

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

Appeal from Charleston County

Honorable William P. Keesley, Circuit Court Judge

ORIGINAL

THE STATE,

RESPONDENT,

v.

MARK LORENZO BLAKE, JR.

APPELLANT

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SC Court of Appeals

APPELLATE CASE NO 2018-002091

RECORD ON APPEAL

TAYLOR D GILLIAM  
Appellate Defender

ALAN WILSON  
Attorney General

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

WILLIAM F. SCHUMACHER  
Assistant Attorney General  
Post Office Box 11549  
Columbia, SC 29211  
(803) 734-3713

ATTORNEY FOR APPELLANT

SCARLETT A. WILSON  
Solicitor, Ninth Judicial Circuit  
101 Meeting Street, Suite 400\  
OT Wallace Building  
Charleston, S.C. 29401  
(843) 958-1900

ATTORNEYS FOR RESPONDENT

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1 already after the fact. You are asking me the same questions  
2 over and over. I'm surprised the judge ain't even saying  
3 nothing about this. But you are asking me if I saw a blue  
4 light at this point in time. I already told you, I was by the  
5 Comfort Inn Suites when I glanced and I saw blue lights. I was  
6 not too far from the Comfort Inn Suites.

7 THE COURT: For your information, I rule on  
8 objections. I haven't heard an objection, so I haven't ruled.

9 THE WITNESS: Okay. I didn't know I was allowed to  
10 object while testifying. I need somebody to object for me.

11 BY MS. LINDER:

12 Q. And then it's your testimony that there were multiple  
13 shots, two to three shots from behind at you, around the area  
14 of the beginning of the sidewalk?

15 A. That's correct. And I explained why the bullet holes  
16 were behind me.

17 Q. And it was only after you were shot that you  
18 simultaneously ducked, spun, grabbed your weapon and started  
19 blind firing?

20 A. I answered that question already. I answered it  
21 twice. I explained it when I got on testimony and told the  
22 story. You asked me that and I got into that.

23 Q. And is it your testimony that you never stopped and  
24 turned and pointed your firearm at Officer Goldstein?

25 A. You said at any point in time did I ever turn and fire

1 my firearm at Office Goldstein?

2 Q. My question, Mr. Blake, is at any point, did you turn  
3 with your arms outstretched, and have your firearm pointed at  
4 the chest of Officer Goldstein?

5 A. I can't say my arm was all the way stretched. It was  
6 in a swing motion. So it was swing. It wasn't all the way  
7 fully extended. No, it wasn't.

8 Q. Mr. Blake, is it your testimony that you did not hear  
9 Officer Goldstein instruct you, Don't move?

10 A. I never heard -- Officer Goldstein never quoted, Don't  
11 move. The only thing I heard from him, same testimony as Sean  
12 Riner, Stop. That's the only thing I heard.

13 Q. Is it your testimony that you never said anything when  
14 you turned around facing Officer Goldstein?

15 A. I never said anything when I turned around.

16 Q. So is it your testimony that you never said anything  
17 when you turned around and faced Officer Goldstein?

18 A. It's my testimony that me and this man never spoke,  
19 ever.

20 MS. LINDER: Beg the Court's indulgence.

21 THE COURT: Yes, ma'am.

22 MS. LINDER: I don't have anything further for  
23 Mr. Blake.

24 THE COURT: Mr. Blake, you can respond to whatever she  
25 went over.

1 THE WITNESS: I can respond from here?

2 THE COURT: Yes, sir.

3 THE WITNESS: Okay. Only thing I could respond to is,  
4 I think I outlined all of them gray areas in this case. I  
5 think I answered all the questions correctly to the best of my  
6 ability.

7 MS. LINDER: Judge, I would ask for him not to give a  
8 closing summation to the jury and just if he's clearing up  
9 something from my cross.

10 THE COURT: Go ahead.

11 THE WITNESS: And I answered all the questions  
12 correctly, no contradicting testimony whatsoever. That's my  
13 solid testimony that night of the incident. That's all I got  
14 to say, Judge.

15 THE COURT: Recross?

16 MS. LINDER: None, Judge.

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

18 Ladies and gentlemen, we will take a short break. It  
19 won't be very long at all. I will give you a short break so  
20 you can stretch your legs. Don't discuss the case. Follow the  
21 bailiff:

22 (Whereupon, the jury leaves open court at 4:03 p.m.)

23 THE COURT: We are at ease.

24 (Whereupon, recess transpired.)

25 THE COURT: Do you have more witnesses?

1 THE DEFENDANT: Yeah. I want to call Leah Bryant.

2 THE COURT: All right. Bring in the jury, please.

3 (Whereupon, the jury returns to open court at 4:22  
4 p.m.)

5 THE COURT: Call your next witness, please.

6 THE DEFENDANT: Leah Bryant.

7 THE COURT: Come around, please, ma'am.

8 LEAH BRYANT,

9 having been duly sworn, testifies as follows:

10 THE CLERK: Please state your name and spell your last  
11 name for the record, please.

12 THE WITNESS: My name is Leah Jaunita Bryant,  
13 B-r-y-a-n-t.

14 DIRECT EXAMINATION

15 BY THE DEFENDANT:

16 Q. How are you doing, Ms. Bryant?

17 A. I'm doing great. How are you doing?

18 Q. I'm great. Okay. Ms. Bryant, will you please brief  
19 the Court on your relations to myself?

20 A. I'm Mr. Blake's aunt.

21 Q. Okay. And which side of the family are my aunt on?

22 A. He's my nephew through my sister, Elaine Blake.

23 Q. What is your opinion on my reputation, your absolute  
24 opinion on my reputation on peacefulness?

25 A. Peacefulness?

1 Q. Yeah, peacefulness.

2 A. He's always been a peaceful young man, gentle, very  
3 compassionate, understanding and caring.

4 Q. What is your opinion on -- your absolute opinion on my  
5 reputation for honesty?

6 A. Honesty? He's always been honest with me. We talked  
7 a lot during his childhood and up until his adolescence  
8 (sic) and we discussed a lot of things. He's always been  
9 faithful and trustworthy as far as talking and honesty about  
10 discussing things.

11 Q. Ms. Bryant, moving forward, disregarding this incident  
12 that brings us here today, do you recall any life-threatening  
13 misfortunes that I've suffered in the past?

14 A. Life-threatening?

15 Q. Yeah.

16 A. I'm trying to think. Not right offhand, no more than  
17 the incident that I mentioned about your apartment being  
18 vandalized and your residency stuff being placed in the  
19 newspaper. But life-threatening, no, not up to this event.

20 Q. Okay. So you said particular misfortune, I guess,  
21 would be --

22 A. The invasion of privacy as far as concerning your  
23 residency.

24 Q. Okay. And can you recall about how long this said  
25 incident occurred?

1 A. That incident that I'm speaking about?

2 Q. Yeah, correct.

3 A. Honestly, between eight and seven years. I could be  
4 off a little.

5 Q. Approximately seven years?

6 A. Yeah, yeah.

7 THE DEFENDANT: All right. Ms. Bryant, that's all  
8 I've got for you. Thank you.

9 THE COURT: Any questions of the witness?

10 MR. SOWARDS: No, Your Honor.

11 THE COURT: Thank you, ma'am. You may step down.  
12 Do you have any other witnesses?

13 THE DEFENDANT: Yes, I call Harry Malloy.

14 THE COURT: Come around, please.

15 HARRY MALLOY,

16 having been duly sworn, testifies as follows:

17 THE CLERK: Please state your name and spell your last  
18 name for the record, please.

19 THE WITNESS: Harry Julius Malloy, M-a-l-l-o-y.

20 DIRECT EXAMINATION

21 BY THE DEFENDANT:

22 Q. How are you doing, Mr. Malloy?

23 A. I'm doing well.

24 Q. That's good. Okay. Would you please brief the Court  
25 on your relations to myself?

- 1           A.    I'm your uncle.
- 2           Q.    Okay.  And what side of the family are you my uncle
- 3 on?
- 4           A.    On my brother's side, which is your father.
- 5           Q.    About how long have you been knowing myself?
- 6           A.    Your entire life.
- 7           Q.    So safe to say you may know me better than I know
- 8 myself, right?
- 9           A.    Yes.
- 10          Q.    What is your opinion of my reputation of peacefulness?
- 11          A.    Well, like I stated earlier, you are a very
- 12 intelligent person, as I am.  You are quiet, as I am.  And I'm
- 13 glad that you found God in your life.
- 14          Q.    You would say at that point that I'm very peaceful?
- 15          A.    Right.
- 16          Q.    What is your opinion on me being -- your opinion on my
- 17 reputation for honesty?  What would you say about that?
- 18          A.    Repeat that, please.
- 19          Q.    I said, what is your opinion on my reputation for
- 20 honesty?
- 21          A.    Good.
- 22          Q.    Good reputation?
- 23          A.    Yes.
- 24          Q.    Okay.  Disregarding this incident that brings us here
- 25 today, do you recall any life-threatening misfortunes I've

1 suffered from in the past?

2 A. No.

3 THE DEFENDANT: All right. Mr. Malloy, that's all  
4 I've got for you. Appreciate it.

5 THE COURT: Any questions for this witness?

6 MR. SOWARDS: No, Your Honor.

7 THE COURT: Thank you, sir. You may step down.  
8 Any other evidence from the defense?

9 THE DEFENDANT: No, Judge. I believe that's it.

10 THE COURT: Any reply testimony from the State?

11 MS. LINDER: No, Your Honor.

12 THE COURT: All right. Ladies and gentlemen of the  
13 jury, I told you at the outset of the trial that when we  
14 finished certain stages, I had to talk to the attorneys --  
15 excuse me, to the parties about matters of law. And we've  
16 reached one of those stages. I've got to make some decisions  
17 about how we are going to proceed, how far we are going to  
18 continue tonight, what time we will start back in the morning.  
19 So I have to send you out of the courtroom while I discuss  
20 these legal issues.

21 While you are back there, if you have any conflict  
22 tonight or early in the morning tomorrow at all, please send me  
23 a note. Put your name and your juror number on it so that we  
24 can mark it as part of the record. Again, I can't please  
25 everybody, but I do want to know what impact I may be having

1 upon you as I make these decisions. So if you please do that  
2 for me, I would appreciate it. I will get back to you as  
3 quickly as I can. Follow the bailiff. Don't discuss the case.

4 (Whereupon, the jury leaves open court at 4:32 p.m.)

5 (Court's Exh. 7, Stipulation, was marked for  
6 identification.)

7 THE COURT: Are there motions?

8 THE DEFENDANT: Yes, Judge. Motion for directed  
9 verdict, I want to renew my motion. The State failed to prove  
10 elements of my self-defense and elements of the crime itself of  
11 malice aforethought regarding attempted murder.

12 THE COURT: All right. They are jury issues created  
13 as to the charge against the defendant, as well as the defense  
14 of self-defense. Anything else?

15 THE DEFENDANT: That's it, Judge.

16 THE COURT: Thank you. All right. I know we are not  
17 supposed to argue and charge after four o'clock, but I'm going  
18 to get these notes from the jury and see where we are. I have  
19 a rough draft of a charge. I'm going to have my law clerk  
20 print this out and give a copy to you. Go over it. And I will  
21 collect these notes and see where we are and see how far we can  
22 proceed today.

23 The appointment the juror has tomorrow is at 2:15 in  
24 Mount Pleasant. He says he has to keep this appointment for  
25 the injections due to his health. And I will just have to make

1 a decision as to how to proceed, as to whether I have to remove  
2 him from the jury or not. So y'all give some thought to that  
3 as well as you make decisions about anything you want to raise  
4 to my attention.

5 We are at ease.

6 (Whereupon, a recess transpired.)

7 (Defendant's Exh. 5, Photograph, was agreed in  
8 evidence.)

9 (Court's Exh. 8, Jury note, was marked for  
10 identification.)

11 (Court's Exh. 9, Jury note, was marked for  
12 identification.)

13 THE COURT: All right. First thing I want to address  
14 is that we got two notes from the jurors that were shared  
15 marked as Court's exhibits. One is from a juror that indicated  
16 he plans to leave to go to Seneca tomorrow afternoon. And the  
17 other one is from a lady who has a small child. And she just  
18 had some issues about needing to take periodic breaks. I think  
19 we can work around her.

20 My preference is to keep going. And that's what I  
21 plan to do. Do you all want to put anything on the record  
22 about that? When I say "keep going", I mean keep going  
23 tonight.

24 MR. SOWARDS: No, Your Honor. I think we've had  
25 adequate time, so the State has no objection.

1 THE COURT: Do you want to put anything on the record  
2 about that?

3 THE DEFENDANT: No objection, Judge.

4 THE COURT: All right. Second thing I need to cover  
5 with you is the proposed charge. My law clerk distributed to  
6 the defendant, stand-by counsel, and to the Solicitor's Office  
7 a draft of the proposed charge. And I would be happy to hear  
8 any comments you may make about the charge. We begin with the  
9 State.

10 MR. SOWARDS: Thank you. I'll start page 1 at the  
11 bottom. The State is just a little bit concerned about the  
12 implication of the sentence, you may consider the lack of  
13 evidence presented by the State. We are just concerned that  
14 implies there is a lack of evidence. Perhaps may consider -- I  
15 don't know how to word it. But kind of jumped off the page as  
16 creating an implication that there is a lack of evidence.

17 THE COURT: I will change "the" to "any". I know I'm  
18 probably the only judge that charges it like that, but I've  
19 been charging like that for decades. I will change to, you may  
20 consider any lack of evidence.

21 MR. SOWARDS: Thank you, Your Honor.

22 And then page 8, in the malice aforethought --

23 THE COURT: Hold on a second. Malice aforethought,  
24 okay.

25 MR. SOWARDS: Yes, sir. Paragraph begins, intent

1 means intending the result which actually occurs, not something  
2 that occurs accidentally or involuntarily. The next sentence  
3 says, the State must prove expressed malice.

