
2 case you provided to me and a number of cases that my law
3 clerk provided to me.

4 The case my law clerk provided to me was Lorenzo v.
5 State, where the victim's father, who was not the defendant,
6 was on the sex offender registry in a criminal sexual
7 conduct with a minor case, and it was held inadmissible
8 under the rule that was pronounced in the Gregory case,
9 which is the oldest case on third party guilt in South
10 Carolina. It's 198, South Carolina 98, 1941. They applied
11 it in the Lorenzo case, 2008. I also looked at the Swafford
12 case, which is 2007, evidence that another person was
13 driving the defendant's vehicle hours before an accident
14 resulting in death was held to be inadmissible as well. The
15 Court, I believe, correctly applied the rule that was
16 established in Gregory.

17 I believe this testimony, Mr. Hughes, the proffered
18 testimony that is being offered by you on behalf of the
19 accused, raises the bare suspicion of third party guilty
20 without any other evidence to support that conclusion.

21 And this Court, following the rule that was announced -
22 - and that assumes that you're correct that this is a dying
23 declaration. But the rule announced in Gregory says that
24 "Evidence offered by the accused as to the commission of a
25 crime by another person must be limited to such facts as are

1 inconsistent with his own guilt, and to such facts as raised
2 a reasonable inference, or presumption, as to his own
3 innocence. Evidence which can have no other effect," in
4 this case the word 'Douglas,' than to cast a bare suspicion
5 upon another or to raise a conjectural inference as to the
6 commission of the crime by another is not admissible."

7 There should have been for me some proof of
8 circumstances with it. Some train of facts or circumstances
9 which tend clearly to point out such other person as the
10 guilty party. Here, I don't have that, and for that reason,
11 Mr. Hughes, the State's objection as to the admission of the
12 testimony is sustained.

13 MR. HUGHES: Your Honor, may I argue?

14 THE COURT: No, sir, no more argument because I've
15 researched this for two days, Mr. Hughes. I think I'm very
16 familiar with it. I think that's sufficient. The record is
17 protected. You've made a proffer of the witness. I've
18 listened to the testimony and allowed you to do it, and I've
19 listened to the argument of the solicitor and you and I've
20 ruled on the matter. I'll be happy for you to call this
21 witness, but I sustain the objection as to the testimony as
22 to what he heard as far as the name.

23 MR. HUGHES: May I place my objection on the record?

24 THE COURT: Your objection is on the record. You
25 opposed the motion of the solicitor and it is noted on the

1 record.

2 Counsel approach.

3 (WHEREUPON, A BENCH CONFERENCE IS HELD OFF THE RECORD.)

4 THE COURT: All right. Mr. Hughes, you asked me for
5 some additional time in order to confer with your client,
6 which I granted to you, in light of my ruling. What is the
7 defendant's decision as to this witness? I told you, you
8 could certainly call this witness. I just ruled on the
9 admissibility of the question involving the answer,
10 "Douglas," and that's the only thing I've excluded as to
11 this witness, and you're certainly free to call him if you
12 so desire or offer any other evidence on behalf of the
13 defendant if you so desire. What is the defendant's
14 decision?

15 MR. HUGHES: I will not call Mr. Wells and I will rest.

16 THE COURT: So it's your intention to rest, which means
17 that you get final argument.

18 MR. HUGHES: Thank you.

19 THE COURT: Very well. As to Mr. Wells, Mr. Hughes,
20 may Mr. Wells be excused from the trial of this case?

21 MR. HUGHES: I'm going to rest, Your Honor. He is free
22 to go.

23 THE COURT: Any objection, Solicitor?

24 ASST. SOL. KNIGHT: No, sir.

25 THE COURT: Mr. Wells, thank you for your patience and

1 your time. Have a nice day.

2 MR. WELLS: Yes, sir. Thank you.

3 MR. HUGHES: Your Honor, to expedite matters, I would
4 rest when the jury comes back in. I would like to renew all
5 of my motions in camera so that we don't have to break and
6 send the jury out.

7 THE COURT: Well, before I bring the jury. Both you
8 and the Solicitor because Mylinda is having a problem
9 getting lunch here, agree that we would break for lunch
10 early and then come back and do argument and charge and let
11 the jury go to lunch. So you'll have plenty of time on
12 that.

13 MR. HUGHES: Okay, sir. Thank you.

14 THE COURT: Isn't that what you told me you preferred?

15 MR. HUGHES: Yes, I would actually prefer that. I do
16 not want to send a jury who is deliberating out of the
17 courtroom.

18 THE COURT: All right. I agree with you, Mr. Hughes, I
19 think that's a smart decision on your part. Solicitor,
20 that's my understanding of what you want as well; is that
21 correct?

22 ASST. SOL. KNIGHT: Yes, sir.

23 THE COURT: All right. Then it would be my intention
24 then to bring the jury back, the State has rested, the
25 defendant tells me he does not wish to testify in this case.

1 I asked him under oath, and in fact, I've asked him twice in
2 this trial. I've ruled on the admissibility of this one
3 question and answer. Mr. Hughes has now decided that the
4 defendant chooses not to put up any evidence.

5 Mr. Hughes wishes to obtain the final argument in this
6 case, which he is entitled to if the defendant does not put
7 up any evidence, so I will call the jury back, let Mr.
8 Hughes rest in the presence of the jury, which he's
9 indicated to me that he is going to, and then I'll send the
10 jury to lunch. We will have a charge conference in my
11 chambers. I will let you examine the verdict form so you
12 can prepare your closing arguments to the jury and I will
13 send the jury to lunch early so we will get that done. Is
14 that suitable with you, Mr. Hughes?

15 MR. HUGHES: Yes, Your Honor.

16 THE COURT: Suitable with you, Mr. Knight?

17 ASST. SOL. KNIGHT: Yes, sir.

18 THE COURT: All right. Bring us the jury.

19 (11:20 A.M., WHEREUPON, THE JURY ENTERS THE COURTROOM
20 AND THE FOLLOWING IS HELD ON THE RECORD.)

21 THE COURT: Mr. Foreman, ladies and gentlemen of the
22 jury, you've heard the evidence from the State. We will now
23 hear from the defendant. Mr. Hughes, you may call your
24 first witness.

25 MR. HUGHES: Your Honor, the defense rests.

1 THE COURT: Very well. Mr. Foreman, ladies and
2 gentlemen of the jury, you've heard all of the evidence in
3 this case, but you have not heard the closing arguments of
4 the attorneys or my charge on the law. Because I have to
5 meet with the attorneys in order to prepare my charge, I'm
6 going to send you on to lunch and let you have a lunch.

7 Please do not discuss this case over lunch. It's
8 11:20. I would very much like for you to be back -- let me
9 ask you this, because I don't know how long it takes you.
10 If I give you an hour and 10 minutes, is that enough time
11 for everyone to get lunch and get back so we can start back
12 at 12:30 to 12:45, or does anyone need longer than that for
13 any reason?

14 JURY: We can.

15 THE COURT: All right. Then, I'm going to start back
16 no later than 12:45. So I will need you to be back by
17 12:30. So please be in your jury room before 12:45. It's
18 now 11:20. Do not discuss this case with anybody or with
19 each other and I'll be back with you. Have a good lunch.

20 (11:21 A.M., WHEREUPON, THE JURY EXITS THE COURTROOM
21 AND THE FOLLOWING IS HELD ON THE RECORD.)

22 THE COURT: Counsel, I need to see y'all in chambers.
23 I need to give sites so that the record is clear in my
24 ruling. I've looked at Holmes v. South Carolina, which is
25 547, U.S., 319, 2006, in making my ruling. The Holmes case,

1 which Mr. Hughes provided, is a United States Supreme Court
2 case which modified the Gregory rule, but I did not
3 consider. After Holmes, the Gregory rule requires the trial
4 judge to consider only the probative value of the potential
5 adverse effects of admitting proffered third party guilt
6 evidence.

