

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Hampton County

Honorable Kristi F. Curtis, Circuit Court Judge

ORIGINAL

THE STATE,

RESPONDENT,

V.

BENJAMIN JEROME BLAKE,

APPELLANT

APPELLATE CASE NO 2018-001943

RECORD ON APPEAL

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SC Court of Appeals

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State of South Carolina)
) Court of General Sessions
 County of Hampton)
 2015-GS-25-380-383

State of South Carolina)
) Transcript of Record
)
)
 Benjamin Jerome Blake)
)
 Defendant)

October 16th and 17th, 2018
 Hampton, South Carolina

B E F O R E:

Honorable Kristi F. Curtis, Judge

A P P E A R A N C E S:

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 Attorney for the State

Steve Plexico, Assistant Public Defender
 Attorney for the Defendant

Joy E. Holston
 Official Court Reporter

I N D E X O F W I T N E S S E S

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(DW) - Denotes Defense Witness

(SW) - Denotes State's Witness

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1 THE COURT: Just a few general guidelines. We are
2 going to move, in just a moment, into selecting a jury for
3 our case to be tried this week. Just general guidelines,
4 we are going to select twelve jurors and one alternate.
5 If you are selected as the alternate, if you happen to
6 appear at the same time as the other twelve jurors we may
7 or may not need to use you. In fact, we will probably
8 select two alternates for this trial. Please don't bring
9 your cell phones with you to court or use any cell phone
10 or other device to access the internet during the course
11 of your trial. That would result in a mistrial and would
12 mean we would have to start this entire process over
13 again. Again, this case will only go forward for this
14 week, nothing is going to extend into next week. So we do
15 appreciate everyone being prompt and punctual if you are
16 selected as a juror. Okay. Are we ready to go forward
17 with the selection?

18 MS. SWANSON: Yes, Your Honor. The State calls
19 Benjamin Jerome Blake. These are indictment numbers
20 2015-GS-25-380 for attempted murder; 2015-GS-25-381 for
21 attempted murder; 2015-GS-25-382 for attempted murder; and
22 2015-GS-383 for possession of a weapon during a violent
23 crime. And, Your Honor, if I may approach with those
24 indictments and the State's list of potential witnesses.

25 THE COURT: Yes. Ladies and gentlemen, the case that

1 we are going to try, State versus Benjamin Jerome Blake,
2 as you just heard Mr. Blake is charged at this point and
3 is a charge only. The charge is attempted murder and the
4 indictment states, again these are just the allegations,
5 that in Hampton County, South Carolina on or about
6 November 7th, 2015, the Defendant, Benjamin Jerome Blake
7 did with intent to kill and with malice aforethought
8 attempt to willfully kill an unborn child in violation of
9 South Carolina law.

10 The second indictment states, in Hampton County,
11 South Carolina on or about November 7th, 2015, the
12 Defendant, Benjamin Jerome Blake did with intent to kill
13 and with malice aforethought attempt to kill Tiffany
14 Lakes, shooting at her in violation of South Carolina law.

15 The third indictment states that in Hampton County,
16 South Carolina on or about November 7th, 2015 the
17 Defendant, Benjamin Jerome Blake did with intent to kill
18 and with malice aforethought attempt to willfully kill
19 Jeantavienne Dobson, shooting at him in violation of South
20 Carolina law.

21 And finally that in Hampton County, South Carolina on
22 or about November 7th, 2015 the Defendant, Benjamin Jerome
23 Blake did possess a firearm, visibly displayed what
24 appeared to be a firearm or visibly displayed a knife
25 during the commission of a violent crime, shooting at

1 three victims, and Benjamin Jerome Blake, excuse me, all
2 in violation of South Carolina law. So let me first,
3 ladies and gentlemen, is there anyone who has any personal
4 knowledge of these events.

5 (No response.)

6 THE COURT: I am going to ask the Solicitor, Ms.
7 Swanson, if you will please introduce yourself, Ma'am, to
8 the jury panel.