4 And, Your Honor, I think the statute says the State  
5 must prove either expressed or implied malice.

6 THE COURT: I thought there was a case that said that  
7 you had to prove deliberate intention to kill.

8 MR. SOWARDS: I think, Your Honor, that can be either  
9 expressed by words or actions or implied. And the statute  
10 itself says expressed or implied. That would just be our  
11 request on that one.

12 THE COURT: I pulled this from a case I did somewhere  
13 previously. And my recollection of it was that that came from  
14 a case, I could be wrong, but there was a case that dealt with  
15 whether you had to have a specific intent to kill. It wasn't  
16 too long ago it was decided.

17 MR. SOWARDS: I think that's *State v. King*, Your  
18 Honor. It was last year. And the State would absolutely agree  
19 that it's required to prove specific intent to kill. But as  
20 far as the malice aforethought aspect of it, it could be either  
21 be expressed or implied.

22 THE COURT: I don't disagree with you that murder can  
23 be expressed or implied malice. Maybe the word "expressed" has  
24 a different meaning than I was thinking it was used in that  
25 case. Let me see if I can find it.

1 All right. I'm reading *State v. King*. They are  
2 citing Supreme Court of Nevada: Attempted murder can be  
3 committed only when the accused's acts are accompanied by  
4 expressed malice, malice in fact. One cannot attempt to kill  
5 another with implied malice because there is no such criminal  
6 offense as an attempt to achieve an unintended result.

7 I can keep reading.

8 MR. SOWARDS: That's fine, Your Honor. That's fine.

9 THE COURT: So then later in the opinion they say,  
10 while we have not expressly addressed this in South Carolina,  
11 we basically find that Nevada was correct and that under the  
12 common law -- and I think that's where I got that language  
13 from. I realize at first it sounds a little odd.

14 MR. SOWARDS: I think our last issue, Your Honor, or  
15 request would be under your self-defense charge.

16 THE COURT: Yes, sir.

17 MR. SOWARDS: The State has the burden of proving  
18 beyond a reasonable doubt that the defendant did not act in  
19 self-defense. Obviously, that's accurate. But no quibble with  
20 that. Just in light of --

21 THE COURT: Can you tell me what page you are on?

22 MR. SOWARDS: Sorry, Your Honor. Page 10, first  
23 paragraph of the self-defense. And, obviously, the opening  
24 statements, Your Honor, in his opening statement, the defendant  
25 made clear that he believes that the State is not required to

1 prove -- disprove one but is required to disprove all the  
2 elements of self-defense. And I think the law is that if we  
3 disprove one element of self-defense, then we've disproven the  
4 self-defense claim. So we would respectfully ask that Your  
5 Honor add the State must only disprove one element.

6 THE COURT: This charge came from the charge book.  
7 And I don't think it's confusing. You may want to argue that  
8 to the jury, make sure that's clear in their minds, perhaps.  
9 But I don't think there's any confusion. Should be -- I think  
10 I tell them that they have to -- wait a minute. I'm going to  
11 read it like this. Anything else?

12 MR. SOWARDS: That's it from the State, Your Honor.

13 THE COURT: Defense?

14 MR. KING: May I hand it up, Judge?

15 THE COURT: All right. The defense is requesting a  
16 charge of *State v. Starnes* on self-defense that reads: Once  
17 the right to fire in self-defense arises, a defendant is not  
18 required to wait until his adversary is on equal terms or until  
19 he has fired or aimed his weapon in order to act.

20 Similarly, the accused doesn't have to wait until his  
21 assailant gets the drop on him. He has the right to act under  
22 the law of self-preservation and prevent his assailant (sic)  
23 getting the drop on him, cites *State v. Rash*.

24 The evidence presented by the defense was that he was  
25 shot first.

1 THE DEFENDANT: Yeah, that's correct.

2 THE COURT: So I don't understand why I would charge  
3 that. I think the concept is adequately covered, the right to  
4 act on appearances.

5 THE DEFENDANT: Okay. I add that in, Judge, because  
6 the victim in this case is stating that I initiated the  
7 situation. I think that was --

8 THE COURT: But that's not what you said happened.  
9 You said you were shot from behind.

10 THE DEFENDANT: Yeah, I know what I said. I'm talking  
11 about the victim's testimony, because, obviously, state of  
12 mind --

13 THE COURT: I think the concept is adequately covered  
14 in the right to act on appearances.

15 Then there's a request to charge right to resist. It  
16 says, an individual, under the appropriate circumstances, has  
17 the right to utilize the amount of resistance reasonably  
18 necessary to prevent himself in the event excessive force is  
19 utilized incident to a lawful arrest.

20 You want to be heard on that?

21 MR. SOWARDS: From the State, Your Honor? The State's  
22 position would be that defense's story is that he did not know  
23 he was being pursued by a law enforcement officer. I don't  
24 know how he could be resisting an unlawful arrest.

25 THE DEFENDANT: Goes back to what I was saying, Judge,

1 on that, was that the victim's is opposite of mine, his account  
2 or of his testimony.

3 THE COURT: I will charge that self-defense, a man has  
4 the right to defend himself from an unlawful arrest, and for  
5 the purpose of so protecting himself, he has the right to use  
6 whatever force is necessary, even to the taking of life, the  
7 life of him who is seeking to make the unlawful arrest, if that  
8 be apparently necessary, and if it would have been apparently  
9 necessary to a man of ordinary courage in the circumstances. I  
10 charge you that, where one is defending his person from an  
11 unlawful arrest, he had the right to use just so much force as  
12 is apparently necessary to accomplish his deliverance and no  
13 more. He has not the right to use excessive force unless  
14 excessive force not only be apparently necessary to him, but  
15 would have been to a man of ordinary courage so situated.

16 That's a 2001 case using that language? Seems like it  
17 was written in the 1800s. I am not charging it.

18 Being in unlawful possession of a weapon at the time  
19 of a shooting does not necessarily conclude a claim of  
20 self-defense. A person can be acting lawfully even if he is in  
21 unlawful possession of a weapon if he was entitled to arm  
22 himself in self-defense at the time of the shooting. Cites  
23 *State v. Burris*.

24 That's close to a charge on facts. Do you want to be  
25 heard?

1           MR. SOWARDS: That would be the State's objection,  
2 Your Honor.

3           THE COURT: I will have to read that case. I don't  
4 dispute that concept. I've got some issues with how it applies  
5 to the facts that are alleged in this case, because -- I guess  
6 the question is where the self-defense would have begun, where  
7 the -- if it was during the chase or if it was at the time of  
8 the, under the defendant's version, the shots started.

9           All right. This instruction is printed out here.  
10 There's an expert opinion charge, which I've got an expert  
11 opinion charge.

12           THE DEFENDANT: Oh, yeah, no, Judge, I believe it's  
13 the ones that got checked, 7, 8, 9, I believe.

14           THE COURT: You must consider as evidence any  
15 statements made by the State during the trial. Statements made  
16 by the State do not constitute evidence. This rule applies to  
17 both the State's opening statements and closing argument.

18           THE DEFENDANT: Oh, Judge, I'm sorry about that.  
19 Apparently, it's been a typo. It's supposed to say "must not".

20           THE COURT: All right. I always address that in the  
21 opening remarks I make to the jury. I always explain that to  
22 them. I did not in this case because I didn't have an attorney  
23 speaking on one side. I always would say, what the lawyers  
24 say is not evidence. I can try to fashion something to put in  
25 a charge to make sure that the jury understands that what is

1 said and the role of an attorney is not evidence. The evidence  
2 comes from the witnesses and the exhibits.

3 The next one, pro se defendant had the absolute legal  
4 right and duty to bring matters to the attention of the Court  
5 by way of objection. Do not inferentially or otherwise become  
6 upset or disturbed by pro se defendant by virtue of objections.

7 I think it means trial procedure includes the  
8 objection process as a means of control of evidence, letting in  
9 proper evidence and keeping out improper evidence by objecting  
10 in the trial of the case. Once the Court makes a ruling on an  
11 objection, the jury is bound by that ruling. If the objection  
12 is sustained, the question is improper. If objection is  
13 overruled, the question is proper. I am not going to charge  
14 that. I've got that explained to the jury in different terms,  
15 but same concept.

16 Ninth number on here is, it is the pro se defendant's  
17 constitutional right to charge exercised by him, ruled on by  
18 the Court, as well as the benefit of an appointed stand-by  
19 counsel.

20 I guess that means to act pro se. I am not going to  
21 charge that either. So I will mark these three that I am not  
22 going to charge as Court's exhibits and note the objection of  
23 the defense. And then I will work something into the charge.  
24 Y'all have to object after the charge to preserve your  
25 objections.

1 All right. So the State is going to go first, the  
2 defense in the middle, and the State last, or do you want to  
3 let him go first and you go last?

4 MS. LINDER: I'm fine with them going first and I'm  
5 going last.

6 THE DEFENDANT: I think I'm opposite. I think I'm  
7 fine with her going first and we going last. Flip a coin  
8 maybe.

9 THE COURT: Doesn't work that way. All right. These  
10 notes from the jury I will have to address with the jurors when  
11 they come out briefly. And then I will tell them some things  
12 and then I will let y'all make closing arguments.

13 Bring the jury in.

14 (Court's Exh. 10, Self-defense charge, was marked  
15 for identification.)

16 (Court's Exh. 11, McGowan self-defense charge, was  
17 marked for identification.)

18 (Court's Exh. 12, Requested Charge, was marked for  
19 identification.)

20 THE COURT: We've gone through all we needed to go  
21 through and we are ready to proceed. I told you I would make a  
22 call how I needed to proceed. And I can't make everybody  
23 happy. I got two notes from the jurors. I got a note from  
24 Juror 289.

25 Just let us know what you need to do to accommodate

1 you and we will do it.

2 Juror No. 209, I've taken what you put in  
3 consideration about your plans for tomorrow. And I've talked  
4 with everybody about how best to proceed. In light that we  
5 have one other conflict with a juror, what I plan to do is keep  
6 going tonight. I plan to keep going.

7 Now, I don't know exactly how long it will be before  
8 you get the case. On my charge, where I tell you the law, is  
9 right at 15 pages. So it's going to be about 28, 29 minutes to  
10 charge you the law. You will hear two closing arguments before  
11 that. And then shortly after that, the case is given to you to  
12 decide. How long you deliberate is completely up to you,  
13 obviously.

14 Now, we will order your dinner. I think it's going to  
15 be pizza, but we are going to order dinner for you during the  
16 break between the closings, between closing and the charge  
17 probably. I think we have two choices. I think it's either  
18 pizza or subs. I think it's usually pizza.

19 Now, I told you at the outset that in opening  
20 statements, the parties could not engage in argument. What I  
21 tried to explain to you then is that in opening statement, all  
22 that they are allowed to do is to say to you what they believe  
23 the evidence will show. In the closing arguments, they are  
24 permitted to use the art of advocacy to attempt to get you to  
25 see things how they would like you to see things on behalf of

1 their respective positions. The way this works is, the defense  
2 goes first. And since the State has the burden of proof, the  
3 State goes last. Sometimes I take a break between the  
4 closings. Sometimes I wait until the last one is done and then  
5 take a break. But I always take a break before we bring you  
6 out. I invite your close attention.

7           There's one other thing that I need to make sure you  
8 understand, and I was going to try to work it into the charge.  
9 I always say this in the opening, but I got a little  
10 discombobulated. I want to make sure you understand that when  
11 I told you where the evidence comes from, I told you it comes  
12 from the sworn testimony of the witnesses and the exhibits  
13 admitted in the trial. Well, that's correct. Usually I add in  
14 there that you need to understand that what a lawyer says is  
15 not evidence. So in this instance, you have Mr. Blake acting  
16 as his own attorney. So whatever he may have said acting in  
17 the role as his own attorney, representing himself, that's not  
18 evidence. The evidence comes from the sworn testimony of the  
19 witnesses and the exhibits admitted in the trial. Likewise,  
20 what either of the solicitors may have said is not evidence.  
21 Evidence comes from the witnesses and the exhibits.

22           Mr. Blake, are you ready?

23           THE DEFENDANT: Yes. Ladies and gentlemen, as my  
24 closing argument and as last bite of my defense, consists of  
25 both a general overview of this trial and general overview of

1 said incident.

2 First and foremost, let us recollect and observe the  
3 law enforcement officers' testimonies given here before you.  
4 In regards to their version of events within said incident,  
5 were both inconsistent and contradicting beyond a minimum where  
6 you have both the City of Charleston Police Department,  
7 Detective Burckhardt, and South Carolina finest law enforcement  
8 division, Agent Kelly, coincidentally both conspired a false  
9 narrative and unsupported pretense within both search and  
10 arrest warrant affidavits before thoroughly investigating and  
11 establishing the facts of the events within said incident.

12 Then after getting both sham affidavits signed off by  
13 a magistrate judge on the date of April 1st, 2013, after them  
14 both ultimately committing perjury under sworn oath. In  
15 addition and adding more insult to injury, on April 4th, 2013,  
16 approximately three days after the execution of both said  
17 warrants, Officer Ferguson, also from City of Charleston Police  
18 Department, took it upon herself and decided to ride the wave  
19 of this same false narrative, both created and conspired by  
20 both Detective Burckhardt and Agent Kelly and approved by  
21 Officer Ferguson's former supervisor and now current solicitor  
22 of the 9th judicial circuit, David Osborne.

23 Furthermore, both the alleged victim and the State  
24 witness, Cory Goldstein, finally submits his statement April  
25 8th, 2013, approximately nine days after said incident,

1 clarifying the initial said false version of events of myself  
2 firing first and himself returning fire. In place of the  
3 initial said false narrative, Officer Goldstein stated in his  
4 statement conducted by the City of Charleston's Police  
5 Department professional standards office that he himself cannot  
6 recall who shot first, which now both constricts and traverses  
7 the initial said false narrative of said incidents and,  
8 therefore, changes both circumstances and outlook upon this  
9 whole scenario.