7 So applying the Gregory Rule, as altered by Holmes to
8 this case, the reason the Court excluded the proffered
9 testimony of third party guilt as raising a projectural
10 inference without tending to clearly point out that such
11 person was the guilty party.

12 Looking solely at the defendant's proffer evidence, the
13 statement by the witness Wells, that he heard the defendant
14 say the name, "Douglas," this Court determines that there
15 has been no other evidence presented that connects Douglas
16 with the crime and there has been no other evidence
17 presented that there was a Douglas at the scene of the crime
18 to this Court during this trial. And that's the reason for
19 my ruling. The Lorenzo case is 376, SC 521, 2008. The
20 Swafford case is 375, SC, 637, 2007. Gregory is 198, SC,
21 1998. Thank y'all very much. I will look for counsel in
22 chambers.

23 (11:26 a.m., whereupon, the trial in this case is in
24 recess for lunch. At 12:30 p.m., the following is placed on
25 the record.)

1 THE COURT: All right. Let the record reflect that
2 during the break, which both sides wanted, I went over my
3 entire charge and the verdict form with counsel. Counsel
4 know exactly what I'm going to charge. They know everything
5 that is on the verdict form. They've agreed to the verdict
6 form and they have no additional requests to charge, other
7 than what we've been over in our charge conference in
8 chambers. Is that correct, from the State?

9 ASST. SOL. KNIGHT: Yes, sir.

10 THE COURT: Is that correct, from the defendant?

11 MR. HUGHES: Yes, Your Honor.

12 THE COURT: In addition, because Mr. Hughes did not put
13 up any evidence, he gets the closing argument. Solicitor,
14 how long do you need?

15 ASST. SOL. KNIGHT: Your Honor, I'd be amazed if I went
16 past 15 or 20 minutes, absolutely amazed.

17 THE COURT: Mr. Hughes, how long do you need?

18 MR. HUGHES: No more than 30.

19 THE COURT: Then, you both will get 30. To remind you
20 when you get to 25 minutes, you will hear the familiar
21 tapping of my pen to let you know five more minutes and to
22 wrap it up. The Solicitor will argue first, followed by Mr.
23 Hughes. Is everyone agreeable with the order of argument?

24 ASST. SOL. KNIGHT: Yes, sir.

25 THE COURT: Mr. Hughes?

1 MR. HUGHES: Yes, Your Honor. Your Honor, a
2 housekeeping matter, at this time, I would like to renew my
3 motions on the record.

4 THE COURT: Let the record reflect, that at the close
5 of all the evidence and the defendant has rested, Mr. Hughes
6 is renewing his motions made at the close of the State's
7 case for the record, and for the reasons enunciated. When I
8 ruled at the close of the State's case, I declined to change
9 my ruling on the motion for directed verdict at the close of
10 all the evidence in the case, so noted for the record, Mr.
11 Hughes.

12 MR. HUGHES: Thank you, Your Honor.

13 THE COURT: Anything further from the State before I
14 bring the jury?

15 ASST. SOL. KNIGHT: No, sir.

16 THE COURT: From the defendant?

17 MR. HUGHES: No, Your Honor.

18 THE COURT: Are you both ready now to proceed?

19 ASST. SOL. KNIGHT: Yes, sir.

20 THE COURT: Mr. Hughes?

21 MR. HUGHES: Yes, Your Honor.

22 THE COURT: Bring me the jury, please.

23 (12:40 P.M., WHEREUPON THE JURY ENTERS THE COURTROOM
24 AND THE FOLLOWING IS HELD ON THE RECORD.)

25 THE COURT: Mr. Foreman, ladies and gentlemen of the

1 jury, you've heard the evidence in this case. You will now
2 hear the closing arguments of the attorneys, followed by my
3 charge on the law. I ask you to give the attorneys your
4 careful consideration. Mr. Knight.

5 ASST. SOL. KNIGHT: May it please the Court, Your
6 Honor?

7 THE COURT: Proceed.

8 CLOSING ARGUMENT

9 Mr. Foreman, ladies and gentlemen of the jury, I'm
10 going to briefly speak to you about the law that I'm relying
11 upon. The judge will charge you the law. He will do a
12 much, much better job than I can. It's my understanding
13 that murder is the unlawful killing of another with malice
14 aforethought. What is malice? It imports a witness,
15 intentional killing, intending to do it. Aforethought means
16 if you decide to do the fatal blow at exactly the time you
17 do it. I'll give you an example of malice, and I think it
18 applies in this case. Lying in wait for a person or another
19 of the defendant going to show that he can commit that act.
20 You've heard testimony about the defendant was by a van,
21 lying in wait for Xavier Rodd to come by; that's the best
22 example I can give you.

23 Now, also, the credibility of the witnesses. That's
24 called the believability of the witnesses. In other words,
25 you can believe one witness versus many witnesses. You can

1 believe part of a witness statement or all of a witness
2 statement; it's left up to you. It's not the number of
3 witnesses that testify. For instance, I had a potential
4 witness list that had 25 people. I only called 10 or 15. So
5 it's not the number of witnesses. It's how that witness
6 handled himself on the witness stand. Was he biased? Was
7 he prejudiced in testifying one way or the other? And only
8 you can make that decision as to his or her credibility.

9 Then we have what we call circumstantial evidence.
10 Circumstantial evidence is this, you got direct evidence on
11 this hand. A person saw an act occur with his eyes, right
12 there he saw it. Then you have circumstantial evidence;
13 that's what we call indirect evidence. The State has to
14 prove a chain of circumstances pointing to the existence of
15 a fact. Prove facts a, b, and c, and they in turn prove d,
16 for instance. That's the best example I can give you.
17 Again, the judge is going to charge you in a much better and
18 articulate manner than I ever will.

19 I call this case, I gave it a nickname. It's called
20 the ambush at the Paradise Club on December the 1st, 2012.
21 You heard testimony. The defendant is standing by the van
22 waiting for Xavier to come out and shoots him; not once, but
23 twice. That's just an example of why I'm calling it the
24 ambush at the paradise Club on December the 1st, 2012.

25 Now, we had officers testify. Chambers testified that

1 the victim, when he arrived, was spitting up blood.
2 Couldn't make out what he was saying. Teddy Scott, for
3 instance, asked him who shot him and he says he couldn't
4 make out what he was saying. He was mumbling and he tried to
5 get him to write who shot him. He couldn't even write,
6 couldn't even make it out.

7 Markeisha Smith, that was the young lady who was having
8 the birthday party at the Paradise Club. She identified the
9 defendant as being in the club. Also, pictures were taken
10 on her IPAD, which you will have up there and can take back
11 to your jury room and look at it. She identified the
12 defendant in that picture as being at the party. And more
13 importantly, she identified the shirt he was wearing at the
14 party.

15 So he's at the party in State's Exhibit 11, I believe,
16 the same shirt that is recovered later by Chief Smith. Then
17 we get to the next witness, Taylor McQuire. Taylor was
18 outside the club in his car with his cousin, Dontae Collins.
19 If you recall, Mr. Collins was the last witness, I think, we
20 put up. They were chatting with different people that came
21 by and left.

22 Mr. Taylor said he saw Clarence Riley give the
23 defendant a gun. Remember this, Taylor McQuire saw Clarence
24 Riley give the defendant a gun, okay? When you come to
25 Clarence Riley's testimony, what did Clarence say? "I gave

1 Dalonte a gun." They corroborated each other's testimony.
2 And remember, Mr. Taylor McQuire is in a vehicle parked.
3 He's with Dontae Collins. He said he saw the defendant
4 beside the van and he marked it on one of the exhibits, I
5 can't remember which number, when Mr. Xavier Rodd came out
6 of the club. Another thing interesting he saw, he said the
7 gun was wrapped in cloth, some kind of cloth. And he had,
8 what? He said the defendant had State's Exhibit Number 11
9 on his shoulder. Now, corroborate the shooting of a gun and
10 gunshot residue and Lt. Jennifer Stoner testified that there
11 was gunshot residue on the left sleeve, right sleeve, right
12 front, left front. It's all corroborating together,
13 corresponding with each other.