9 MS. SWANSON: Yes, Your Honor. My name is Hunter
10 Swanson, I am one of the Assistant Solicitor's for the
11 Fourteenth Circuit. I have been with our elected
12 Solicitor, Duffie Stone for a little over ten years now.
13 Sitting with me is Investigator Michael Thomas who is the
14 lead investigator on the case that we are here for today.

15 THE COURT: Okay, Mr. Plexico, if you would also
16 introduce yourself and your client.

17 MR. PLEXICO: Yes, I am Steve Plexico. I am one of
18 the Public Defender's here, Assistant Public Defender. I
19 have been here since 1990. This is my client, this is Mr.
20 Benjamin Blake, he is on trial today.

21 THE COURT: Ladies and gentlemen, let me first ask if
22 there is any juror related by blood or marriage or with a
23 close, personal or business relationship with Ms. Hunter
24 Swanson who is the prosecutor for this case.

25 (No response.)

1 THE COURT: Is there any member of the jury panel who
2 has a close, personal or business relationship or related
3 by blood or marriage to any attorney or employee of the
4 Hampton County Solicitor's office.

5 (No response.)

6 THE COURT: Thank you. Any member of the jury panel
7 related by blood or marriage or has a close, personal or
8 business relationship with the attorney, Mr., I am sorry,
9 is it Steve?

10 MR. PLEXICO: Yes, ma'am.

11 THE COURT: Steve Plexico.

12 (No response.)

13 THE COURT: Is there any member of the jury pool who
14 is a client, currently or formerly a client of Mr.
15 Plexico.

16 (No response.)

17 THE COURT: Any member of the jury panel related by
18 blood or marriage or has a close, personal or business
19 relationship with the Defendant, Benjamin Blake.

20 (No response.)

21 THE COURT: Ladies and gentlemen, I am going to tell
22 you some potential witnesses in this case. Again, I am
23 going to ask you to listen to this list, you are going to
24 be listening for the names because I am going to then ask
25 you if you have any close, personal relationship with

1 them, if you are related to them by blood or marriage.

2 Potential witnesses in this case are Monica Cylear,
3 C-Y-L-E-A-R; Rena Mae Garvin of Estill, South Carolina;
4 Tamasha Robins of Garnett, South Carolina. Yes, sir.

5 JUROR: You want to know if we are related to any of
6 those people?

7 THE COURT: Yes, sir.

8 JUROR: Oh, yes, I am related to Monica Cylear.

9 THE COURT: Okay. Tell me your name, sir.

10 JUROR: Robert Busby.

11 THE COURT: Mr. Busby is juror number 32. And,
12 again, what is your relation to Ms. Cylear?

13 JUROR: Her father and my grandmother is brother and
14 sister.

15 THE COURT: So you are cousins, maybe?

16 JUROR: Yes, ma'am.

17 THE COURT: Okay. Mr. Busby, I am going to go ahead
18 and excuse you from this trial so you don't have any
19 awkward Thanksgiving suffer.

20 More potential witnesses, Officer Rufus Bailey and
21 Perry Bennett formerly of the Estill Police Department;
22 Ms. Suzanne Cromer who is with the South Carolina Law
23 Enforcement Division or SLED. Again, I think we mentioned
24 but I haven't specifically asked you yet about
25 Jeantavienne Dobson; the first name is

1 J-E-A-N-T-A-V-I-E-N-N-E, last name is Dobson.

2 MR. PLEXICO: Your Honor, that is a male.

3 THE COURT: I am sorry, him. He is a resident of
4 Estill, South Carolina. Dr. James Dunne, D-U-N-N-E with
5 Savannah Memorial Hospital; Westley Driggers who is an
6 EMT; Nate Fuller of Pineland, South Carolina; Dr. Palmer
7 Johnston of Savannah Memorial Hospital; Dr. Michael B.
8 Koehler, K-O-E-H-L-E-R with Savannah Memorial; Tiffany
9 Lakes of Estill, South Carolina; and Officer Michael
10 Thomas and Officer Bryan Thorpe formerly with the Estill
11 Police Department. Is any juror related by blood or
12 marriage or is a close, personal or business relationship
13 with any of the potential jurors.