10 In speaking of which and now crossing over to the  
11 subject matter of the said incident. Let us now recollect and  
12 observe the night of the said incident. All responding  
13 officers and State witnesses, including the alleged victim,  
14 Officer Cory Goldstein, testified how excessively dark it was  
15 the night of the incident and photos admitted into evidence  
16 also to support that said testimony. And not to mention the  
17 dark-in-color uniform that Officer Goldstein was wearing the  
18 night of said incident which made it too far, too challenging  
19 for myself to distinguish the presence of law enforcement  
20 official versus a pedestrian.

21 Based upon, once again, the pitch-black dark setting  
22 the night of said incident and photos regarding Officer  
23 Goldstein's dark-in-color uniform are also admitted into  
24 evidence amongst your convenience for observation to support  
25 said fact.

1           Moving forward and observing both Officer Goldstein's  
2 statements and verbal testimony regarding his alleged verbal  
3 acknowledgement of him properly identify himself as a law  
4 enforcement official amongst the course of said incident, which  
5 in while, State's witness, Sean Riner, both written and verbal  
6 testimonies, ultimately contradicts Officer Goldstein's  
7 testimony regarding Officer Goldstein's alleged verbal  
8 acknowledgement of properly identifying himself as a law  
9 enforcement official, which is a very critical and vital key  
10 factor to both said incident and the State's case. Because the  
11 last time I recollect, it was an undisputable fact that an  
12 unannounced law enforcement official, dressed in dark-in-color  
13 clothing, within a pitch-black dark surrounding, both pursuing  
14 and commanding a pedestrian, such as myself, to stop, does not  
15 clarify nor establish proper acknowledgement of a law  
16 enforcement official.

17           Ladies and gentlemen, when the State presents incident  
18 witnesses to testify in support the State's claim and their  
19 testimony regarding the version of events within an incident  
20 doesn't coincide with one another, then the State has both  
21 proven reasonable doubt and, therefore, ultimately failed to  
22 meet their obligated burden of proof.

23           And speaking of proof regarding my said counterclaim  
24 of self-defense, folks, it doesn't take a rocket scientist to  
25 conclude the fact that the night of said incident, the State's

1 witness and alleged victim, Officer Cory Goldstein, both  
2 initiated and executed an ambush attack on my life based on the  
3 bullet holes I sustained from the rear of my clothing the night  
4 of said incident, which further left me no other choice or  
5 alternative but to defend my life with exchange of gunfire.  
6 And in support are both conclusive photographic evidence that  
7 are also admitted into evidence amongst your convenience for  
8 observation to corroborate said fact, which now further  
9 concludes that Officer Goldstein's version of events of a  
10 classical Western standoff between both him and myself was  
11 nothing more than a mere delusional occurrence to only conceal  
12 his malicious and malfeasant act by fabricating the truth to  
13 protect the pursuance of his law enforcement career.

14 Ladies and gentlemen, a quick legal analysis breakdown  
15 regarding the four times elements of self-defense. Based on  
16 both said photographic evidence of myself sustaining both  
17 multiple gunshots from the rear of my clothing and actual  
18 serious bodily injury proves one of two and partially three, by  
19 both testimony and cumulative evidence, regarding my  
20 involvement of the exchange of gunfire of the said incident,  
21 covers both remaining elements three and four therefore and  
22 which the State failed to disprove beyond a reasonable doubt.

23 But also the State failed to connect the dots to the  
24 case of attempted murder, which consists of the intention of  
25 premeditation or malice to kill another person. Based on my

1 initial preventive action of running to safety, clearly doesn't  
2 define malice to any degree.

3 Folks, in regards to this whole situation which brings  
4 us here, that I chose to defend myself as my absolute last  
5 alternative, because no one else seemed to possess the courage  
6 to put up a fight against the State quite like myself to prove  
7 my innocence, because the incident involved an officer,  
8 regardless if I was in the right.

9 The whole truth to this matter is that the State never  
10 had a solid case. But they couldn't afford to throw out the  
11 case due to an officer being involved. So what does the State  
12 do here when they are at a poor situation such as this? They  
13 prolong my case for over five years to both build up the  
14 courage and conspire a strategy on how they would get over the  
15 loopholes within this case that clear and convincingly prove my  
16 innocence.

17 They knew that Officer Goldstein's testimony alone  
18 couldn't secure the State a win. Being that they knew that  
19 everything including an alleged traffic stop within the  
20 incident couldn't be physically produced due to the absence of  
21 video equipment and being that no one else physically witnessed  
22 the course of the events regarding alleged traffic violations.  
23 That would be a gray area. In addition, being that I wasn't  
24 charged with a weapon charge, that would be another hurdle for  
25 the State to overcome to prove my actions to the matter were

1 unjustifiable.

2           And as far as the rental car, that was in my closest  
3 friend's name that rented the car for me, misinformed myself  
4 that my name was added as an authorized driver. So once the  
5 State found that out, they later tried to coerce her into  
6 saying that the car had been stolen by myself in order for the  
7 State to pick up an additional charge.

8           MS. LINDER: Objection, Your Honor, facts not in  
9 evidence.

10           THE COURT: You can't argue anything that's not in  
11 evidence. Those facts are not in evidence.

12           Disregard the last statements about what this person  
13 who rented the car may have done, any subsequent agreement that  
14 was not put into evidence.

15           THE DEFENDANT: Throughout the five years, the State  
16 were delaying disclosing me all evidence to the case, which  
17 would keep me unbalanced during the preparation of this trial.  
18 Once the State discovered the gunshots I sustained from the  
19 rear of my clothing to prove myself not being responsible for  
20 bringing on the difficulty of the charge of attempted murder,  
21 they then would have to remedy that issue by having SLED  
22 employee Kukila Wallace coerced to lying under oath regarding  
23 her confirming the shots I sustained from my clothing were not  
24 actual bullet holes as labeled, but only potential bullet holes  
25 in order to sabotage my self-defense claim.

1           Once the State came to a conclusion that the incident  
2 witness Sean Riner's testimony would not coincide with Officer  
3 Goldstein's prior acknowledgement of himself as a law  
4 enforcement officer, then they also had to curve their defense  
5 by stipulating irrelevant matters into the picture, such as an  
6 alleged failure to stop for blue lights, an actual charge that  
7 the State did not want to go forward with. Reason being, if  
8 they want forward with both charges together, it could slim  
9 their chances of me getting found guilty of alleged failure to  
10 stop for blue lights, for example, and not guilty for attempted  
11 murder. The jury had an optional charge preference of what  
12 they would find me guilty for.

13           But based on the jury having only one option of a  
14 charge to convict on, then they would use that to both mislead  
15 and confuse the jury to support convicting me of a false  
16 motive, instead of the actual nature of attempted murder, which  
17 is the only charge that brings us here today.

18           Folks, I'm here before you and took on alone two  
19 arresting agencies within this trial and battled it out with  
20 all the officials, all of the officers of the court, judge  
21 included. So there's undisputable fact that I was clearly  
22 outnumbered here today. And I didn't do this for me. I did  
23 this for my kids. I had to prove to them that amongst all  
24 circumstances, when it comes to getting back to them, I will  
25 take the world on for them. And through my point, I am doing

1 that for them. And that's why I'm here today before you. I'm  
2 taking on the world to get back to my family, over a big  
3 mishap, a freak accident that I never planned on this whole  
4 situation even occurring that night of that incident when I  
5 left my house.

6 My only intention was just to get up. My whole  
7 intention was to get a drink that night and just laugh with the  
8 lady that was involved in the situation. I never intended on  
9 this. I am not perfect, but I'm definitely not a cop killer.  
10 Might be a lot of things, but I am not that. Never been a man  
11 of violence, ever. I thank you all for your time.

12 THE COURT: The State is recognized for its closing  
13 argument.

14 THE DEFENDANT: Judge, I want to object to a matter of  
15 law before she starts.

16 THE COURT: Ladies and gentlemen, please go in the  
17 jury room. Don't discuss the case.

18 (Whereupon, the jury leaves open court at 5:59 p.m.)

19 THE DEFENDANT: I want to object to the charge you  
20 have, it's regard assault and battery of a high and aggravated  
21 nature. I still consider that as a strike offense.

22 THE COURT: I understand it's a strike, but that's not  
23 the question I have to ask in deciding how to craft the charge.  
24 Whether it's a lesser-included offense, why didn't y'all tell  
25 me this before? Are you objecting to me charging the

1 lesser-included offense?

2 THE DEFENDANT: Yes, Judge.

3 THE COURT: On what basis?

4 THE DEFENDANT: On the basis that it's a strike. I  
5 mean, I don't want it to be a lesser-included offense  
6 involved.

7 THE COURT: The State want to be heard?

8 MR. SOWARDS: Your Honor, in light of all of the  
9 evidence presented in this case, the State thinks it's  
10 appropriate to also charge the lesser-included assault and  
11 battery of a high and aggravated nature.

12 THE COURT: Do you have anything else, Mr. Blake?

13 THE DEFENDANT: Judge, that's all I have for the  
14 moment. I was meaning to arise (sic) this, but I was trying to  
15 get myself together. And I had to go first with my closing  
16 argument, so --

17 THE COURT: Well, it's not a flip of the coin. I  
18 don't just arbitrarily do these things.

19 THE DEFENDANT: I understand, Judge. I just, please,  
20 ask for you to honor my request.

21 THE COURT: All right. The statute reads that a crime  
22 of attempted murder includes assault and battery of a high and  
23 aggravated nature. It includes other things too, like assault  
24 and battery in the first-degree. But that was not applicable  
25 on what was presented in this case. And so assault and battery

1 of a high and aggravated nature does not require malice. And  
2 it deals with a situation where a person inflicts great bodily  
3 injury upon another knowingly and unlawfully.

4 The only way I could not charge it, in my view, is if  
5 both sides agree not to charge it. I understand that it  
6 doesn't help you from a strike standpoint. It's still a  
7 strike. But that's not the inquiry for the Court. The inquiry  
8 is whether it fits within the framework of the factual  
9 allegations in the case from both sides. So the request to  
10 remove it is denied.

11 THE DEFENDANT: I tried to get them reduced initially  
12 within the trial.

13 THE COURT: Sir, I can't understand you. You have  
14 your fingers in your mouth.

15 THE DEFENDANT: I initially tried to get it reduced  
16 down within the trial. But then at that time, we didn't have  
17 testimony by, I think it was, Stephanie Montgomery. And at  
18 that point, I just left it alone. But I've been meaning to say  
19 something about this. Like I said, it was -- I was mind  
20 boggled upon to get myself to go first. I am not trying to go  
21 for excuses. I'm saying I am not an attorney. And I did make  
22 a lot of mishaps. But I'm accountable for mine. And I just  
23 ask you to reconsider.

24 THE COURT: I don't think it's anything you did or did  
25 not do. And I don't know that I can explain it any better. I

1 will try to just say this. It's not my job and I am not  
2 permitted under the Constitution to invade the province of a  
3 solicitor in deciding what to charge people with.

4 The question at the directed verdict stage, had there  
5 been no evidence to support a conviction for attempted murder,  
6 would be then whether the case would go to the jury with  
7 attempted murder out and assault and battery of a high and  
8 aggravated nature in. But there are jury issues there.

9 Now you raised that objection. And I understand that.  
10 But I don't think there's any question. It may be a close call  
11 about me letting in that information about you not being  
12 entitled to have a pistol. That might have been something that  
13 in hindsight I might have ruled differently. I think it was a  
14 close call when I made it. I acknowledged that I might have  
15 made an error. And if I did, I addressed that earlier in the  
16 trial. It wasn't anything intentional. But it was based on  
17 what I understood at the time.

18 But I don't think this is -- I don't think this is  
19 something that has anything to do with you doing or failing to  
20 do anything. It's just attempted murder is malice. And  
21 assault and battery of a high and aggravated nature does not  
22 require malice. And but it does require infliction of great  
23 bodily injury, or there's another way it can be done too.

24 The charge I brought up to pattern this one after that  
25 I've done in a previous case did not have ABHAN as a

1 lesser-included offense, but has assault and battery first  
2 degree as a lesser-included offense because it occurred in a  
3 burglary. So I don't get to pick and choose. The legislature  
4 passes this stuff. I read it. I do the best I can.

5 Bring the jury.

6 Hold on. They want to be able to call their family  
7 and tell them they are going to be late. We will be at ease.

8 (Court's Exh. 13, Jury note requesting to call  
9 family.)

10 (Whereupon, recess transpired.)

11 THE COURT: Ready for the jury?

12 MS. LINDER: Yes, Judge.

13 THE COURT: Defense, ready for the jury?

14 THE DEFENDANT: Yeah.

15 THE COURT: Bring the jury, please.

16 (Whereupon, the jury returns to open court at 6:18  
17 p.m.)

18 THE COURT: You're recognized for your closing  
19 argument.

20 MS. LINDER: Thank you, Your Honor. Ladies and  
21 gentlemen, I told you in the beginning of this case that this  
22 case is about Mark Blake and his actions and his choices and  
23 his decisions. The defendant has tried to bring out a few  
24 points to you throughout the course of this. And I submit to  
25 you those points are not relevant. Those are smoke and

1 mirrors. And those are distractions from what really matters  
2 in this case. He's trying to distract you from the fact that  
3 he attempted to kill Officer Goldstein.

4 A couple of the things that he's tried to bring up is,  
5 well, that everything is a conspiracy. The world is against  
6 him. Every person up there who took that stand was lying,  
7 except him. If you believe the defendant's story, you are  
8 saying that every other person up there was lying, I submit to  
9 you, including myself and my entire office.