14 Rashad Tevin Platts, his testimony was very interesting
15 because he saw the defendant outside the club at this time.
16 Again, the defendant is not inside the club, he's outside.
17 And another thing he described the lighting conditions
18 around the club where he was at. He said it was well-lit.
19 He could see everything. He said there was a light on that
20 side of the club, one on the front. Different areas he
21 described where the lights were, so we're not at issue of it
22 being totally dark where you couldn't see anything, which
23 would give the ability of Mr. McQuire to see what he
24 testified to. So it all corroborates with each other.

25 Next is Clarence Riley. Clarence, you know, he just

1 said, "Look, I gave him the gun. I don't know what he was
2 going to do with the gun." But once he gave him the gun,
3 what did Clarence do? He said he went into the club I think
4 with two females. After the shooting, he goes outside with
5 the females. Then, he said he saw the defendant come back
6 to the vehicle. He was like out of breath from running, but
7 he didn't have a plaid shirt on his shoulder anymore. He
8 only had a white t-shirt on and while he was in the car,
9 somebody was pulling off thorns off his t-shirt.

10 He identified, "he" being Mr. Riley, identified
11 State's Exhibit Number 11 as the shirt that the defendant
12 had on and had on his shoulder at the time. Very
13 consistent. Very, very consistent. He also stated that the
14 defendant gave him the gun back. What did you do with the
15 gun? He told you he went to his grandmother's house, took
16 the gun into the woods and buried it. The gun has not been
17 found. Law enforcement officers searched for it, but didn't
18 find it. So we've got the defendant in the club with the
19 plaid shirt on. We've got him outside with the plaid shirt
20 over his shoulder, and then after the shooting, he comes
21 running back, out of breath like he had been running, and
22 the shirt is no longer there.

23 Chief Smith found the shirt nine or ten days later in
24 the wooded area. Sent it to SLED and had it analyzed by the
25 SLED agent, her name was Lt. Jennifer Stoner, and again, Ms.

1 Stoner testified that she found gunshot residue on the left
2 sleeve, right sleeve, right front, left front.

3 Now, the question arises, how long will this gunshot
4 residue stay on a shirt? As I recall her testimony, it can
5 stay on there forever unless what? You put it in a washing
6 machine and wash it, or two, if it had rained outside. It
7 obviously didn't rain, because if the Chief didn't find it
8 nine or ten days later, that means the gunshot residue is
9 still there, it didn't rain. There was no damage to the
10 shirt.

11 Then we have our favorite friend, Mr. Joseph Smoaks.
12 You got to like Joseph, because Joseph initially contacted
13 Chief Smith and said, "I need to talk to you." What did he
14 tell Chief Smith at the time? He said that he was on rec --
15 that's walking around, exercising with the defendant, and
16 the defendant told him he killed a boy. The defendant told
17 him Clarence Riley gave him the gun and that he gave the gun
18 back to Clarence. And he shot the boy in the mouth. This
19 is what the defendant is telling Joseph.

20 Another thing that's interesting, he also -- "he" being
21 Joseph Smoaks talked to who? Clarence Riley. And what did
22 Clarence Riley tell him? "I gave him the gun, after the
23 shooting, I went and hid the gun," at his grandma's house.
24 Now, that testimony of Joseph Smoaks corroborates Clarence
25 Riley's testimony on the stand, giving him the gun, and

1 after the shooting, taking the gun and putting it in the
2 woods. It's all together like a glove.

3 The pathologist testified that this was a brutal,
4 brutal injury resulting in the death of Xavier Rodd. The
5 bullet went into the mouth, I think the right side, she
6 said. Went across the tongue and blood was just all over
7 the place, and that was the proximate cause of death of
8 Xavier Rodd. I remember her testimony. And if I'm mis-
9 stating a fact, or facts, that's wrong, I don't do it
10 intentionally, you have the right to have Ms. Becky play it
11 back if you see a different view than I see it. So I'm just
12 telling you, you have that right.

13 Dontae Collins. Dontae went in with Chief Smith I
14 think on the 8th of December 2012 and he told Chief Smith,
15 and you saw the video, the defendant shot the gun and more
16 importantly, that the defendant was the only one by the van.
17 No one else was out there, just the defendant by the van.
18 Now, what Taylor McQuire said, "Where was the defendant?"
19 "At the van." They corroborate each other as to what
20 occurred on December 1st, 2012. You say, Well, he's saying
21 he lied at that time. He said it was lie. His moma was
22 there. His moma. With Chief Smith and some other police
23 officer. Would you lie if your moma's there? Would you lie
24 if your moma was there?

25 I have an opinion, but I'll let you make that decision,

1 because I can't make it for you. I can only submit to you
2 for consideration. You will have the opportunity to look at
3 all of the exhibits that I'm referring to. I think we have
4 11 or 12. Exhibit 12 is the video and the exhibits of how
5 the club was. We had certain people place a mark and their
6 initials by it where people were standing, i.e., the
7 defendant in this case. I don't know if any of you are
8 familiar with where Grays Paradise Club is. If not, these
9 photographs should identify the location here in Varnville,
10 here in Hampton County.

11 For instance, going back to the credibility of
12 witnesses, and I don't know if I said this or not, but I'm
13 going to make sure you understand it. You can believe one
14 witnesses over another witness. For instance, I had a
15 potential juror list of 25 people; could only call 10 or 11.
16 So it's not the number of witnesses. It's what the
17 witnesses testify and their demeanor on the stand. Only one
18 person can decide. The judge can't decide. You must decide
19 their credibility. That's their testimony in this case.

20 I submit to you, ladies and gentlemen, that the State
21 has proved to you beyond a reasonable doubt that Dalonte
22 Green shot and killed Xavier Rodd. Thank you so much.

23 THE COURT: Mr. Hughes?

24 MR. HUGHES: May it please the Court?

25 CLOSING ARGUMENT

1 I promised you yesterday morning that I would come back
2 in front of you and I would tell you that this would not be
3 like anything you ever saw on television, and it wasn't,
4 because television has to be believable, has to make sense.
5 The first thing I'm going to do is I'm going to talk to you
6 about evidence.

7 The State has made a big deal on where people may have
8 saw Dalonte Green. People have marked on these photographs
9 where Dalonte Green may have been. SLED was there that
10 night. This is a concrete parking lot. This is a man shot
11 in the mouth and died by bleeding out. Have you heard where
12 Xavier Rodd was shot? Did anybody with SLED or law
13 enforcement come up and say, "There's blood. Here's blood
14 over here. Here is where he was shot." No.

15 This is a shirt. I have shirts like this. Is there
16 any evidence that this shirt was involved in this crime
17 whatsoever? There's gunshot residue on it. There's gunshot
18 residue on it after it had been lying outside for 10 days in
19 December in Hampton County. It's not that hard to get a
20 weather report. All they had to do was contact the weather
21 service and say it was dry. But December in Hampton County
22 -- y'all live here. You know how it is. Dew in the
23 morning, rain in the day, cold, hot. You want a change in
24 temperature in Hampton County, wait a day; it's going to
25 happen. Don't like the weather, wait a day. It will be

1 different tomorrow.

2 Now, we had a young lady that Mr. Knight called to
3 testify that this shirt -- this shirt. She also testified
4 that she could tell that that person in that picture is my
5 client. Now, I have looked at this picture and it's very,
6 very difficult to see anything. It's actually better if you
7 look at it from a distance than if you look at it up close.
8 Y'all will have this in the jury room.

9 But if you look at it from a distance, you're able to
10 see a black male wearing a plaid shirt and he's going bald.
11 That's a receding hairline. Dalonte Green is not this
12 person. Dalonte has a full head of hair. Makes me mad, I
13 don't. Makes Mr. Knight mad, too.