14 (No response.)

15 THE COURT: Is there any member of the jury panel who
16 is related to a current or former law enforcement officer,
17 related by blood or marriage to a law enforcement officer.
18 If you will tell me your name, sir.

19 JUROR: Zachary Hasselback.

20 THE COURT: And, Mr. Hasselback, who are you related
21 to, sir.

22 JUROR: Scott Hasselback.

23 THE COURT: And what agency does he work for?

24 JUROR: Hampton Sheriffs Department.

25 THE COURT: And is this a sheriffs department case?

1 MS. SWANSON: It is not, Estill, PD.

2 THE COURT: Okay. This case is not being prosecuted
3 by the Hampton County Sheriffs Department. But thank you
4 for bringing that to our attention, sir.

5 Yes, ma'am.

6 JUROR: My brother was prior with the Hampton Police
7 Department.

8 THE COURT: He was formerly with Hampton County?

9 JUROR: He was with Hampton County.

10 THE COURT: Thank you, Ma'am, for bringing that to
11 our attention.

12 MR. PLEXICO: What was the juror number?

13 THE COURT: I am sorry, tell me your number, Ma'am.

14 JUROR: 148.

15 THE COURT: You are Ms. Sparks?

16 JUROR: Yes, ma'am.

17 THE COURT: Yes, ma'am.

18 JUROR: I am related to Latoya Green with Hampton
19 County Sheriffs Department.

20 THE COURT: And what is your name?

21 JUROR: Patsy Bowers. And Craig Smith.

22 THE COURT: What agency is Mr. Smith with?

23 JUROR: Hampton County.

24 THE COURT: Okay. And Ms. Bowers is juror number 17.
25 Thank you for bringing that to our attention.

1 Anyone else.

2 (No response.)

3 THE COURT: Is there any member of the jury panel who
4 has a family member who works as a prosecutor for any
5 State or Federal agency. Anyone related to a prosecutor?

6 (No response.)

7 THE COURT: Is there any member of the jury panel
8 that you or a family member has been the victim of a
9 violent crime. Yes ma'am, tell me your name.

10 JUROR: My name is Angel Steve.

11 THE COURT: Ms. Steve. And, ma'am, can you tell us
12 the circumstances.

13 JUROR: About three years ago my brother was
14 murdered.

15 THE COURT: And, ma'am, would that prevent you from
16 being a fair and impartial juror in this case?

17 JUROR: No, ma'am.

18 THE COURT: Thank you, Ms. Steve, for bringing that
19 to our attention.

20 Anyone else.

21 (No response.)

22 THE COURT: Is there any member of the jury panel who
23 is a financial contributor to any group that promotes law
24 enforcement or victims rights such as Citizens Against
25 Violence or Citizens Opposed to Domestic Abuse, Mothers

1 Against Drunk Driving, Students Against Drunk Driving or
2 any other similar organization.

3 (No response.)

4 THE COURT: Any other proposed questions by the State
5 or the Defense?

6 MS. SWANSON: None from the State.

7 MR. PLEXICO: Your Honor, I would ask that,
8 concerning about the employment, item number three.

9 THE COURT: Is there any member of the jury panel
10 that you, yourself or a family member is employed by any
11 State or Federal Prosecution office. I ask you previously
12 whether you have anybody in your family who is a
13 prosecutor but I also need to know if there is anyone else
14 that you or your family works in a prosecution office,
15 works for the Attorney Generals Office or works for the
16 Solicitor's office either here or any other part of the
17 State.

18 (No response.)

19 THE COURT: Thank you.

20 MR. PLEXICO: I have nothing further, Your Honor.

21 THE COURT: All right. Are we ready for our list.
22 Ms. Swanson, Mr. Plexico, five and five strikes is what
23 appears to me from the statute.

24 MS. SWANSON: Yes, Your Honor.

25 MR. PLEXICO: Yes, Your Honor.

1 CLERK OF COURT: When I call your name if you would
2 just stand, there is a process that we have to do to see
3 if you are going to be selected or not selected for this
4 particular case. Number 107, Tammy Kinard. What says the
5 State.