10 The other thing that he's talked a lot about is he  
11 didn't know it was a police officer. Well, I would submit to  
12 you, he just had an encounter with the police in the Best Buy  
13 parking lot, that blue light and siren followed him the whole  
14 way down, and there's a marked car. It was a fully uniformed  
15 officer. I mean, who else would it have been?

16 When he testified to you, he even said that when he  
17 looked back, one of the times he looked back, I noticed the  
18 blue light and he heard, Stop. You had Officer Goldstein  
19 testify about that fact, when he announced he was police, he  
20 was yelling, Stop, he was running.

21 You had Sean Riner say from a lot of further away, 50  
22 feet, I think he said 50 feet away, he could tell it was  
23 police. He said -- I think he said because of the equipment,  
24 the belt and the vest. And also you had Sean Riner even  
25 further away who could see that blue light on the ramp before

1 the running even started.

2           Officer Goldstein told you that the defendant stopped,  
3 turned and faced him from about 10 feet away. And he told you  
4 about those words that were spoken from about 10 feet away.  
5 You heard from Sean Riner. Sean Riner said that he saw the  
6 front guy stop and turn prior to any shooting. It's important  
7 to remember that.

8           Another thing that the defendant is trying to distract  
9 you with about this issue, who shot first, who shot first, who  
10 shot first, here's the thing, at the end of the day, it doesn't  
11 matter. Officer Goldstein was legally allowed to have that  
12 firearm. And Officer Goldstein was -- did what he was allowed  
13 to do.

14           Officer Goldstein and Mr. Blake, frankly, they agree  
15 on one thing, it happened fast. Imagine the actions of each  
16 individual when you are back there based on the testimony that  
17 you heard. Imagine what makes sense. Use your common sense  
18 and use your personal life experience when you try to sort out  
19 and sift through the facts of this case. Think about it.

20           Cory says he sees someone's back. He then says,  
21 Police, don't move. And he starts to unsnap. He has to rock  
22 his gun forward before he pulls it -- before he can pull it out  
23 of the holster itself. Okay. Think about that.

24           Mark Blake has spun around and has already started  
25 shooting. As Cory is unsnapping, rocking it and then pulling

1 it out, that's when he's hit in the chest. And he starts  
2 moving off line. That's when he's hit in the pinky right here.  
3 That's when he's hit in the arm that goes back. That's when  
4 he's hit in the leg as he is moving. And now look, where he's  
5 hit in the chest is covered. Think about it that way. Use  
6 your common sense.

7 So another issue that Mr. Blake is bringing up is that  
8 he was shot in the back. Look, Lieutenant Wallace labeled  
9 things wrong. She told you that yesterday. And she told you  
10 that again today. Is that ideal, frankly? In my situation,  
11 no. I wish everything was labeled whole. You know, I remember  
12 I used to have a really yucky, horrible dryer. And it would  
13 tear little holes in my clothes. Finally had to go buy a new  
14 one. There are tears and holes in clothing from anything, from  
15 a dryer, from rolling around on the ground, and also from a  
16 bullet hole. I am not saying that doesn't exist. I'm just  
17 saying the labels were wrong. And she told you that.

18 But, you know, I urge you look at his clothes. He  
19 talks about his jacket, how he was shot. You'll have that  
20 jacket. There's a hole, sure. But that hole doesn't even go  
21 through the lining of that jacket. So that must be a magic  
22 bullet that goes through one layer but not both layers of the  
23 jacket, much less his undershirt and his shirt all the way to  
24 the body, because you heard the doctor, no shots in the back.

25 So Sean Riner said the defendant turned around before

1 any shots were fired. Officer Goldstein told you the defendant  
2 turned around before any shots were fired. Mr. Blake's  
3 injuries are consistent with that. You just need to think  
4 about all of this stuff and use your common sense.

5 So I want to start by talking a little bit about the  
6 law. Now, obviously, Judge Keesley, we are lucky to have him  
7 visiting us, and he's the judge this week, he is the judge of  
8 the law. So I'm going to tell you a little bit about the law.  
9 And, you know, I kind of simplify it a little bit in how I talk  
10 about it. But at the end of the day, he's the judge of the  
11 law, so listen to him. But I want to talk you through a few of  
12 the general ideas.

13 Okay. Attempted murder, attempted murder is a person  
14 who, with the intent to kill another person with malice  
15 aforethought, commits the act of attempted murder.

16 THE DEFENDANT: I object to that, Your Honor.

17 THE COURT: What?

18 THE DEFENDANT: Implied.

19 THE COURT: Hold or a second.

20 THE DEFENDANT: Implied and expressed.

21 THE COURT: Ladies and gentlemen, there's a difference  
22 between -- as she just said, if there's a difference between  
23 the solicitor's version of law and what I tell you, you have to  
24 apply the law as I tell you. I am not in any way implying  
25 anything. I'm just telling you that's the standard. It comes

1 from me, as she said. Go ahead.

2 MS. LINDER: So first thing you have to do is show  
3 intent to kill. Intent to kill can be determined by acts,  
4 words and conduct from the defendant and any other  
5 circumstances from which you may naturally and reasonably infer  
6 intent. And you do not have to prove it to a mathematical  
7 certainty. You don't have to prove that intent to kill to a  
8 mathematical certainty. So acts, words, conduct of him, and  
9 then other circumstances.

10 So I would submit to you that other circumstances are,  
11 you know, the acts of him. We saw he had turned around. We  
12 saw him fleeing. We saw him arm himself before he fled. He  
13 stopped. He turned. He ignored commands, so on and so forth.  
14 Those are all actions of his. Words and conduct, all of those  
15 things at the end of the day you can consider when it comes to  
16 intent to kill.

17 And then for malice aforethought, it's kind of a weird  
18 term. It's hatred, ill will, hostility. Sometimes it's called  
19 wicked or depraved heart. And, more or less, that's what it  
20 is. It's that malice. It's that hatred. It's that ill will  
21 or hostility. And then that has to be just before or at the  
22 time of the act. It doesn't have to exist for a long period of  
23 time before the act. It can, frankly, happen right before the  
24 act occurs. So as long as it happens at any moment before the  
25 act itself occurs and obviously during the act.

1           Expressed malice is actions or words which expresses  
2 hatred or ill will. Again, you've heard testimony from the  
3 stand. And you have heard from many different people about  
4 different actions and words that happened in this case. And I  
5 already discussed the time element with you.

6           The judge is going to talk to you about types of  
7 evidence. There are two types of evidence in every case.  
8 There's direct and there's circumstantial. Direct evidence is  
9 what you hear. It's testimony in here what you hear from a  
10 person who actually knows, they know firsthand because the  
11 senses, they saw, touched, tasted, heard, all of that. So  
12 that's direct evidence.

13           Circumstantial is kind of a proof of a chain of events  
14 and circumstances that indicates the existence of a fact. And  
15 that is, frankly, just kind of how it sounds. If one thing  
16 then leads to another then leads to another, all of those  
17 things, when you put them together, it's like, huh, oh, yeah,  
18 that does make sense, that is circumstantial evidence.

19           Reasonable doubt, reasonable doubt leaves you firmly  
20 convinced of the defendant's guilt. And the State is not  
21 required to show you proof beyond all doubt or beyond any  
22 doubt. It's just supposed to show you beyond reasonable doubt,  
23 which means you, as a juror, are firmly convince of the  
24 defendant's guilt.

25           So I'm going to go over here. Reasonable doubt,

1 actually, is kind of funny, because when Agent Kelly was  
2 testifying, I maybe laughed because it's usually my example I  
3 use for reasonable doubt when he was talking about the rain.  
4 So you are sitting inside, and you could use it for what he was  
5 talking about or circumstantial evidence, reasonable doubt,  
6 it's kind of one that everybody uses. We've been sitting  
7 inside all day for the past three days. I have no idea if it's  
8 been raining, not raining, sunny, cloudy. I have no clue  
9 what's happening out there because there are no windows here in  
10 this courtroom. But if we are sitting here and you see someone  
11 walk in, and they are wearing a rain coat, and it has water  
12 droplets on it, and then you see somebody else come in and they  
13 have an umbrella and they are shaking it off within five  
14 minutes and there are water droplets everywhere, and then you  
15 walk out of this courtroom and you get to glimpse outside  
16 through a window and you see the ground is wet, you could see  
17 the sidewalk by the color is wet, and then you walk down the  
18 first floor and out of this courthouse and, for some reason,  
19 you take your shoes off, and you step in that little patch of  
20 grass and that's wet, okay, you never saw it rain, but you are  
21 firmly convinced that some time recently, it has rained,  
22 because you could put together all those different things. And  
23 that itself, that fact, leaves you firmly convinced.

24 I want to talk to you about self-defense. The  
25 defendant in this case is claiming self-defense. Once the

1 defendant puts forward a claim of self-defense, then it's on  
2 the State to disprove any one of those elements.

3 THE DEFENDANT: I object on that, Your Honor, on the  
4 one element of self-defense.

5 THE COURT: In order for self-defense to exist, it has  
6 to have all the elements established.

7 MS. LINDER: As Your Honor just indicated, in order  
8 for self-defense to apply, all four of those elements must be  
9 met. If the State disproves any one of those, then  
10 self-defense does not apply in this case. So if you think  
11 three applies, but not the fourth, self-defense cannot apply in  
12 this case. So the State must disprove any one of those.

13 This is a lot of words. And you will hear them from  
14 the judge. He may say it a little better than this.  
15 Self-defense, let's talk about it. The first one: The  
16 defendant is without fault in bringing about the difficulty;  
17 and, the defendant must have been in actual imminent danger of  
18 losing his life or sustaining serious bodily injury; or, he  
19 must have actually believed he was in imminent danger of losing  
20 his life or sustaining serious bodily injury; and then it talks  
21 about if it's based on his belief or if it's based on actual, a  
22 reasonably prudent person of ordinary firmness and courage,  
23 would have entertained the same belief, or a reasonably prudent  
24 person of ordinary firmness and courage, they would have acted  
25 in same manner. That's important to remember. You got to

1 remember the reasonable aspect of things; and then the fourth  
2 one is that the defendant had no other probable means of  
3 avoiding the danger of losing his own life or sustaining  
4 serious bodily injury.

5 Frankly, I think we disproved all four. I think the  
6 clearest one is going to be number one, that he's without fault  
7 in bringing about the difficulty. And I'm going to keep going  
8 through why, in fact, that's true.

9 So the judge is also going to charge you, aside from  
10 attempted murder, he's also going to give you the option if you  
11 would like to convict the defendant of assault and battery of a  
12 high and aggravated nature, what we call ABHAN. So for assault  
13 and battery of a high and aggravated nature, it's a person who  
14 unlawfully injures another, and the act is accomplished by  
15 means likely to produce death or great bodily injury.

16 So legal jargon, which I don't even necessarily like,  
17 what does that really mean? So we strip it all away.  
18 Attempted murder means I have to show you the intent that the  
19 defendant intended. And then there was the malice, and he  
20 intended to kill him. This one, I don't. (Indicating.) This  
21 is he's injuring somebody else, and it's accomplished by a  
22 means likely to produce death or great bodily injury. So those  
23 are the two differences. Again, please listen to the judge.  
24 He is the judge of the law and much more eloquent than I when  
25 it comes to that.

1           So I want to talk to you very briefly about the facts  
2 of this case. And when I talk about the facts of the case, I'm  
3 going to run through it. You have been such an attentive jury,  
4 and I do thank you for that. And I just want to kind of make  
5 sure that we are all on the same page. And I want to review a  
6 few things with you.

7           Let's start. March 30th of 2013, it all started here.  
8 The officer -- if I can make this work. No. Oh, these  
9 screens. The officer is in that appliance parking lot, facing  
10 out. The defendant drives this way, passing that beautiful,  
11 reflective black-and-white marked cruiser, drives right past  
12 him, windows tinted, turns right at this light. So at that  
13 point, I would submit to you, that Mark Blake started getting a  
14 little nervous, a little scared, because he sees that police  
15 officer. And at that point alone, he already knows he is an  
16 unauthorized driver on that car, as that rental agreement  
17 shows. He is not allowed to be driving, period, as his license  
18 was suspended. There is dark window tint. It's illegal on  
19 that car. And he has a firearm that he's not allowed to have  
20 in that vehicle with him. So right there, I submit to you that  
21 even back then, he saw that police car, and he said, oh, no,  
22 not tonight, not getting caught.

23           So turns right. Things keep moving on. And then the  
24 officer, just like I said, told you and talked to you in very  
25 opening of all of this, he talked about how he was trying to be

1 patient. And he was being reasoned. And he was being measured  
2 in everything that he did. He doesn't just throw on those blue  
3 lights and make it happen when he saw this dark tint. He  
4 didn't all of a sudden say, whoa, look at this, these North  
5 Carolina tags, it's a rental car, after he ran the tags, and  
6 that made the tint even more concerning to him. But he wanted  
7 to kind of check out what was happening. So that's exactly  
8 what he did. In a reasonable and measured fashion, he  
9 responded to the defendant's choices that night. And it  
10 started with a choice, as simple as this.

11           So this map you will see it goes through. I can't  
12 point it. About the center of the hole map, that's Orleans  
13 Road. It goes down. And then about third of the way down, you  
14 see to your left it goes into Target and the mall. So when the  
15 defendant drives the car in there, the officer is watching. He  
16 goes across the street and he's just checking it out. He's  
17 watching what's happening. And sees no stops at the stop  
18 lights, driving quickly through. And then he sees him pass  
19 some stop signs and get on Orleans Road. Officer responds by  
20 getting right on him.