14 SLED was there that night. Law enforcement from
15 Varnville, Hampton were there that night. SLED, I believe,
16 the Chief testified showed up the next morning looking for
17 evidence and for some reason or other, they weren't able to
18 find this shirt located next to an abandoned house 50 yards
19 from Grays Paradise in the daytime sitting out in the open.

20 It wasn't until 10 days later, for some reason or
21 another, somehow or other, Chief Smith found this shirt that
22 just happens to be covered with gunshot residue after
23 staying out in the weather for 10 days. Now, who does this
24 shirt belong to? Well, it says Bill Blass, but I'm going to
25 assume that's the guy that made it, not the person who owns

1 it. It's made in the Ukraine. Now, since it doesn't say on
2 the shirt who it belongs to, there's a very easy way to
3 tell. You've all seen it on television. You've all heard
4 of those three little letters. DNA.

5 We heard the SLED lady mention DNA. She didn't do it.
6 Someone else in her area did it. I didn't hear any
7 testimony from anybody about whose DNA is on that shirt.
8 Why not? That's the question you have to ask.

9 This is the only evidence that the State is going to
10 show you. The only evidence they have, a shirt, found 10
11 days later after being out in the weather, but somehow or
12 another still managing to cover itself with gunshot residue.

13 Let's talk about the witnesses. Teddy Scott, Varnville
14 Police Department. Gets on the scene, says the victim's
15 talking. Asked the victim to write down what happened. Gets
16 a slip of paper that has writing on it. He can't tell what
17 it is. They sent it to SLED. Why aren't y'all seeing it?
18 Now, remember when he wrote this, according to the EMT, he
19 was stable. His blood pressure and heart rate were fine.
20 He was having trouble breathing. Why can't y'all at least
21 try to figure out who Xavier Rodd was writing down on that
22 piece of paper?

23 Mr. Chambers, he was there, but all he testified to was
24 who all else was there. Ms. Ford, the EMT, remember she's
25 the one who said he was in stable condition. She's the one

1 that called the helicopter. But he was still alive when he
2 left that scene. He might not have been able to say what
3 happened, and y'all will never be able to know what he wrote
4 down.

5 Markeisha Smith. Markeisha Smith has a very, very
6 interesting fashion memory. She can remember that Dalonte
7 Green was wearing this shirt. Now, I can remember yesterday
8 that some of y'all were wearing plaid, but I can't tell you
9 what color plaid. She had just talked to Mr. Knight,
10 standing this close as I am to this witness stand, but she
11 couldn't remember what color tie he had on. But somebody at
12 her party she could remember what they were wearing two
13 years ago. Remember, you're the one who decides who is
14 believable.

15 Chief Smith found a shirt ten days later even after
16 SLED investigated and missed it. Taylor McQuire. Taylor
17 McQuire was stoned that evening. He admitted it. He had
18 been smoking. And may have seen Dalonte Green with a gun.
19 Now, remember we're talking about Grays Paradise where
20 Clarence Riley went with a gun that he admitted to.

21 Now, Clarence Riley is an interesting case. Clarence
22 Riley is the one who was supposed to have the gun. He
23 brought the gun with him. He had the gun when they left.
24 He buried the gun. Now, you've got to ask yourself if you'd
25 buried a gun, do you remember where it was? He says he

1 didn't. You've got to remember it's your decision who to
2 believe. You believe that you got evidence that can get you
3 of trouble, because he was charged in this matter. And he
4 says there was no deal and that he was testifying out of the
5 goodness of his heart, but you're the one who has to believe
6 this. You get to believe if he had a gun.

7 Rashad Platts. Related to both the defendant and the
8 victim. Saw Clarence, Dalonte at the club, and he saw
9 Xavier in the truck. Now, we could have called the coroner
10 here, but the State and I both agreed that we didn't need
11 to. Remember, we promised you we would do this as fast as
12 possible. We both agreed that this did happen in Hampton
13 County and the person who died was Xavier Rodd.

14 Then we get to the guy we had after lunch. Mr. Joseph
15 Smoaks, the jailhouse snitch. You can watch his testimony
16 interview again. You have that right. It's in evidence. I
17 agreed to it. You want to see it? Just ask the judge and
18 he will let you see it. The thing that is truly amazing
19 about that testimony is there is nothing new in what he
20 said. Everything he said is what law enforcement already
21 knew. I'm going to let you decide how he only knew what law
22 enforcement knew and remember, you can judge a person. You
23 can judge their demeanor. Please judge his demeanor. Watch
24 the video.

25 Dr. Lee Tormos, I apologized to her for mispronouncing

1 her name. She testified to what happened to Xavier Rodd.
2 He bled out, it could take up to an hour. Combined with
3 what the EMT said about him being in stable condition, makes
4 you wonder what was on that sheet of paper.

5 Jennifer Stoner, SLED agent. Gunshot residue all over
6 this shirt. What can get rid of it? Washing it. Rain.
7 The elements. Why does this shirt still have gunshot
8 residue on it if it's been out for 10 days?

9 Dontae Collins, another video y'all can watch if you
10 want to. Please watch it if you want to. It is fun to
11 watch. That is the best example I have ever seen of
12 suggesting the answers to questions. As a lawyer, we are
13 trained not to ask leading questions. For example, I can't
14 say, "Now, isn't it true that this shirt is blue?" It is
15 blue. But that is suggesting the answer. If I say, "What
16 color is this shirt?" Then you get an unsuggested answer.
17 Dontae Collins' interview is nothing but leading questions
18 that suggest the answer that Chief Smith wanted to hear.
19 Watch it again, please.

20 The solicitor says, "Who's gonna lie when their moma is
21 in the room?" I think everybody knows who is gonna lie when
22 moma is in the room, because you don't lie when moma is in
23 the room you're gonna get in a lot more trouble.

24 Truth beyond a reasonable doubt is required to come
25 back with a guilty verdict. Ladies and gentlemen, there is

1 so much that could have been done in this case, but wasn't.
2 So many answers that could have been -- so many questions
3 that could have been answered, but weren't. Put people on
4 the stand, swear to tell the truth, the whole truth, and
5 nothing but the truth. Now, that is what this Court is
6 about, truth. Verdict means truth. And what we are not
7 getting is the whole truth. But there are still questions
8 not getting the whole truth. And if you don't get the whole
9 truth, you cannot convict Dalonte Green of murder, because
10 without the whole truth you have to have reasonable doubt,
11 and if you have reasonable doubt, you cannot find him
12 guilty. It's as simple as that.

13 What happened that night? I don't know. I know that
14 Xavier Rodd died. I also know that we don't know the
15 answers to who or even where Mr. Rodd was shot. You cannot
16 find Dalonte Green guilty because the State has proven
17 nothing. The State could have proven a lot more. Where is
18 the sheet of paper? You're the finders of truth. You have
19 something written by Xavier Rodd, but you don't have it.
20 You can't look at it and go, "Well, he could have meant
21 this," because law enforcement and the State decided y'all
22 didn't need it.

23 I'm sorry this isn't like anything you've seen on
24 television. I'm sorry it wasn't drawn out. I'm sorry there
25 wasn't an answer. Mr. Rodd's family is right there and

1 would love to have an answer, but they don't have one today.
2 Dalonte Green is not guilty of murder. Thank you.

3 JURY CHARGE

4 Mr. Foreman, ladies and gentlemen of the jury, it is
5 now my duty to charge you the law on this case. The State
6 of South Carolina has charged the defendant in this
7 indictment which I hold in my hand, Indictment number 2013-
8 GS-25-00031. I remind you, first of all, the fact that the
9 defendant was arrested, the fact that the defendant was
10 charged, the fact that the defendant was indicted in this
11 case is not evidence in this case, nor does it create any
12 presumption or inference of guilt.