6 MS. SWANSON: Please present this juror.

7 CLERK OF COURT: What says the Defense.

8 MR. PLEXICO: Please excuse the juror from the trial
9 of this case.

10 CLERK OF COURT: You are excused. Number 12, Tanoa
11 Betton. What says the State.

12 MS. SWANSON: Please present this juror.

13 CLERK OF COURT: What says the Defense.

14 MR. PLEXICO: Please swear the juror.

15 CLERK OF COURT: Okay, Ms. Betton, come on up and
16 have a seat in the jury box. Number 172, Trina Williams.
17 What says the State.

18 MS. SWANSON: Please present this juror.

19 CLERK OF COURT: What says the Defense.

20 MR. PLEXICO: Please swear the juror.

21 CLERK OF COURT: Number 5, Lisa Ashby. What says the
22 State.

23 MS. SWANSON: Please present this juror.

24 CLERK OF COURT: What says the Defense.

25 MR. PLEXICO: Please excuse the juror from the trial

1 of this case.

2 CLERK OF COURT: Number 53, Edward Early. What says
3 the State.

4 MS. SWANSON: Please present this juror.

5 CLERK OF COURT: What says the Defense.

6 MR. PLEXICO: Please swear the juror.

7 CLERK OF COURT: Number 18, Shane Brantley. What
8 says the State.

9 MS. SWANSON: Please excuse this juror.

10 CLERK OF COURT: Number 122, Kathy Mosley. What says
11 the State.

12 MS. SWANSON: Please present this juror.

13 CLERK OF COURT: What says the Defense.

14 MR. PLEXICO: Please swear the juror.

15 CLERK OF COURT: Number 65, Pamala Ginn. What says
16 the State.

17 MS. SWANSON: Please present this juror.

18 CLERK OF COURT: What says the Defense.

19 MR. PLEXICO: Please swear the juror.

20 CLERK OF COURT: Number 93, Eugene Hutto. What says
21 the State.

22 MS. SWANSON: Please present the juror.

23 CLERK OF COURT: What says the Defense.

24 MR. PLEXICO: Please swear the juror.

25 CLERK OF COURT: Number 110 Tammy Lane. What says

1 the State.