21           There's testimony that you heard that on the corner of  
22 Orleans Road and Sam Rittenburg that there's businesses, like a  
23 strip mall. The lighting is there and we see who's behind. As  
24 they continue along, ends up crossing over. Now we are  
25 looking -- wish I had a pointer that worked -- about two-thirds

1 to three-quarters of the way over, the angled road there. That  
2 is Orleans Road and that's Sam Rittenburg. Crosses over Sam  
3 Ritt and turns, it would be left, but it looks like our right.  
4 That big parking lot right there, that big, well-lit parking  
5 lot, that's Michael's now, and Best Buy, used to be  
6 Books-A-Million, the Wells Fargo is at the bottom. So that's  
7 where all this happened.

8           So in this parking lot, this parking lot is where the  
9 defendant chose to ignore the blue lights, causing the officer  
10 to respond by putting on his siren. Then the defendant came to  
11 a stop. It could have stopped there. I'm sure Officer  
12 Goldstein wishes it stopped there with the citation or a  
13 warning. But the defendant made other choices. He turned off  
14 his headlights and he squealed those tires and he took off. He  
15 took off the big white roof. It's just south of that. He took  
16 off straight out that way, really fast, no headlights, turned  
17 right on to Dupont, turned, took a right on to Dupont.

18           Officer Goldstein responded by putting on his blue  
19 lights and sirens continuously, the whole way down. Toward the  
20 top, you could see Best Buy, Michaels. That's Dupont that  
21 whole road down, that entire road down, all the way to what I  
22 can see is Boxcar Betty's. That's 17. All that way down,  
23 that's the way that the defendant drove, that entire way. You  
24 heard testimony, no cars in between the defendant and the  
25 officer, that entire way down, blue lights and sirens going.

1           When the defendant came out and went southbound on  
2 Savannah Highway, still had no headlights, still was speeding,  
3 still driving erratically, Officer Goldstein responded. He  
4 made a responsible choice. He terminated the pursuit. He  
5 turned off his lights. He turned off his sirens, because he  
6 had to think of other people, because that's what he did and  
7 that's what he does. And that's a big reason, one of the main  
8 great things about law enforcement. They don't love what they  
9 are doing all moments, but they do it because that's what their  
10 duty is.

11           So goes down southbound on 17, driving erratically,  
12 driving erratically, driving erratically. And then as he's  
13 driving erratically, we have Officer Flaherty who you heard  
14 from. Flaherty, he marked on the map, and y'all have all this  
15 stuff back there with you. He was at the light. And he X'd  
16 kind of where the overpass is. He was at that light when he  
17 saw the defendant driving south on Savannah Highway, no  
18 headlights. So that's two people, no headlights, no  
19 headlights, driving erratically, turn right to the on-ramp. So  
20 those -- so that goes on the ramp. He immediately turns on his  
21 blue lights. He's waiting for traffic to be safe. And before  
22 he turns left, Officer Goldstein had caught up going down  
23 Savannah Highway just driving with the flow of traffic, no  
24 lights, no sirens. Goldstein pulled up. Flaherty directly  
25 behind him.

1           You heard that this is what they came across, a  
2 vehicle with a lot of damage to the front, a vehicle with no  
3 headlights on. And then you heard again about what the  
4 defendant's actions were at this point. He decided, even  
5 though he thought he shook the guy in this unknown blue sedan  
6 behind him on Savannah Highway, by the time he got up here, he  
7 thought, wait, maybe again. So he decided to arm himself.

8           He didn't call the police. He didn't do any of that.  
9 He ended up arming himself when he was not allowed to, and he  
10 took off running. Officer Goldstein then took off running  
11 after him, gun in holster. He starts at that underpass  
12 yelling, Police, stop.

13           Now, everybody has different ways they pronounce  
14 things. You know, I'm pretty articulate. So I say, Police,  
15 but some people say, police, police, police. And it is kind of  
16 sounds like a whispering please. I don't know. I don't know.

17           Listen, Officer Goldstein identified himself as police  
18 and said that. He was chasing after him with his gun  
19 holstered. Flaherty also told you that when Officer Goldstein  
20 went running, his gun was holstered. Ernie Terrell also told  
21 you that when Officer Goldstein was running, he had his gun  
22 holstered. So those people are all lining up.

23           So we have this car. We have the ramp. That shows  
24 the light -- that's not really the light. It's from this ramp.  
25 This is the on-ramp. You can see the hotel. You can see all

1 of that. You can also see Ernie Terrell, where he is with that  
2 well-lit Motel 6, and he's looking right over. You can see in  
3 this picture, you see Flaherty's car is the one in the back  
4 left. He identified that for you. That's his car with his  
5 blue lights going. You can see this is Officer Goldstein's  
6 car. This is clearly, I would submit to you, a marked cruiser.  
7 This is the car you think of when you think of a police car.  
8 This is the old-school Crown Vic, the black and white, the  
9 blue, the big emblem. This is exactly what comes to mind when  
10 you think of a police car. And this is the car that was behind  
11 the defendant, blue lights and sirens on, and he failed to  
12 notice, or the car he saw was a new model sedan, doesn't know  
13 the color.

14 This perspective shows you, when Mark Blake decided to  
15 arm himself and say, hey, let's go for it, and he took off  
16 running, and you had Ernie, who saw the defendant and Officer  
17 Goldstein, you had Flaherty, who didn't see any, either of  
18 them, because he was making sure that car didn't have stuff in  
19 it, so this is kind of the perspective from the on-ramp, you  
20 could see the blue lights, all the way down to the street. And  
21 then there's the sidewalk on the other side. So this shows you  
22 kind of the view that they had, that grassy area where they  
23 were running.

24 Mark Blake, when he was running here, he had a bunch  
25 of choices. And he kept choosing to do whatever he felt like.

1 That's what he did. That's what he does. He thinks he can  
2 talk his way out of everything. He thinks that he gets to  
3 decide everyone's fate. He is subject to the same laws that  
4 you and I are. As he's running down this way, he hears  
5 somebody yelling, Stop. He even told you that. He turns and  
6 looks. Took a little while, but he did acknowledge he saw blue  
7 lights. So 10 to 15 feet away, he sees a person. He hears a  
8 person. And in that same glance, he sees blue lights. Oh, and  
9 by the way, there's this big encounters with blue lights all  
10 earlier just prior to this, minutes before this. Who else  
11 would it be?

12 So next there's Sean Riner out there having that  
13 cigarette. Poor guy, I think, so unlucky. But so he's out  
14 there, and he's able from this hotel patio -- and again, you  
15 will have all of these exhibits, so you will have a better  
16 perspective -- he's able from that spot, he testified, he saw  
17 the blue lights on the on-ramp. After he saw the blue lights  
18 is when he saw the people running. He saw the people running  
19 50 feet away. And he told you it was a police officer. And he  
20 told you that officer was telling the defendant to stop. He  
21 told you that. So he could tell from 50 feet away. And  
22 Mr. Blake, who says he has good vision, cannot tell from 10 to  
23 15 feet away.

24 So Mr. Blake decided that he was going -- he was going  
25 to choose how everything happened and how everything went down.

1 So instead of stopping back in the Best Buy parking lot,  
2 instead of stopping after everything on Dupont, instead of  
3 stopping when he was in a car accident, instead of any of that,  
4 he kept choosing to go. He kept choosing to flee. He was  
5 trying to outrun the situation that he had created. He ran.  
6 He sure did. He ran. And when he realized that Cory Goldstein  
7 was in great shape and a fast runner, he was like, oh, I have  
8 to change my strategy. So he went from a run to a jog. Hands  
9 on the waistband. Went from a jog to a walk, to a stop.

10 Ladies and gentlemen, I am not saying these were like  
11 long periods of a run and long period of a jog and long period  
12 of a walk. Look at the pictures. Sidewalk is not that long.  
13 From one end of the hotel to the rest, I don't know how many  
14 yards, I am not good with that, but if you were running and you  
15 jog for a few moments like this, and then you walk for a few  
16 minutes, and then you stop, and then you spin around, I mean,  
17 that's pretty quick. I talk pretty quick, but if somebody  
18 says, you know, Don't move, police, don't move, I mean, I can  
19 move pretty darn quick.

20 So, you know, I just kind of want you to think about  
21 that. When we are up here testifying, we are asking for  
22 everyone to slow things down. And it's really important to  
23 slow things down for you to understand what happened. But then  
24 it's also really nice to hear somebody who had no idea of what  
25 was going and who saw things in real-time. And Riner saw in

1 real-time zero, a big goose egg, zero bullets, zero muzzle  
2 flashes. He didn't hear them or see them until the first guy  
3 turned around. That is hugely important.

4 So this is the sidewalk. This is the sidewalk. So  
5 along this sidewalk is the run, jog, walk, everything. And you  
6 could see on the right side of the building, that's where the  
7 patio is. That's where Sean Riner is during all of this.

8 I ask you to think about Mr. Blake's version. Think  
9 about it. So he's running. And then he is shot from behind  
10 when he first gets on the sidewalk. I think there was  
11 testimony about the shell casings. We even had Chad Smith do  
12 some math. Remember that? Cory Goldstein, 18 rounds were  
13 collected. Lt. Wallace told you, and there are photograph, all  
14 18 rounds of Officer Goldstein's were, like, in the roadway,  
15 the roadway away from 526. And you will have pictures. You  
16 can see where that was. It's actually close to where you are  
17 kind of turning right to go to Costco. That's a landmark for  
18 me, turning right into Costco. So there are no shell casings.  
19 There are no shell casings over there.

20 And more importantly, aside from that, do the math.  
21 Listen to Chad Smith, do the math. You know, he talked about,  
22 well, there's Goldstein's magazine is 13. He reloaded. So  
23 Goldstein had two magazine, 13, 13, 26. Out of the 26, 18 were  
24 fired. That leaves you with 8. There were 8 left in the  
25 magazine, which means all 18 were collected, which means all

1 18, none of them where Mr. Blake claims that the first shots  
2 rang out, none of them.

3 He's crafting a story that helps himself out. And  
4 it's not consistent, his favorite word, with what everyone else  
5 is saying.

6 So here we have Sean Riner ducking, trying to get into  
7 everything. Here I want to talk to you, because what's  
8 happening is, he's ducking to get in, because at this point,  
9 firing is happening. You heard from Officer Goldstein. The  
10 only people out there. You could see the parking lot. No one  
11 is out there. You heard testimony from officers who ran  
12 through. He was the only one out there anywhere in that hotel  
13 parking lot. We got the surveillance videos. He's the only  
14 one in that hotel parking lot. No one else claims to have seen  
15 the initial exchange between the two.

16 So you've got Officer Goldstein and we've got Mark  
17 Blake. We have Officer Goldstein who is on duty, in full  
18 uniform, trying to effect a traffic stop, wearing his equipment  
19 belt, yelling police commands, trying to get all of this going.  
20 And then you have Mark Blake, who from moment go, moment go, he  
21 had all of these things that he was not doing correctly, all of  
22 these things that he was doing that he could be caught for, all  
23 of these things that he should not have been doing.

24 So Sean Riner is ducking. This is after he saw the  
25 stop and turned. This is that firearm of the defendant's, that

1 Glock he was not allowed to have. That is in the lock-back  
2 position. I don't remember, one of the witnesses was circling  
3 and showing you the slide is back. When that slide is back --  
4 I think it may have been Flaherty -- he was explaining when the  
5 slide goes back, with a semi-automatic, when it goes forward,  
6 it pulls another bullet up for you. And it stops going forward  
7 if there's no more bullets to pull up for you. So it was ran  
8 dry. It was shot until it was empty.

9 This is picture is that cluster, that cluster where  
10 Mark Blake decided to make his decision, and then spin around  
11 and plant those feet, shooter stance, and get that good, clean  
12 first shot off. And then he stood there because, absolutely,  
13 he too was shot. I am not debating that. He was hit. Officer  
14 Goldstein returned fire. Officer Goldstein shot him back. And  
15 then he went to the ground, and then he was still firing. You  
16 heard the testimony about what was happening. Mark Blake made  
17 choices along way.

18 You see this perspective. This is from -- everything  
19 here is where Mark Blake is. It's kind of hard to see. Out in  
20 the street, just passed that sign -- this one is tough. Passed  
21 that sign, you see more markers out in the street. Those are  
22 all Goldstein's markers out there. This is further down Sam  
23 Ritt, almost where you are turning to go to Costco. This is  
24 not the whole other side. This is not where Mark Blake claims  
25 that all the action started, where he had to start blind

1 firing.

2 Let's talk about injuries. Okay? It matters. This  
3 is the diagram that Dr. Montgomery went through with you of  
4 Mark Blake. She talked about she had everything listed. L  
5 with a circle and R with a circle means right or left. I don't  
6 remember a whole lot of her other -- I think the straight line  
7 with a C underneath, I think that means width, potentially.  
8 She testified. You remember her testimony.

9 But it's really telling to look at this. So the front  
10 guy has shot in the bottom leg, shot in the right thigh, shot  
11 in the left, like, thigh, shot in the left arm. The back has  
12 zero.

13 Again, you could like my idea of a poor dryer on its  
14 last leg, or whatever as far as the tattered clothes, but I  
15 think it's important that you look at this. The doctor treated  
16 both of these guys. The doctor is neutral. She's a trauma  
17 surgeon. She's there to try to help save lives. Granted, she  
18 told you that none of this was life-threatening. She told you  
19 that may be limb-threatening, she said. This is hugely  
20 important. The defendant's story doesn't line up with this.

21 So then let's talk about Officer Goldstein's injuries.  
22 Again, you will have all this back there with you. You will  
23 have all the photos, all the exhibit. You can look at  
24 everything. This right here is -- his clothes were cut off of  
25 him. This is when he was shot. And it went through shoulder,

1 shoulder, shoulder, shoulder, and then the back, which I can't  
2 really reach. That's where that is. So he posed for you up  
3 there. This is how he holds his gun. He's right-handed. And  
4 that's where he was shot.