13 This document which we call an indictment, which I hold
14 in my hand, is simply the formal written instrument by which
15 the case is brought into this court, the Court of General
16 Sessions. It is the formal document in which the case is
17 brought to the Court.

18 To the indictment, the defendant has pled not guilty,
19 and that plea of not guilty by the defendant puts the burden
20 on the State to prove the defendant guilty beyond a
21 reasonable doubt. A person charged with committing a
22 criminal offense in South Carolina is never required to
23 prove himself innocent.

24 I charge you, ladies and gentlemen of the jury, that
25 it's an important rule of the law that the defendant in a

1 criminal trial, no matter what the seriousness of the charge
2 may be, will always be presumed to be innocent of the crime
3 for which the indictment was issued, unless guilt has been
4 proven by evidence satisfying you of that guilt beyond a
5 reasonable doubt.

6 This presumption of innocence does not end when you
7 begin your deliberations, but it accompanies the defendant
8 throughout the trial until you reach a verdict of guilt
9 based on evidence satisfying you of that guilt beyond a
10 reasonable doubt.

11 A presumption of innocence is not a mere legal theory.
12 It is not just a legal phrase. It is a substantial right to
13 which every defendant is entitled, unless you, the jury, are
14 satisfied from the evidence of the defendant's guilt beyond
15 a reasonable doubt.

16 What is a "reasonable doubt" in the law? A reasonable
17 doubt is the kind of doubt that would cause a reasonable
18 person to hesitate to act. The State has the burden of
19 proving the defendant guilty beyond a reasonable doubt.
20 Some of you may have served as jurors in civil court, like a
21 contract case, a wreck case, where in civil court if you
22 were a juror, you were told that it is only necessary to
23 prove that a fact is more likely true than not true. We
24 call that burden of proof in a civil case by the greater
25 weight or the preponderance of the evidence.

1 In a criminal case, ladies and gentlemen of the jury,
2 the State's proof must be more than that. It must be beyond
3 a reasonable doubt. Now, proof beyond a reasonable doubt is
4 proof that leaves you firmly convinced of the defendant's
5 guilt.

6 There are very few things in this world that we know
7 with absolute certainty, and in criminal cases, ladies and
8 gentlemen, the law does not require proof that overcomes
9 every possible doubt. If, based on your consideration of
10 the evidence, you are firmly convinced that the defendant is
11 guilty of the crime charged, you must find the defendant
12 guilty. On the other hand, if you think there's a real
13 possibility that the defendant is not guilty, you must give
14 the defendant the benefit of the doubt and find the
15 defendant not guilty.

16 I remind you, ladies and gentlemen, that during this
17 trial, you and I have had certain duties to perform. As the
18 trial judge, it's been my responsibility to preside over the
19 trial of the case, and I also have the duty to rule on the
20 admissibility of evidence offered during the trial of this
21 case.

22 You are only to consider, ladies and gentlemen, only
23 the competent evidence before you. If there was any
24 testimony ordered stricken from the record in this case
25 during this trial, you should disregard that testimony. You

1 are to consider only the testimony which has been presented
2 from the witness stand, any exhibits which have been
3 introduced into evidence during the trial of the case, and
4 if there were any stipulations between the parties that have
5 been published to you by counsel during the trial of the
6 case.

7 I, also, as the presiding judge, have the additional
8 duty to charge you the law that applies to this case. As
9 the presiding judge, I told you that I am the sole judge of
10 the law in this case, and it is your duty as jurors, under
11 that oath you took at the beginning of this trial, it's your
12 duty to accept and to apply the law exactly as I now state
13 it to you.

14 If any of you on this jury already have any idea as to
15 what you think the law is, or even what you feel the law
16 ought to be, and it does not agree with what I now tell you
17 the law is, you must abandon any of your preconceived ideas
18 or opinions, because each of you took an oath from the Clerk
19 of Court. And in that oath, you swore that you would accept
20 the law as given to you, and apply the law exactly as I now
21 state it to you.

22 In every case tried in this Court before a jury, the
23 jury becomes the sole and the exclusive judges of the facts
24 in the case based on evidence introduced during the trial of
25 this case. A trial judge, such as myself, cannot intimate,

1 state, comment on, or make any type of statement to a trial
2 jury, such as you, about the facts in a case.

3 You are not to infer from what I have said during the
4 progress of this trial in ruling upon the admissibility of
5 evidence or otherwise, or anything that I say now during the
6 course of this instruction to you, that I have any opinion
7 whatsoever about the facts in this case.

8 The law does not allow me to have an opinion about the
9 facts in this case. This is a matter solely for you, the
10 jury, to determine. As jurors, then, it is your duty to
11 determine the effect, the value, the weight and the truth of
12 the evidence that's been presented during the trial of this
13 case.

14 Now, I instruct you and charge you, ladies and
15 gentlemen, that the fact that the defendant did not testify
16 in this case is not a factor to be considered by you in any
17 way in your deliberations in your consideration on the
18 question of the guilt or innocence of the defendant. It
19 must not be considered by you in any manner whatsoever.

20 The defendant has the constitutional right to remain
21 silent and the assertion of that constitutional right must
22 not be considered by you in your deliberations. So you are
23 to draw no conclusion whatsoever from the fact that the
24 defendant in this case did not testify. That should not be
25 discussed in your jury room. The burden of proof, as I've

1 stated to you, is on the State of South Carolina.

2 The defendant is not required to prove his innocence.
3 The burden of proof remains on the state to prove guilt
4 beyond a reasonable doubt.

5 Now, ladies and gentlemen, in a trial we have names for
6 many things. We have rules about evidence, about the order
7 of argument, and in a trial, there are two types of evidence
8 that are generally presented. And like many things in the
9 law, we have names for those general types of evidence. The
10 two types of evidence presented during a trial are called
11 direct evidence and circumstantial evidence.

12 Direct evidence, ladies and gentlemen, is testimony of
13 a person who claims to have actual knowledge of a fact, such
14 as an eyewitness to an event. Direct evidence is evidence
15 which immediately establishes the main fact to be proved.

16 Circumstantial evidence, as contrasted with direct
17 evidence, is proof of a chain of facts and circumstances,
18 indicating the existence of a fact. Circumstantial evidence
19 is evidence which immediately establishes a collateral fact
20 from which the main fact may or may not be inferred.
21 Circumstantial evidence is based on inference and not on
22 personal knowledge or personal observation.

23 The law makes absolutely no distinction between the
24 weight or the value to either direct evidence or
25 circumstantial evidence nor is a greater degree of certainty

1 required of circumstantial evidence than of direct evidence.

2 Ladies and gentlemen of the jury, you should weigh and
3 consider all of the evidence in this case. You should
4 consider all the evidence in this case, both direct and
5 circumstantial evidence. After weighing and considering all
6 the evidence in this case, if you're not convinced of the
7 guilt of the defendant beyond a reasonable doubt, you must
8 find the defendant not guilty.

9 On the other hand, after weighing and hearing and
10 considering all the evidence in this case, if you're
11 convinced of the guilt of the defendant beyond a reasonable
12 doubt, you must find the defendant guilty.

13 Necessarily, ladies and gentlemen, you must determine
14 the credibility, meaning the believability, of the witnesses
15 who have testified during the trial of this case. It is
16 going to become your duty as a juror to analyze and to
17 evaluate the evidence, and determine which evidence
18 convinces you of its truth.

19 In determining the believability, or the credibility,
20 of the witnesses who have testified in this case, you may
21 believe one witness over several witnesses. You may believe
22 several witnesses over one witness. You may believe a part
23 of the testimony of a witness and reject the remaining part
24 of the testimony of that same witness. You may believe the
25 testimony of a witness in its entirety, or you may reject

1 the testimony of a witness in its entirety.

2 You may consider whether any witness has demonstrated
3 to you any interest, or bias, or prejudice or other motive
4 in this case. You may also consider the appearance and the
5 manner of the witness while the witness is on the witness
6 stand. We call it the demeanor of the witness in
7 determining the believability of the witnesses who have
8 testified in the trial of the case.