5 He also was shot right there. His bullet hole was  
6 through and through. His doctor told you that and he told you  
7 that. Went in here and out here. The officer was also shot  
8 there.

9 Ladies and gentlemen, I feel that any of these shots  
10 would count. But this is the one. This is the one that really  
11 matters. That's his undershirt. So even with his uniform,  
12 that polyester uniform shirt, and that Kevlar vest that stopped  
13 the bullet from hitting in his cardiac box that the doctor was  
14 telling you, I think it's here, in the cardiac box that the  
15 doctor was telling you about, even with that, it still caused  
16 him to bleed and burn through his shirt.

17 Here, it looks like a tiny little insignificant hole.  
18 But that right there, that's the kill shot. That's the kill  
19 shot. But for Officer Goldstein wearing that vest, and that is  
20 what saved his life that day, period.

21 So here is one of the pictures where it went through,  
22 and you are kind of opening all the layers of it. Here's the  
23 vest out of that blue, and you see a tiny little mark, boom,  
24 right there. That's it. That is it. That is the kill shot.

25 You know, you have been very attentive throughout

1 everything. And I just think it's very important that you look  
2 at all the facts and circumstances around this. Think of who  
3 had the motive. Who was doing what and for what reasons that  
4 night.

5 And I talked to you in the beginning and, you know,  
6 just simply said, Mark Blake was caught. That's what happened.  
7 He was caught. He tried to outrun his problems. He tried to  
8 outrun his problems with that car. When that didn't work, he  
9 tried to outrun his problems on foot. And when that didn't  
10 work, he tried to shoot his way out of it. That's what  
11 happened.

12 Mark Blake chose to drive the rental car that he was  
13 not authorized to drive. Mark Blake chose to drive a car with  
14 aftermarket tint. He chose to ignore traffic laws, stop  
15 signs, proper signals. He chose that. He chose to ignore the  
16 blue lights in the Best Buy parking lot. He chose to ignore  
17 the sirens in the Best Buy parking lot. He chose to ignore the  
18 officer exiting the car in that well-lit Best Buy parking lot.  
19 Mark Blake chose to run. He chose to run. He took off. He  
20 had no headlights. He was speeding down Dupont Road. He  
21 ignored those blue lights and sirens of Officer Goldstein the  
22 whole way down, following him all the way down Dupont. Mark  
23 Blake then chose to ignore the light at Savannah Highway and  
24 Dupont when he went on to Savannah Highway. He chose to ignore  
25 the traffic laws there and Officer Goldstein, by weaving in and

1 out, with no headlights, and speeding throughout everything.  
2 These are all choices that Mark Blake made leading up to his  
3 ultimate choice, which is why we are here today.

4 He chose to get on the on-ramp to try to get out of  
5 Charleston and get on 526. He chose -- when he wrecked that  
6 car, he chose to illegally arm himself with that Glock 22. And  
7 he chose to get out and run. He chose this.

8 When he couldn't outrun it, like I said, with the car,  
9 he decided to outrun it on foot, carrying that gun. He  
10 started -- and he chose to run towards the Comfort Suites. He  
11 ended up -- he chose to ignore the verbal commands of Officer  
12 Goldstein. He chose to ignore the person that he saw, that he  
13 told you he saw as he glanced over his shoulder again and  
14 again. And then he decided, when he couldn't outrun his  
15 problems on foot, he was shooting his way out of it. It didn't  
16 take him long, but he made that decision.

17 He made that decision when he put his hands in his  
18 waistband. He made that decision when he spun around. He made  
19 that decision when his arms were outstretched and his feet were  
20 shoulder width apart and he was in shooter stance with Officer  
21 Goldstein. He made that decision. All Officer Goldstein could  
22 do was to respond.

23 Mark Blake spun around, shooter stance, and started  
24 firing. He fired until he had no more bullets. Officer  
25 Goldstein was trying to get his gun out of his holster, gets

1 hit, and then is moving, walking away, still getting shot in  
2 the middle of the roadway. That's what the evidence shows.  
3 That is what the testimony shows. Mark Blake chose to try to  
4 kill Officer Goldstein. And we cannot ignore that.

5 I respectfully request that you go back there and you  
6 think about this. And you give it all the attention it  
7 deserves. Think about how Mark Blake, with each one of his  
8 choices and each one of his actions, he was not without fault  
9 in bringing about the difficulty, but for him not stopping, but  
10 for him having that gun, but for him running, but for him  
11 stopping and turning around.

12 And this is not a Cory says, Mark Blake says. This is  
13 a Mark Blake says, everyone else says. And not only does  
14 everyone else say, the crime scene shows it. Look at this  
15 stuff.

16 I respectfully request that you come back with a  
17 verdict of guilty for attempted murder, because this defendant  
18 tried to kill Officer Goldstein that night.

19 THE COURT: Ladies and gentlemen, we are going to take  
20 a recess. Your food is here. I will let you eat. And bring  
21 you back out and give you the law. Don't discuss the case yet.  
22 Follow the bailiff, please.

23 (Whereupon, the jury leaves open court at 7:04 p.m.)

24 THE COURT: All right. The jury's food is here. So  
25 if any of you want to eat, I suggest you eat quickly somewhere

1 and get back. As soon as I've got all the essential personnel,  
2 we are going to start. All right. Thank you.

3 (Whereupon, a recess transpired.)

4 (Court's Exh. 14, *State v. Burriss*, was marked for  
5 identification.)

6 (Court's Exh. 15, *State v. Williams*, was marked for  
7 identification.)

8 (Court's Exh. 16, Jury Charge, was marked for  
9 identification.)

10 THE COURT: I made some modifications to the charges.  
11 I wasn't able to make a strike through or anything thing like  
12 that version of it. I will tell you that I added the section  
13 about the intent related to ABHAN, being knowingly, basically  
14 explaining to the jury that something is done knowingly, it's  
15 not done by accident or mistake but it's done consciously.

16 I deleted -- there was some language in there about  
17 prior difficulty. I took that out. It wasn't necessary  
18 because these two -- there's no evidence that these two  
19 individuals even knew each other before the incident.

20 I added the language about the two things that I said  
21 I would. And it's not exactly what was handed up to me, but  
22 it's in self-defense portion toward the bottom of it.

23 I've also handed you a proposed verdict form. And if  
24 you have any issue with the manner in which the verdict form is  
25 presented to the jury, I need to know it now.

1 THE DEFENDANT: I know we discussed earlier about the  
2 last defense, Judge. I don't have anything else to object  
3 about that I haven't objected about already.

4 THE COURT: All right, sir.

5 MR. SOWARDS: And just, Your Honor, on the first page  
6 at the bottom, you may consider the lack of evidence by the  
7 State, I thought --

8 THE COURT: I changed it twice. Is it still showing  
9 as the lack of evidence?

10 MR. SOWARDS: It is on ours, Judge.

11 THE COURT: My computer froze up, obviously. It  
12 wouldn't freeze up at two o'clock in the afternoon, but it  
13 freezes up. And I guess when I was trying to save, somehow it  
14 saved a different version.

15 MR. SOWARDS: We take no issue with the verdict form,  
16 Your Honor.

17 THE COURT: It's showing up as the lack of evidence on  
18 yours? Apparently, what we printed was the wrong thing. I'm  
19 sorry. I was saving them all on top of this same form. I  
20 wasn't creating different ones. So I don't know what in the  
21 world. All right. We will try it again. We will be at ease  
22 for a few minutes.

23 (Whereupon, a recess transpired.)

24 THE COURT: While we are doing this is, my intention  
25 is to give the jury a copy of the instructions. I don't know

1 if the judges here typically do that or not. Maybe some do,  
2 some don't. So what I always do is make a copy of it and give  
3 it to the court reporter to mark as a court's exhibit so there  
4 would be a record of what I sent back to the jury. So we made  
5 all these copies. And we are going to try to make some more.  
6 What I will probably do is just print out so y'all can see them  
7 and then charge the jury. And my law clerk can be printing the  
8 rest of them while I'm charging. We are at ease.

9 (Whereupon, recess transpired.)

10 THE COURT: I'm going to go ahead and charge the jury.  
11 And y'all can object at the end of the charge if there's  
12 anything in there that you don't like.

13 (Whereupon, the jury returns to open court at 7:57  
14 p.m.)

15 THE COURT: Bear with me. Members of the jury, all  
16 the evidence has been presented. You've heard the arguments of  
17 counsel. And now it's time for me to instruct you on the law  
18 that applies to this cases. Please continue to pay close  
19 attention during this next stage of the proceeding.

20 First, you need to understand some basic ground rules.  
21 You, the jury members, are the sole judges of the facts. You  
22 decide all the issues of fact. You alone determine the truth  
23 of the evidence, its effect, its value and its weight. You  
24 alone judge the credibility of the witnesses, in other words,  
25 whether or not a witness's testimony is believable.

1           In evaluating the testimony of the witnesses, you may  
2 believe all of what a witness said or none of it. You may  
3 believe part of what a witness said and not believe the  
4 balance. You may believe one witness against many or many  
5 against one. You may consider any interest, bias or prejudice  
6 that you feel that a witness has in this case. You may  
7 consider the demeanor and the appearance of the witness and the  
8 opportunity for knowledge that the witness had. You may  
9 consider any lack of evidence presented by the State.

10           But you are not to exercise these considerations  
11 arbitrarily. What I want you to do is to use your common  
12 sense. Use your sense of logic and reason and your good  
13 judgment.

14           The rules of evidence allow for opinion testimony to  
15 be given under certain circumstances. One area where that's  
16 allowed is where someone, by virtue of education, training and  
17 experience, is qualified or permitted to testify as an expert  
18 witness. The mere fact that an expert is allowed to give  
19 opinions under our rules does not mean that you must accept the  
20 opinions given. You may accept or reject the opinions of an  
21 expert witness, just as you may with any other witness, in  
22 whole or in part.

23           It's not proper for me to give you a charge on the  
24 facts of the case. I cannot discuss the facts with you. I am  
25 not permitted to convey to you an impression as to what, if

1 any, personal opinions I might develop about the facts of the  
2 case. If during any stage of this trial, you developed an  
3 impression that I have a personal opinion about the facts, you  
4 must remove that belief totally from your mind. You are the  
5 sole judges of the facts. I am the judge of the law that  
6 applies to the case. And under your oath, you are vowed to  
7 accept and apply the law as I give it to you. You must abandon  
8 any conflicting ideas you might have as to what the law is or  
9 what it should be. I give you the law. You apply it to the  
10 facts as you determine them to be. And in that way, you reach  
11 your verdict.

12 It's also my duty to determine what evidence is  
13 admissible. If I rule something inadmissible or instructed you  
14 to disregard something, you are not to consider those things in  
15 arriving at your verdict. Base your verdict on the competent  
16 evidence before you. Consider the testimony from the witnesses  
17 and any exhibits admitted. You must also follow the limiting  
18 instructions that I gave you during the trial.

19 I need to explain to you that there are two types of  
20 evidence generally presented during a trial. There's direct  
21 evidence. And there's circumstantial evidence. Direct  
22 evidence directly proves the existence of a fact and does not  
23 require deduction. Circumstantial evidence is proof of a chain  
24 of facts and circumstances indicating the existence of a fact.  
25 Crimes may be proven by circumstantial evidence. The law makes

1 no distinction between the weight or value to be given to  
2 either direct or circumstantial evidence. However, to the  
3 extent that the State relies on circumstantial evidence, all of  
4 the circumstances must be consistent with each other, and when  
5 taken together, point conclusively to the guilt of the accused  
6 beyond a reasonable doubt. If the circumstances merely portray  
7 the defendant's behavior as suspicious, then the proof has  
8 failed.

9 The State has the burden of proving the defendant  
10 guilty beyond a reasonable doubt. The burden rests with the  
11 State regardless whether the State relies on direct evidence,  
12 circumstantial evidence, or some combination of the two.

13 The defendant in this case, Mr. Blake, is presumed to  
14 be innocent. This is no mere legal theory. It is a  
15 fundamental and substantial right to which everyone is  
16 entitled. It's been described as being like a robe of  
17 righteousness placed around an accused that remains with him  
18 through every stage of the trial. It continues to exist after  
19 you retire to your jury room to deliberate, and continues to  
20 exist so that he is presumed to be innocent unless and until  
21 you, the jury, determine that the State has proven the guilt of  
22 the defendant beyond a reasonable doubt.

23 A defendant is not required to prove his innocence.  
24 He's not required to prove anything. The burden is on the  
25 State to prove the guilt of the defendant beyond a reasonable

1 doubt. And it's required that every essential elements of an  
2 offense charged be proven by the State beyond a reasonable  
3 doubt. The State is not required to prove the guilt of the  
4 defendant beyond all doubt or beyond every doubt. The  
5 appropriate standard is proof beyond a reasonable doubt.

6           Some of you may have served as jurors in civil court.  
7 And if you have, you know that the burden of proof in civil  
8 court is a lesser standard. It requires establishing that  
9 something is more likely than not, which is called the greater  
10 weighed or preponderance of the evidence. But in criminal  
11 court, the standard is much higher. And the proof must be much  
12 stronger than what is required in civil court. The burden of  
13 proof in a criminal case, such as the one before you, is proof  
14 beyond a reasonable doubt.

15           So what do I mean by that term? Proof beyond a  
16 reasonable doubt is proof that leaves you firmly convinced of  
17 the defendant's guilt. There are few things in the world that  
18 we know with absolute certainty. And in criminal cases, the  
19 law does not require proof that overcomes every possible doubt.

20           If, based on your consideration of the evidence, you  
21 are firmly convinced that the defendant is guilty of a crime,  
22 then you are to find him guilty of that crime. If, on the  
23 other hand, you think there is a real possibility that he is  
24 not guilty, you must give him the benefit of the doubt and find  
25 him not guilty of that crime. There is no obligation on the

1 part of the defendant to raise any doubt or any other  
2 possibility. He is presumed innocent. And the State has the  
3 entire burden of proof, and must prove to you that the  
4 defendant is guilty to the exclusion of any other real  
5 possibility.