9 Now, I charge you, ladies and gentlemen, that there has
10 been evidence presented that witnesses have made prior
11 statements which are not consistent with the witness's
12 present testimony. You may use this evidence to decide
13 whether or not to believe a witness's testimony. You may
14 also use evidence of the earlier contradictory statement to
15 determine the truth of those statements. It is up to you,
16 ladies and gentlemen, to decide whether to believe the
17 earlier statement or the testimony given at trial.

18 If a witness has shown to you to have knowingly
19 testified untruthfully concerning any material matter, you
20 may consider this in determining whether to trust the
21 witness's testimony as to other matters.

22 You may reject all testimony of that witness or give
23 all or part of the testimony the weight that you as a jury
24 feel it deserves.

25 Now, ordinarily, ladies and gentlemen, as I told you

1 during the trial of this case, the rules of evidence
2 ordinarily do not allow a person to get on this witness
3 stand and take the oath and say, "My name is so-and-so, and
4 my opinion is so-and-so." That's prohibited. So we don't
5 allow witnesses normally to testify to a conclusion or
6 opinion.

7 An exception to our opinion rule exists for those
8 witnesses whom we call expert witnesses. A witness who by
9 education, training, experience has become, or claims to
10 have become, an expert in some art, science, or profession
11 may give an opinion as to the subject the witness claims to
12 be an expert in. They also give the reasons for his or her
13 opinion. You should also consider any expert opinion given
14 by a witness, and like any other evidence in this case, give
15 it the weight you think it deserves.

16 If you decide that an expert witness's opinion is not
17 based on sufficient education and experience or if you
18 decide that the reason given in support of an opinion are
19 not sound or that the opinion is outweighed by other
20 evidence, you may disregard the opinion entirely. An expert
21 witness's testimony is to be given no greater weight than
22 that of other witness's simply because the witness is an
23 expert. And you do not have to accept an expert's opinion
24 even though some contradict it.

25 I charge you, ladies and gentlemen, you've heard the

1 term during this trial stipulation. A stipulation is an
2 agreement, an admission, or concession made in a judicial
3 proceeding or trial by the parties thereto or their
4 attorneys. Stipulations are binding upon those who make
5 them. A stipulation is an agreement, an understanding.
6 The Court and the jury must accept stipulations as binding
7 upon the parties who make them. If counsel for the parties
8 in this case have stipulated to any fact or any fact has
9 been admitted by counsel, you will regard that fact as being
10 conclusively proved as to the party or parties making the
11 stipulation or admission.

12 Now, in order to establish criminal liability or
13 criminal responsibility, criminal intent is required. Let
14 me give you some examples. It is the mental state required
15 to be proven by the State for a particular crime; and I'm
16 going to give you examples of criminal intent.

17 Criminal intent might be purpose. It might be intent.
18 It might be knowledge. It might be recklessness, or even in
19 some cases what we call criminal negligence. Those are
20 examples of criminal intent. Criminal intent must be proven
21 by the State beyond a reasonable doubt. Criminal intent is
22 always a matter that must be determined by the jury from the
23 circumstances surrounding the situation based on the
24 evidence introduced during the trial of the case.

25 Now, ladies and gentlemen, there is no way to prove

1 intent to a mathematical certainty. There is no way that
2 medical science can dissect a person's brain and determine
3 what that person or determined what that person had in mind.
4 So the law says, ladies and gentlemen, that criminal intent
5 may be inferred from the circumstances shown to have
6 existed, based on the evidence introduced during the trial
7 the case.

8 This, ladies and gentlemen, is how you, as a jury, make
9 the determination of whether or not any element in any crime
10 requiring a certain intent was present. It is not necessary
11 to establish intent by direct evidence, but intent may be
12 established by inference, in the same way as any other fact,
13 by taking into consideration the acts of the parties, and
14 all the facts and consideration and circumstances of the
15 case, based on evidence introduced during the trial of the
16 case.

17 Criminal intent is a mental state. It is a conscious
18 wrongdoing. It is up to you, the jury, from the evidence,
19 to determine what the defendant intended to do, based on the
20 circumstances shown to have existed from evidence introduced
21 during the trial of the case. Criminal intent can arise
22 from action or failure to act. It can arise from
23 negligence, recklessness, or an indifference to duty, or the
24 consequences considered by the law to be the equivalent of
25 criminal intent.

1 Now, ladies and gentlemen, I have charged you in this
2 case that the defendant is charged with the criminal offense
3 of murder. For this offense, the State must prove beyond a
4 reasonable doubt that the defendant killed another person
5 with malice aforethought.

6 Malice is hatred, ill-will, or hostility towards
7 another person. It is the intentional doing of a wrongful
8 act without just cause or excuse and with an intent to
9 inflict an injury or harm. Malice aforethought does not
10 require that malice exist for any particular time before the
11 act is committed, but malice must exist in the mind of the
12 defendant just before and at the time the act is committed.
13 Therefore, there must be a combination of the previous evil
14 intent and the act itself.

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

20 Express malice is shown when a person speaks words
21 which express hatred, ill-will, or hostility for another
22 person, or when a person prepared beforehand to do the act
23 which was later accomplished. For example, lying in wait
24 for a person or any other act of preparation going to show
25 that the deed was within the defendant's mind would be

1 express malice. Malice may be inferred from any conduct
2 showing a total disregard for human life based on evidence
3 introduced during the trial of this case

4 Now, Mr. Foreman, I told you I would prepare the
5 verdict form for you and the jury. Pay absolutely no
6 attention to the order in which I wrote the verdicts. I
7 obviously had to write one before the other and the order
8 has no significance whatsoever.

9 Now, I have placed the title and case number at the
10 top. The title says, "State of South Carolina, County of
11 Hampton." State of South Carolina v. Dalonte Green,
12 defendant. I put "Court of General Sessions," which is
13 criminal court, and I put the indictment number, and I wrote
14 the word "verdict."

15 Under that caption, I have placed the following
16 question: We, the jury, by unanimous consent, find the
17 defendant, Dalonte Green, in indictment number 2013-GS-25-
18 00031 and the first form of verdict under that Question One
19 is guilty of murder. If that be your form of verdict, Mr.
20 Foreman, you would check on the line beside that form of
21 verdict.

22 The second form of verdict under Question One is not
23 guilty of murder. If that be your form of verdict. You
24 would check on the line beside that form of verdict, and
25 then you would sign your name on the verdict form where it

1 says Foreperson, I've already put in today's date and
2 Hampton, South Carolina.

3 You must find one form of verdict or the other. You
4 cannot find both. Your verdict must be unanimous. That is,
5 it must be the verdict of each and every one of you. All 12
6 of you must agree on a verdict.

7 Now, Mr. Foreman, do not leave the courtroom after your
8 verdict is published, because my law clerk knows that
9 whatever you write on this verdict form -- you see me
10 handing the indictment to him. He's going to want you to
11 write the exact same words on the indictment where it says
12 verdict, and sign your name on the indictment consistent
13 with the verdict form. So don't leave without signing the
14 indictment.

15 Now, Mr. Foreman, and ladies and gentlemen of the jury,
16 I've now charged you on the law in order to help guide you
17 to a just result in this case. You're the sole judges of
18 the facts in this case based on evidence introduced during
19 the trial of this case, and based on your determination of
20 the facts in this case and on the law as I've explained it
21 to you, you are soon going to begin your deliberation.

22 Each of you have been selected as impartial and fair
23 jurors. You were sworn in your oath to fairly and
24 impartially try and determine the facts in this case, and
25 when you do comply with your oath, no one can criticize your

1 verdict. You are to decide this case based solely on the
2 testimony you've heard from the sworn witnesses who have
3 testified before you, along with the exhibits and
4 stipulations, if any, that occurred.

5 You will have all of the exhibits in the jury room with
6 you with the exception of the exhibits which would have to
7 be shown by the equipment that I have out here, and if you
8 need to see those exhibits, knock on your jury room door and
9 tell the bailiff. We will bring you back in the jury room
10 and set up the equipment and let you view those exhibits if
11 you so desire during your deliberations.

12 You must decide the issues in this proceeding without
13 any bias or prejudice toward either of the parties in this
14 case. Do not allow yourself to be governed by prejudice for
15 or against any person. You can't allow yourself to be
16 governed by public opinion or by any other arbitrary
17 factors, such as your own emotions.

18 You must base your decision solely on the evidence in
19 this case. Both the defendant, Dalonte Green, and the State
20 of South Carolina have the absolute right to expect that
21 each of you on this jury will carefully and impartially
22 consider all of the evidence in this case and that you will
23 follow the law as I have instructed it to you to be in
24 reaching your verdict in this case.

25 Now, ladies and gentlemen of the jury, I'm going to ask

1 you at this time if you would retire to your jury room. Do
2 not begin your deliberations quite yet. I may have to bring
3 you back out for some brief additional instructions. When
4 it is time for you to begin your deliberations, I will send
5 the verdict form in to you, along with all of the exhibits
6 which have been introduced into evidence during the trial of
7 the case, and have the bailiff inform you that you may now
8 begin your deliberations. Please retire to your jury room.
9 My alternate jurors, please remain in the courtroom with me.

10 (1:45 P.M., WHEREUPON, THE JURY EXITS THE COURTROOM AND
11 THE FOLLOWING IS HELD ON THE RECORD.)

12 THE COURT: To my alternate jurors, all a judge can do
13 is ask you to listen and listen carefully, and I watched you
14 during the trial of this case and each of you did that. I
15 have some good news for you. I told you I would get you
16 home early this week.

17 This concludes your service and because no one became
18 ill or for some reason couldn't continue to serve, you are
19 now excused for the balance of the week. This concludes
20 your jury service. You're exempt from jury service for
21 three years by virtue if you choose to claim the exception,
22 by virtue of your service this week. I hope it's been an
23 educational experience for you. Your check is in the mail,
24 right, Mylinda?

25 CLERK: Yes, sir.

1 THE COURT: We'll be sending you a check for your jury
2 service at the address we sent your summons. If either one
3 of you need to have a work excuse, where do they need to go,
4 Mylinda?

5 CLERK: In my office downstairs.

6 THE COURT: If you will go to the Clerk's office
7 downstairs, we will be happy to provide a work excuse for
8 you. If you want to talk to anyone about your service, you
9 can do so, but you don't have to. If somebody comes up and
10 wants to ask you to critique the case and you don't want to
11 talk to them about it, just tell them you don't want to talk
12 to them about it. If they persist, get their name, give it
13 to me, and I'll handle that problem. If you want to talk to
14 them, that's fine. I thank you very much for your service.
15 Any questions or comments? Did we treat you okay?

16 JURY ALTERNATES: Yes, sir.

17 THE COURT: Anything you want to ask me?

18 JURY ALTERNATES: No, sir.

19 THE COURT: Have a great day. You are now excused from
20 the courtroom.

21 (1:48 P.M., WHEREUPON, THE ALTERNATE JURORS IN THE
22 TRIAL OF THIS CASE ARE EXCUSED FROM THE COURTROOM.)

23 THE COURT: Any exceptions or additions to the charge,
24 from the State?

25 ASST. SOL. KNIGHT: None, Your Honor.

1 THE COURT: From the defendant?

2 MR. HUGHES: No, Your Honor.

3 THE COURT: Very well. Counsel, I ask you to come
4 forward to certify on the record by telling me when I ask
5 you that you're satisfied the court reporter has all of the
6 exhibits, and you have no objection to the bailiff taking
7 the verdict form, which you previously approved in chambers,
8 as well as all of the exhibits in to the jury, and the
9 bailiff informing the jury that they may now commence their
10 deliberations, with the exception of the two exhibits which
11 will require the video showing of statements, and as to
12 those exhibits, they will need to remain with the court
13 reporter by agreement of counsel and I expect you to so
14 state. Please come forward.

15 ASST. SOL. KNIGHT: Yes, sir, I agree to that. It's
16 State Exhibit Number Twelve.

17 THE COURT: There's another one, isn't it?

18 ASST. SOL. KNIGHT: No, sir. Both of them are on the
19 same exhibit.

20 THE COURT: You agree, Mr. Hughes, that State's Exhibit
21 12 remains in the courtroom?

22 MR. HUGHES: Yes, sir.

23 (WHEREUPON, COUNSEL FOR THE STATE OF SOUTH CAROLINA AND
24 COUNSEL FOR THE DEFENDANT REVIEW ALL EXHIBITS AND CONFIRM
25 THEIR APPROVAL.)

1 THE COURT: Is the State so satisfied that the court
2 reporter has all of the exhibits?

3 ASST. SOL. KNIGHT: Yes, sir, Your Honor.

4 THE COURT: And you agree to keep Exhibit 12 here?

5 ASST. SOL. KNIGHT: Yes, sir.

6 THE COURT: Does the State have any objection to the
7 bailiff taking the verdict form and all of the exhibits,
8 with the exception of Exhibit 12 into the jury and telling
9 the jury they may now commence their deliberations?

10 ASST. SOL. KNIGHT: No, sir.

11 THE COURT: How about from the defendant?

12 MR. HUGHES: No objection, Your Honor.

13 THE COURT: All right. Give all of the exhibits to the
14 bailiff, except for State's Exhibit Twelve. Danny, if you
15 will take the verdict form and the exhibits into the jury
16 and tell them they may now commence their deliberation.

17 (1:50 P.M., WHEREUPON, THE VERDICT FORM AND THE
18 EXHIBITS ARE TAKEN INTO THE JURY ROOM FOR THE JURY'S
19 DELIBERATION.)

20 THE COURT: All right. Counsel, as to this case, we
21 will be at ease while we await the jury's verdict.

22 (3:05 P.M., THE BAILIFF INFORMS THE COURT THAT THE JURY
23 HAS REACHED A VERDICT. THE DEFENDANT, DALONTE GREEN, IS
24 BROUGHT INTO THE COURTROOM AND SEATED AT THE DEFENSE TABLE.)

25 THE COURT: All right. I understand from the bailiff

1 that the jury has reached a verdict. Anything from the
2 State before we publish the verdict?

3 ASST. SOL. KNIGHT: No, Your Honor.

4 THE COURT: From the defendant, Mr. Hughes?

5 MR. HUGHES: No, Your Honor.

6 THE COURT: Ladies and gentlemen, in my audience, I'm
7 getting ready to have the jury publish their verdict. I
8 will not tolerate any outbursts, emotional or otherwise. If
9 you cannot control your emotions, I will ask you to leave the
10 courtroom. Bring us the jury, please.

11 (3:15 P.M., WHEREUPON THE JURY ENTERS THE COURTROOM AND
12 THE FOLLOWING IS HELD ON THE RECORD.)

13 MADAM CLERK: Mr. Foreman, have you reached a verdict?

14 MR. FOREMAN: Yes, ma'am, we have.

15 THE COURT: Will the defendant please rise?

16 (MR. HUGHES AND DEFENDANT, DALONTE GREEN, STAND.)

17 THE COURT: On Indictment 2013-GS-25-00031, the State
18 of South Carolina v. Dalonte Green, we, the jury, by
19 unanimous consent, find the defendant, Dalonte Green, guilty
20 of murder. Ladies and gentlemen of the jury, if that be
21 your verdict, would you please indicate by raising your
22 right hand?

23 THE COURT: Let the record reflect that 12 hands were
24 raised. Mr. Hughes, anything further from this jury, from
25 the defendant, before I excuse the jury?

1 your service in this case.

2 Now, Mr. Foreman, I need you to stay there, because my
3 law clerk is going to come around and get you to sign the
4 exact same thing on the indictment that you put on the
5 verdict form.