6 To prove the defendant guilty of a crime, the State  
7 must prove to you beyond a reasonable doubt that the defendant  
8 acted with criminal intent. Intent is a mental state. The  
9 State must establish the necessary criminal intent beyond a  
10 reasonable doubt in order for the defendant to be convicted of  
11 a crime.

12 The criminal intent required for attempted murder is  
13 specific intent. It requires proof beyond a reasonable doubt  
14 that the defendant had the specific intent to kill Cory  
15 Goldstein as alleged in the indictment. Specific intent means  
16 that the defendant consciously intended the completion of the  
17 act of killing Cory Goldstein with malice aforethought. You  
18 are to look at all of the circumstances surrounding the  
19 incident to determine whether the defendant had the necessary  
20 criminal intent. Intent, like other elements, may be proven by  
21 direct or circumstantial evidence or a combination of both.

22 Now, let's turn to the specific charge that's alleged  
23 in this trial. I read this indictment to you at the beginning  
24 of the trial. Mr. Blake is accused of committing attempted  
25 murder in Charleston County, South Carolina, on or about March

1 20th, 2013, and that it is alleged that he did, with intent to  
2 kill, and with malice aforethought, attempt to kill Cory  
3 Goldstein.

4 I caution you again that an indictment has no  
5 evidentiary value. An indictment is nothing more than a  
6 charging paper, formal means by which someone is charged and  
7 brought to trial. It's not evidence. And you may not accord  
8 an indictment any evidentiary value.

9 So the State has to prove to you that the alleged  
10 offense occurred in Charleston County, South Carolina. In  
11 order to prove attempted murder, the State must prove to you  
12 that the defendant attempted to kill another person named in  
13 the indictment with malice aforethought. As I stated, this  
14 requires proof of a specific intent to kill that person with  
15 malice aforethought.

16 Malice imports wickedness. It springs from depravity,  
17 a depraved spirit, a heart devoid of socially duty and fatally  
18 bent on mischief. It involves hatred, ill will, or hostility  
19 toward another person. It is the intentional doing of a  
20 wrongful act without just cause or excuse and with an intent to  
21 kill the person. Malice aforethought does not require that  
22 malice exists for any particular time before the act is  
23 committed, but malice must exist in the mind of the defendant  
24 just before and at the time that the act is committed.  
25 Therefore, there has to be a combination of a previous evil

1 intent and the act.

2 Intent means intending the result that actually  
3 occurs, not something that occurs accidentally or  
4 involuntarily. The State has to prove expressed malice, which  
5 is the deliberate intention to kill a human being unlawfully.  
6 It requires the State to prove that the defendant consciously  
7 intended the completion of the act of murder, but failed.

8 Attempted murder involves the performance of an act  
9 that tends to kill a human being, but fails, where the act was  
10 done with malice, the deliberate intention to kill unlawfully.

11 Now, ladies and gentlemen, the law recognizes that  
12 certain crimes include within them lesser crimes. Greater  
13 crimes include lesser crimes. And these are called  
14 lesser-included offenses. The crime of attempted murder  
15 includes within it the lesser-included offense of assault and  
16 battery of a high and aggravated nature. If you find that the  
17 State has failed to prove beyond a reasonable doubt that the  
18 defendant committed attempted murder, you would then consider  
19 whether the State has proven the defendant guilty of a  
20 lesser-included offense of assault and battery of a high and  
21 aggravated nature.

22 A person commits assault and battery of a high and  
23 aggravated nature if the person unlawfully injures another  
24 person, and great bodily injury results, or the act is  
25 accomplished by a means likely to produce death or great bodily

1 injury.

2 Great bodily injury means bodily injury which causes a  
3 substantial risk of death or which causes serious permanent  
4 disfigurement or protracted loss or impairment of the function  
5 of a bodily member or organ. To do an act unlawfully means to  
6 do it without legal justification or excuse.

7 The State must prove that the defendant knowingly,  
8 intentionally and unlawfully committed an assault and battery.  
9 An assault is a threat to harm another. It does not have to be  
10 expressed by words, but it may be shown by acts or by conduct.

11 A battery is an unlawful touching of another human  
12 being. It does not have to be flesh to flesh, but it may be  
13 accomplished by some object put in motion by the perpetrator.

14 Assault and battery of a high and aggravated nature  
15 occurs when a person unlawfully injures another person, and  
16 great bodily injury results, or the act is accomplished by a  
17 means likely to produce death or great bodily injury.

18 To do an act knowingly, as I said previously, means  
19 that it's done with knowledge, consciously, not something that  
20 occurs by accident or mistake.

21 So to recap, ladies and gentlemen, attempted murder  
22 requires malice aforethought and the attempt to kill. Assault  
23 and battery of a high and aggravated nature does not require  
24 malice or the specific intent to kill, but requires the State  
25 to prove that the defendant unlawfully and knowingly injured

1 another person, and that great bodily injury resulted, or the  
2 act was accomplished by a means likely to produce death or  
3 great bodily injury.

4 Now, one of the issues that you need to consider is  
5 whether the defendant was acting in self-defense. Self-defense  
6 is a complete defense. If the defendant was acting in  
7 self-defense, his conduct was lawful, and you must find him not  
8 guilty.

9 A defendant does not have any burden of proof. So a  
10 defendant does not have to prove self-defense. Rather, the  
11 State has the burden of proving beyond a reasonable doubt that  
12 the defendant did not act in self-defense. If you have a  
13 reasonable doubt of a defendant's guilt after considering all  
14 of the evidence, including the evidence of self-defense, you  
15 must find the defendant not guilty.

16 On the other hand, if you have no reasonable doubt of  
17 the defendant's guilt after considering all of the evidence,  
18 including the evidence of self-defense, then you must find the  
19 defendant guilty.

20 The following elements are required to establish  
21 self-defense. The first is, the defendant must have been  
22 without fault in bringing on the difficulty. If the  
23 defendant's conduct was the type that was reasonably calculated  
24 to and did provoke a deadly assault, the defendant would be at  
25 fault in bringing on the difficulty and would not be entitled

1 to an acquittal based on self-defense.

2           The second necessary element of self-defense is that  
3 the defendant was actually in imminent danger of death or  
4 serious bodily injury, or that he actually believed that he was  
5 in imminent danger of death or serious bodily injury. If the  
6 defendant was actually in such imminent danger, it must be  
7 shown that the circumstances would have warranted a person of  
8 ordinary firmness and courage to strike as the defendant did to  
9 prevent death or serious bodily injury to himself.

10           If the defendant believed that he was in imminent  
11 danger of death or serious bodily injury, it must be shown that  
12 a reasonably prudent person of ordinary firmness and courage  
13 would have had the same belief.

14           In deciding whether the defendant actually was or  
15 believed that he was in imminent danger of death or serious  
16 bodily injury, you should consider all the facts and  
17 circumstances surrounding the incident and the relationship  
18 between the parties.

19           A defendant has a right to act upon appearances even  
20 if his assessments was incorrect. It is not necessary that a  
21 defendant was actually in danger. It is enough if the  
22 defendant believed he was in imminent danger, and a reasonably  
23 prudent person of ordinary firmness and courage in his position  
24 and with his knowledge would have had the same belief. It is  
25 for you, the jury, to decide whether the defendant had a

1 reasonable fear of immediate danger of death or serious bodily  
2 injury, and that it would have been felt by a person of  
3 ordinary firmness and courage in the same situation. Words  
4 accompanied by hostile acts may, depending on the  
5 circumstances, create an appearance that the defendant can act  
6 in self-defense.

7           The final element of self-defense is that the  
8 defendant had no other probable way to avoid the danger of  
9 death or serious bodily injury than to act as he did in this  
10 particular instance. However, a defendant does not have to  
11 wait until an assailant has the drop on him before acting in  
12 self-defense. A defendant has no duty to retreat, if by doing  
13 so, the danger of being killed or suffering serious bodily  
14 injury would increase.

15           A person who is confronted with a self-defense  
16 situation is not required to make an exact calculation of the  
17 amount of force needed to avoid death or serious bodily harm,  
18 but is permitted to use the degree of force in self-defense  
19 that a person of ordinary reason and firmness would have  
20 believed to be needed to prevent his own death or serious  
21 bodily injury.

22           The force used in self-defense does not have to be  
23 limited to the degree or amount of force used by the opposing  
24 party. A defendant has the right to use such force as appeared  
25 to be necessary for complete self-protection and which a person

1 of ordinary reason and firmness would have believed to be  
2 needed to prevent death or serious bodily harm. Therefore, in  
3 self-defense, the defendant has the right to use the force  
4 needed to avoid death or serious bodily harm. The force used  
5 in self-defense does not have to be limited to the degree or  
6 amount of force used by the purported victim. A defendant has  
7 the right to use so much force as appeared to be necessary for  
8 complete self-protection and which a person of ordinary reason  
9 and firmness would have believed to be needed to prevent death  
10 or serious bodily harm.

11 An individual under appropriate circumstances has the  
12 right to utilize the amount of resistance reasonably necessary  
13 to defend himself in the event excessive force is utilized  
14 instant to a lawful arrest. If a person is justified in acting  
15 in self-defense and using deadly force under the standards that  
16 I just explained to you, he is not guilty. Even if he used a  
17 firearm that it was unlawful for him to possess at that time, a  
18 person can be acting in self-defense even if he is in lawful  
19 possession of a weapon -- I'm sorry, even if he was in unlawful  
20 possession of a weapon, if he was entitled to arm himself in  
21 self-defense at the time of the shooting.

22 If the defendant is justified in defending himself by  
23 firing a weapon, then the defendant is also justified in  
24 continuing to shoot until it is apparent that the danger of  
25 death or serious bodily injury has completely ended.

1           And the final thing I need to tell you about the law,  
2 ladies and gentlemen, is that a defendant is entitled to every  
3 reasonable doubt arising in the case and in any defense. If  
4 upon any issue of fact essential to a conviction, you have a  
5 reasonable doubt as to how that issue should be resolved, you  
6 must resolve that doubt in favor of the defendant.

7           If upon reviewing the entire case, you have a  
8 reasonable doubt as to whether the defendant has been proven  
9 guilty of an offense, he is entitled to that doubt and a  
10 verdict of not guilty as to that charge.

11           On the other hand, if upon reviewing the case, you  
12 find that the State has proven every essential element of this  
13 case against the defendant beyond a reasonable doubt, it is  
14 equally your duty to find the defendant guilty of that charge.  
15 If you have a reasonable doubt as to whether the defendant has  
16 been proven guilty of a greater crime charged or a  
17 lesser-included offense, you must give him the benefit of the  
18 doubt and find him guilty only of the lesser-included offense.  
19 But you cannot find him guilty of any offense, greater or  
20 lesser, unless you are satisfied that the State has proven  
21 every essential element of that offense beyond a reasonable  
22 doubt.

23           That's the law. When you go back to the jury room,  
24 you are going to have the exhibits and you are going to have  
25 with you this verdict form. On this verdict form, you are

1 going to tell us your decision. Now, ladies and gentlemen, I'm  
2 supposed to tell you that you are not to infer from the order  
3 in which I state these options that I'm suggesting one over the  
4 other. I have to list one thing first, one thing second, one  
5 thing third. You have three possible options.

6 So the verdict reads: We, the jury, unanimously find  
7 the defendant, the first option listed is that you may find him  
8 not guilty. The second option listed is that you may find him  
9 guilty of a lesser-included offense of assault and battery of a  
10 high and aggravated nature. Third option is, you may find him  
11 guilty of attempted murder.

12 Madam Forelady, part of your job is to record the  
13 verdict. I think you will find the form self-explanatory.  
14 Select the option chosen by the jury and sign your name on the  
15 signature line.

16 Ladies and gentlemen, how you go about your votes, how  
17 you go about your deliberations is entirely in your discretion  
18 subject to this requirement. The verdict must be unanimous.  
19 All of you must agree before the forelady can record your  
20 verdict. When you have reached your verdict, knock on the  
21 door, the bailiff will respond to your knock.

22 Okay. I've told you dozen times or more not to  
23 discuss the case until I tell you to. It's not time yet. The  
24 law says I have to let the attorney and the defendant discuss  
25 with me anything that they may disagree with about what I just

1 told you. Now, the truth is, we've been over this multiple  
2 times already. And I don't expect us to take very long. This  
3 is the signal you need to look for. When you have with you in  
4 the jury room the verdict form and the exhibits and the  
5 alternate is brought out, it's just the twelve of you in there  
6 and you have these things, you don't have to wait one more  
7 second, you can start talking about the case. But don't talk  
8 about the case until then.

9 Couple of housekeeping things. I told you that we  
10 have restrictions imposed on every trial that involves  
11 firearms. So the two exhibits that deal with the firearms, if  
12 you want them in the jury room with you, send word to me and we  
13 will send in what you want. I can't send the ammunition and  
14 the firearm in at the same time, even though they are  
15 deactivated. That's just a rule that applies in every case.

16 The second thing, and I did not ask this before you  
17 came out, I should have, there's a lot of electronic media. I  
18 think there's some electronic media that's used, I think some  
19 videos and things. Do they have a means of playing that back  
20 there?

21 THE CLERK: Yes.

22 THE COURT: They do. Nevermind. You are ahead of us  
23 in the Midlands. All right. Very good. Okay. So don't talk  
24 about the case until you have these things in there. Folks, my  
25 plan is then to give you a copy of those instructions. I'm

1 still going to try to do that. Unfortunately, when things  
2 start going downhill, they tend to steamroll, pick up steam.  
3 So I had the unfortunate situation that my computer froze. I'm  
4 going to try to get this printed out so each of you have a copy  
5 of the charge. As quickly as I get that done, I will send it  
6 back there to you. It's not going to be exactly word for word  
7 like I read it, because I don't read like I write, but the  
8 essence of it will be the same.

9 Okay. Thank you very much. You may retire to your  
10 jury room.

11 (Whereupon, the jury leaves open court at 8:24 p.m.)

12 THE COURT: For the record, exception, additional  
13 objections to the charge from the State.

14 MR. SOWARDS: Nothing from the State.

15 THE COURT: Defense?

16 THE DEFENDANT: I just want to renew every objection I  
17 made for the record.

18 THE COURT: All right. Let me see if I can get this  
19 printed out so we can get the show on the road. Is there any  
20 objection to me letting them go ahead and start deliberating  
21 before they get this copy of the charge?

22 MR. SOWARDS: Not from the State.

23 THE COURT: I don't have to send it to them.

24 THE DEFENDANT: Judge, did you make a -- I objected.  
25 I didn't hear any response.

1 THE COURT: What did I say when he objected? He said  
2 he renewed his previous objection is what he said. Nevermind,  
3 I'll speed it up. The objections to the requested charge that  
4 are not included in the charge given to the jury are denied.  
5 We are at ease.

6 THE COURT: All right. Bring the alternate out. You  
7 are Charles Elliott?

8 A JUROR: Yes, sir.

9 THE COURT: Mr. Elliott, we are going to discharge you  
10 from the case now. We made it through without needing your  
11 services on the actual jury deliberation. So I want to thank  
12 you very much. You are welcome to stay around, if you wish to  
13 stay. I don't know anything about your work, so I don't know  
14 if you need a work excuse or not. Do you need one?

15 A JUROR: No, it's okay.

16 THE COURT: If you do find out you need one, just let  
17 the clerk of court know. They will mail you a check for your  
18 jury service. Won't be much. You don't have to call and come  
19 back tomorrow. And you have an exemption from jury service for  
20 2019, '18, '19 and '20. Won't help you in federal court,  
21 magistrate or municipal court.

22 THE WITNESS: Thank you very much.

23 (Whereupon, the alternate is excused.)

24 (Whereupon, the jury deliberates at 8:43 p.m.)

25 THE COURT: We are at ease pending a verdict.

1 (Whereupon, recess transpired.)

2 THE COURT: I've been informed the jury has a verdict.  
3 Obviously, I have no way of knowing what the jury has decided.  
4 I say this in every case. Please stay still and stay quiet.  
5 Don't show any sign of approval or disapproval of the verdict.  
6 Don't shake your head in agreement or disagreement. Just stay  
7 still. Stay quiet. We will get through this just fine.

8 Bring the jury.

9 (Whereupon, the jury returns to open court at 9:20  
10 p.m.)

11 THE COURT: Madam Forelady, has also jury reached a  
12 verdict?

13 THE FOREPERSON: We have.

14 THE COURT: Would you pass it to the bailiff.

15 State of South Carolina, County of Charleston, in the  
16 Court of General Sessions, The State v. Mark Lorenzo Blake Jr.,  
17 Case No. 2013-GS-10-04926, we the jury unanimously find the  
18 defendant guilty of attempted murder, signed by the foreman.  
19 Madam Foreman, ladies and gentlemen, if I've accurately stated  
20 your verdict that is guilty of attempted murder, please signify  
21 by raising your right hands. Okay. All 12 hands are raised.  
22 Thank you.

23 Ladies and gentlemen, let me ask the attorneys and the  
24 defendant, is there any matter to take up prior to the jury  
25 being discharged from the State?

1 MS. LINDER: None from the State.

2 THE COURT: Defense?

3 THE DEFENDANT: Please poll the jury.

4 THE COURT: All right. Ladies and gentlemen of the  
5 jury, the clerk is going to call the roll. As he calls your  
6 name, please raise your hand so he knows where to look. He's  
7 going to ask you basically these questions, sometimes they ask  
8 two questions, sometimes they ask a question together.  
9 Basically, the question is: Was this your verdict; and is it  
10 still your verdict? Just answer him truthfully.

11 THE CLERK: Juror No. 66, Charles Elliott -- oh, excuse  
12 me.

13 Juror No. 212, Rod Pace, is this your verdict?

14 JUROR 212: Yes.

15 THE CLERK: Is this still your verdict?

16 JUROR 212: Yes.

17 THE CLERK: Juror No. 98, Heather Green, is this your  
18 verdict?

19 JUROR 98: Yes.

20 THE CLERK: Is this still your verdict?

21 JUROR 98: Yes.

22 THE CLERK: Juror 28, Dawn Blair, is this your  
23 verdict?

24 JUROR 28: Yes.

25 THE CLERK: Is it still your verdict?

1 JUROR 28: It is.

2 THE CLERK: Juror No. 289, Ashley Wietor?

3 JUROR 289: Wietor.

4 THE CLERK: Is this your verdict?

5 JUROR 289: Yes.

6 THE CLERK: Is this still your verdict?

7 JUROR 289: Yes.

8 THE CLERK: Juror No. 35, Lionel Brown, is this your  
9 verdict?

10 JUROR 35: Yes.

11 THE CLERK: Is this still your verdict?

12 JUROR 35: Yes.

13 THE CLERK: Juror No. 11, Jessica Baker, is this your  
14 verdict?

15 JUROR 11: Yes.

16 THE CLERK: Is this still your verdict?

17 JUROR 11: Yes.

18 THE CLERK: Juror No. 217, Michael Protopapa.

19 JUROR 217: Yes.

20 THE CLERK: Is this your verdict?

21 JUROR 217: Yes.

22 THE CLERK: Is this still your verdict?

23 JUROR 217: Yes.

24 THE CLERK: Juror No. 182, Medea Massie, is this your  
25 verdict?

1 JUROR 182: Yes.

2 THE CLERK: Is this still your verdict?

3 JUROR 182: Yes.

4 THE CLERK: Juror No. 209, Kayla O'Connor, is this  
5 your verdict?

6 JUROR 209: Yes.

7 THE CLERK: Is this still your verdict?

8 JUROR 209: Yes.

9 THE CLERK: Juror No. 38, Stacey Brown, is this your  
10 verdict?

11 JUROR 38: Yes.

12 THE CLERK: Is this still your verdict?

13 JUROR 38: Yes.

14 THE CLERK: Juror No. 19, is this your verdict?

15 JUROR 19: Yes.

16 THE CLERK: Is this still your verdict?

17 JUROR 19: Yes.

18 THE CLERK: Is there anyone's name I didn't call?  
19 What's your juror number?

20 JUROR 205: Juror 205.

21 THE CLERK: Is this your verdicts?

22 JUROR 205: Yes.

23 THE CLERK: Is this still your verdict?

24 JUROR 205: Yes.

25 THE CLERK: Your Honor, the jury has been polled.

1 THE COURT: All right. Anything further from the  
2 defense prior to the jury being discharged?

3 THE DEFENDANT: I mean, I got a motion I want to  
4 raise.

5 THE COURT: Most of the motions come after I discharge  
6 the jury. Do you want to ask him anything?

7 THE DEFENDANT: No, nothing more for the jury.

8 THE COURT: All right. Thank you. Bear with me one  
9 moment. Madam Forelady, I need you to do one more thing for  
10 me. The original indictment I don't ever send it back, but  
11 after the verdict is rendered, we write the verdict on the  
12 original. So you will need to sign that for me. The clerk  
13 will run it back there to you. Will you wait in the jury room  
14 until you sign this, please?

15 THE FOREPERSON: Okay.

16 THE COURT: Also, ladies and gentlemen, let me tell  
17 you that you have an exemption from jury service for 2018, 2019  
18 and 2020 in state court at this level. It will not help you  
19 with federal jury duty or magistrate or municipal court jury  
20 duty. But you do not have to serve until at the earliest 2021.  
21 Since you actually sat on a trial jury you are disqualified for  
22 a year. So try to remember when you served. It's around  
23 Thanksgiving. You should be purged from the computer system  
24 for three years, but sometimes it doesn't quite work that way.

25 All right. I thank you very much for your service and

1 I hope you have a pleasant evening. You are free to go. If  
2 you need a slip for work, wait back there and they will come  
3 get that for you. They will mail you a little check and some  
4 money. All right. Thank you.

5 (Whereupon, the jury leaves the 9:26 p.m.)

6 THE COURT: All right. I'm going to ask the media if  
7 you filmed that section where we polled the jury and called the  
8 name out, don't disseminate the names of the jurors, please.  
9 All right. Thank you.

10 Do you all need a few minutes before we go into the  
11 motions, or are you ready? All right. We will be at ease for  
12 a few minutes and I will hear the motions, and then we will  
13 deal with that.

14 (Whereupon, recess transpired.)

15 THE COURT: What are the motions?

16 THE DEFENDANT: Judge, I want to raise pretrial  
17 motions. I think that the jury was highly prejudicially misled  
18 by allowance of firearm evidence that you let in. You said you  
19 think this was a mistake.

20 THE COURT: I didn't say I thought I made a mistake.  
21 I said in hindsight, I might be proved differently. But I  
22 didn't say I made a mistake. I said it was a close question.

23 THE DEFENDANT: I request a new trial because I feel  
24 the grounds that the jury has been prejudicially misled based  
25 on the evidence that they allowed -- that you allowed to get

1 in. I will give you a chance to right your wrong.

2 THE COURT: Motions are denied. Anything else?

3 THE DEFENDANT: That's it as far as motions goes. But  
4 sure you don't want to reconsider?

5 THE COURT: I have considered it. It went to the  
6 issue of motive that was argued initially. And there were  
7 curative instructions given to the jury.

8 Is there anything related to sentencing?

9 MS. LINDER: Your Honor, as you know, we served life  
10 without parole notice. Mr. Blake previously on the record in  
11 front of Judge Dennis said that it was properly served, and he  
12 was eligible for it for this charge. Your Honor, there's  
13 nothing further. You sat here for the past two days listening  
14 to everything. And I have nothing further to say and neither  
15 does the victim, Cory Goldstein.

16 THE COURT: Anything from the defense about  
17 sentencing?

18 THE DEFENDANT: As far as what?

19 THE COURT: Anything you want to say about sentencing?

20 THE DEFENDANT: Yeah. Of course, God will overturn  
21 the life sentence. So at that point in time, I look at life  
22 sentence as nothing. It's just words. It's going to get  
23 overturned regardless. So you sentence me to life. I am not  
24 going to do no life. I'm not laying down to do no life  
25 sentence. I'm giving it back to you all.

1 THE COURT: What do you mean, you're going to give it  
2 back?

3 THE DEFENDANT: I'm giving it all back. I am not  
4 laying down. I'm not doing a life sentence. So all you are  
5 telling me is words right now. You try to keep me down, but I  
6 am not going to stay down. I keep fighting until the death.  
7 Federal license, I have a lot to be worried about. This is a  
8 state license. Doesn't mean too much, laws here. Get serious.

9 THE COURT: The record reflects that Mr. Blake was  
10 convicted of possession with intent to distribute heroin,  
11 second offense.

12 THE DEFENDANT: It's in Supreme Court right now. It's  
13 about to be overturned. So I'm giving it back to you all one  
14 way or another. It's probably going to get overturned sometime  
15 next year. So I will be back in front of one of y'all faces,  
16 smiling.

17 THE COURT: I have every confidence that the appellate  
18 court will do their jobs appropriately.

19 THE DEFENDANT: Yeah, they are going to do their jobs  
20 appropriately.

21 THE COURT: He also was convicted of trafficking  
22 cocaine, third offense.

23 THE DEFENDANT: I put my PCR on that, straight on  
24 that. As soon as I get back to the yard, I will be back in  
25 y'all's face smiling.

1 THE COURT: The notice of the intention to seek life  
2 without parole was properly served, according to the records.  
3 Section 17-25-45 provides that a person must be sentenced to  
4 life in prison without parole if that person has one or more  
5 prior convictions for a most serious offense, or two or more  
6 prior convictions for a serious offense and is convicted of the  
7 charge of attempted murder.

8 Therefore, the sentence of the Court is that you be  
9 committed to the South Carolina Department of Corrections for a  
10 period of life imprisonment without the possibility of parole  
11 under Section 17-25-45, plus the costs and assessments is  
12 applicable. Restitution is deferred. Sentence runs  
13 concurrently. Any appeal from this has to be filed promptly.  
14 It has to be in writing. You should consult with your stand-by  
15 counsel to make sure that you have a properly filed appeal.  
16 Thank you.

17 (Whereupon, the proceedings are adjourned.)  
18  
19  
20  
21  
22  
23  
24  
25

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SLB20130402474

WITNESSES

State Law Enforcement Division

AGENCY CASE NUMBER

3113-0033

ARREST WARRANT NUMBER

2013A1010900404

DATE OF ARREST

April 3, 2013

ACTION OF GRAND JURY

**TRUE BILL**

Foreperson of Grand Jury  
Date:

AUG 06, 2013

VERDICT

Foreperson of Petit Jury

Date:

INDICT

DOCKET NO. 2013GS1004926

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

August Term 2013

THE STATE

vs.

MARK LORENZO BLAKE JR  
DOB: [REDACTED]

Indictment for  
Attempted Murder

**FILED**

8/15/2013 12:30:58 PM  
JULIE J. ARMSTRONG  
CLERK OF COURT

**RECEIVED**

NOV 26 2018

SC Court of Appeals



## 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,



Taylor D Gilliam  
Appellate Defender

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

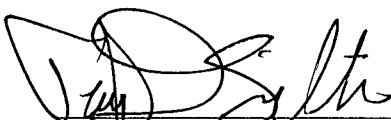
ATTORNEY FOR APPELLANT

This 4th day of December, 2019.

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ATTORNEY FOR APPELLANT

This 4th day of December, 2019.

**RECEIVED**

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SC Court of Appeals