6 Ladies and gentlemen, sentencing in this case is going
7 to take place right now. If you would like to stay, we
8 would love for you to. You can sit right there in the jury
9 box and you don't even have to move, because I'm going to go
10 straight into sentencing of Mr. Green and if you would like
11 to stay for that, I would be happy for you to. However, if
12 you would like to leave the courtroom and not remain for
13 sentencing, you may leave at this time. You can step out
14 through this door. You are now excused.

15 (BRIEF PAUSE AS SEVERAL JURORS LEAVE THE COURTROOM.)

16 THE COURT: Mr. Hughes, any post-verdict motions?

17 MR. HUGHES: I would move to overturn the verdict, Your
18 Honor, to not guilty.

19 THE COURT: Would it be a motion for a new trial or a
20 motion for arrest of judgment on the grounds that you made
21 earlier in the trial?

22 MR. HUGHES: Yes, sir.

23 THE COURT: That motion is respectfully denied. You
24 and your client come forward for sentencing.

25 ASST. SOL. KNIGHT: May I approach, Your Honor?

1 THE COURT: You may.

2 ASST. SOL. KNIGHT: I'd like to advise the Court that
3 the mother of the victim would like to speak at the
4 appropriate time.

5 THE COURT: Very well. What is her name?

6 ASST. SOL. KNIGHT: Her name is Katrina Frasier. Come
7 forward, Ms. Frasier. State your full name, please, ma'am.

8 MS. FRASIER: Katrina J. Frasier.

9 THE COURT: Yes, ma'am. And you are?

10 MS. FRASIER: The mother of Xavier Rodd.

11 THE COURT: So you're the mother of the victim in this
12 case?

13 MS. FRASIER: Yes, sir.

14 THE COURT: I'll be happy to hear from you, Ms.
15 Frasier. What would you like to tell me?

16 MS. FRASIER: Bear with me. Just wanted to take the
17 time to thank the Court, the jurors, and everyone for this
18 week, and to let everyone know that Xavier was my second
19 son. I miss him dearly. We all miss him and life is not
20 the same without him. There won't be no grandbabies, won't
21 be no marriage, none of the life things that everybody get
22 the chance of.

23 On the other hand, she is also losing a son, but she
24 will get the chance to go and see her son. I have to go and
25 visit the graveyard and express my feelings toward my son.

1 I just thank and praise God for justice that has been
2 served up until this point. Thank you.

3 THE COURT: Thank you, ma'am. I appreciate you being
4 here.

5 ASST. SOL. KNIGHT: I have one more, Your Honor.

6 THE COURT: Yes, sir.

7 ASST. SOL. KNIGHT: Charlotta Davis. Ms. Davis, come
8 around, please, ma'am. Give your name in the microphone.

9 MS. DAVIS: I'm Charlotta Davis. And I'm the
10 girlfriend of Xavier, and the only thing I really want to
11 say is that my gratefulness for everybody that worked on the
12 case. I'm not going to go into a lot of stuff because it
13 will make me emotional, and I also want to say we gave the
14 solicitors a lot of fuss about it taking so long, and I
15 truly believe that God took this long to bring this case
16 forward, because I was ready.

17 I was ready for it to be able to sit through and hear
18 all that stuff, because I wasn't there. I was home
19 expecting him to return. The only thing I want to say about
20 Mr. Green is that I just hope God has mercy on his soul.
21 And that's it.

22 THE COURT: Thank you for being here, Ms. Davis.
23 Anything else, Solicitor?

24 ASST. SOL. KNIGHT: I just have his prior criminal
25 history.

1 THE COURT: Yes, sir.

2 ASST. SOL. KNIGHT: It looks like on 6-19-2012 he was
3 convicted of burglary in the second degree, five years,
4 suspended on time served and three years' probation. That's
5 all I find.

6 THE COURT: Very well. Obviously, I've heard the
7 evidence in this case, Mr. Hughes, but I'll be happy to hear
8 from you in mitigation for purposes of sentencing.

9 MR. HUGHES: Your Honor, he is a young man. His life
10 is going to be placed on hold for a long period of time now.
11 He has the opportunity now to better himself. He can go to
12 school. He can learn.

13 We're asking that you give him hope and asking for a
14 minimum sentence of 30 years. Let him have an opportunity
15 to better himself. Let him have a life at the end of his
16 time.

17 You and I both know on this charge it's a day-for-day
18 sentence. Let him have some type of hope, Your Honor. Let
19 him have something he can work for. We're asking for 30
20 years as the sentence on this charge, Your Honor.

21 THE COURT: Mr. Green, is there anything you would like
22 to tell the Court prior to sentencing?

23 MR. GREEN: I just want to say I pray for the family
24 every night. A lot of evidence that could have helped me
25 couldn't go up because maybe I can come back for an appeal

1 or something like that. I'm not what they portray me to be,
2 what the allegations against me says. I just ask that you
3 have leniency on me. I got my son. I have a two-year-old
4 son that I haven't been able to touch and hopefully I can
5 come home to him one day. Thank you.

6 THE COURT: Very well. Anything further from the
7 State?

8 ASST. SOL. KNIGHT: No, sir.

9 THE COURT: Anything further from the defendant?

10 MR. HUGHES: No, Your Honor.

11 THE COURT: Let me say a couple of things, Mr. Green.
12 There was clearly evidence from which the jury could find
13 you guilty in this case and you certainly do have the right
14 to appeal, and must do so within 10 days of today by filing
15 a notice of intention to appeal.

16 I know of no evidence that was excluded in this case,
17 other than one question of a witness that your lawyer
18 attempted to ask, which I felt was not proper under our law
19 of third party guilt.

20 Your lawyer doesn't necessarily agree with my ruling,
21 but he certainly understands my ruling, and that's the
22 reason we have rules of evidence. I agree with your lawyer.

23 On Indictment 2013-GS-25-00031, the State v. Dalonte
24 Green, the sentence of the Court is the defendant is
25 committed to the State Department of Corrections for a term

1 of 30 years.

2 Defendant should be given credit for time served
3 pursuant to South Carolina Code Section 24-13-40. That is
4 to be calculated and applied by the State Department of
5 Corrections.

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WITNESSES

✓ Tyrone Smith

DOCKET NO. 2013GS2500031

The State of South Carolina
County of Hampton

COURT OF GENERAL SESSIONS

April Term 2013

ARREST WARRANT NUMBER

2012A2510200035

Date of Arrest: December 10, 2012

ACTION OF GRAND JURY

TRUE BILL

4-23-13

Foreperson of Grand Jury
Date:

VERDICT

GUILTY

Foreperson of Petit Jury
Date:

INDICT 5-7-15

THE STATE

vs.

Dalonte Green

Indictment for

Murder / Murder

SC Code: 16-03-0010; 16-03-0020
CDR Code:0116

STATE OF SOUTH CAROLINA)
COUNTY OF HAMPTON)

INDICTMENT
2013GS2500031

At a Court of General Sessions, convened on April 25, 2013, the Grand Jurors of Hampton County present upon their oath:

Murder / Murder

That in Hampton County on or about December 1, 2012, with malice aforethought, Dalonte Green did kill and murder Xavier Anquan Rodd by means of Shooting him in the face and that Xavier Anquan Rodd did die in Hampton County as a proximate result thereof on December 1, 2012; in violation of Section 16-3-10 of the South Carolina Code of Laws (1976), as amended.

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

TRUE BILL

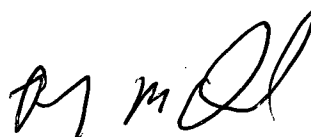


Isaac M. Stone, III
Solicitor, 14th Judicial Circuit

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,



Robert M. Dudek
Chief Appellate Defender

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

ATTORNEY FOR APPELLANT

This 22nd day of September, 2016.

RECEIVED

SEP 22 2016

SC Court of Appeals