2 MS. SWANSON: Please present the juror.

3 CLERK OF COURT: What says the Defense.

4 MR. PLEXICO: Please swear the juror.

5 THE COURT: Number 34, Larry Capers. What says the
6 State.

7 MS. SWANSON: Please present the juror.

8 CLERK OF COURT: What says the Defense.

9 MR. PLEXICO: Please swear the juror.

10 CLERK OF COURT: Number 75, Lonnie Griffin. What
11 says the State.

12 MS. SWANSON: Please present the juror.

13 CLERK OF COURT: What says the Defense.

14 MR. PLEXICO: Please swear the juror.

15 CLERK OF COURT: Number 140, Cedric Sampson. What
16 says the State.

17 MS. SWANSON: Please present this juror.

18 CLERK OF COURT: What says the Defense.

19 MR. PLEXICO: Please excuse the juror from the trial
20 of this case.

21 CLERK OF COURT: Number 73, Audrienna Green. What
22 says the State.

23 MS. SWANSON: Please excuse this juror.

24 CLERK OF COURT: Number 152, Angel Steve. What says
25 the State.

1 MS. SWANSON: I am sorry, what was the number again?

2 CLERK OF COURT: 152.

3 MS. SWANSON: Please present this juror.

4 CLERK OF COURT: What says the Defense.

5 MR. PLEXICO: Please excuse the juror from the trial
6 of this case.

7 CLERK OF COURT: Number 150, Jesse Stanley. What
8 says the State.

9 MS. SWANSON: Please present this juror.

10 CLERK OF COURT: What says the Defense.

11 MR. PLEXICO: Please excuse the juror from the trial
12 of this case.

13 CLERK OF COURT: Number 130, Alternazer Pinckney.
14 What says the State.

15 MS. SWANSON: Please excuse this juror.

16 CLERK OF COURT: Number 36, Shawona Carter. What
17 says the State.

18 MS. SWANSON: Please present this juror.

19 CLERK OF COURT: What says the Defense.

20 MR. PLEXICO: Please swear the juror.

21 CLERK OF COURT: Number 120, William Mole. What says
22 the State.

23 MS. SWANSON: Please present this juror.

24 CLERK OF COURT: What says the Defense.

25 MR. PLEXICO: Please swear the juror.

1 CLERK OF COURT: Number 164, Verna Warren. What says
2 the State.

3 MS. SWANSON: Please excuse this juror.

4 CLERK OF COURT: Number 147, Teresa Smith. What says
5 the State.

6 MS. SWANSON: Please present the juror.

7 CLERK OF COURT: What says the Defense.

8 MR. PLEXICO: Please swear the juror.

9 CLERK OF COURT: Strikes for the alternate are one
10 and one?

11 THE COURT: One and two.

12 CLERK OF COURT: Number 142, Marion Sanders. What
13 says the State.

14 MS. SWANSON: Please present this juror.

15 CLERK OF COURT: What says the Defense.

16 MR. PLEXICO: Please swear the juror.

17 CLERK OF COURT: Number 60, Donald Garman. What says
18 the State.

19 MS. SWANSON: Please present this juror.

20 CLERK OF COURT: What says the Defense.

21 MR. PLEXICO: Please swear the juror.

22 THE COURT: Any motions from the State or the Defense
23 as to the makeup of the jury.

24 MS. SWANSON: None from the State.

25 MR. PLEXICO: Yes, Your Honor, I do have a motion.

1 THE COURT: Ladies and gentlemen, we have a matter
2 that we need to take up outside of your presence. Is
3 there a place where we can excuse them.

4 BAILIFF: Yes, the jury room.

5 THE COURT: Please step back in the jury room for
6 just a minute while we take up a few matters of law. I do
7 need to ask you, please don't begin discussing the case at
8 all. Please don't begin discussing anything about the
9 case. Thank you.

10 (Whereupon, the jury was excused from open court at
11 11:10 a.m.

12 (Whereupon, the remaining jury panel was excused from
13 open court for a break.)

14 THE COURT: Yes, Mr. Plexico.

15 MR. PLEXICO: Yes, Your Honor. I do have a Batson
16 motion, Your Honor. The State struck all black jurors,
17 Your Honor. My client is a black male, I think that is
18 due process violation, Your Honor, and I would ask that
19 you elicit race neutral reasons for that being done.

20 THE COURT: Ms. Swanson.

21 MS. SWANSON: Thank you, Your Honor. I did also seat
22 a number of black jurors, both male and female. The first
23 black juror that I struck number 18, he was a black male.
24 He had a history of traffic charges, i.e., not following
25 the rules and he seemed a little jokey and laughey during

1 qualifications. The second person that I struck was
2 number 73, a black female, college student. I do not have
3 a good experience with college students. Those jurors, I
4 find them a little young and liberal and she was also very
5 attractive, batting her eyelashes. And I thought perhaps
6 she would take pity on the Defendant. Again, the next
7 strike was juror 130, black female, also a college
8 student. Again, I find college students to be liberal, I
9 have not had a good experience with them on jury's. And
10 then finally number 4, number 164, a black female. I was
11 informed that she actually knows a number of people in the
12 Fairwood Apartments which is the incident location. I
13 don't know what she has heard on the street, it has been
14 three years, the streets talk. And that could swing
15 either way but I just, just looking for a fair trial I
16 struck her.

17 THE COURT: Do you want to respond, Mr. Plexico.

18 MR. PLEXICO: Yes, Your Honor. Number 18 is
19 31-years-old, Judge. The fact that he is jokey and
20 laughey, I just don't see that has a race neutral reason.
21 He was no more social or less social. You had a chance to
22 observe the jurors during voir dire as the Defense and the
23 State did. He was no more, the behavior was nothing to be
24 noted. That is obviously a pretextual reason. In regards
25 to number 73, Your Honor, I would like to point out that

1 number 73 is 25-years-old, Your Honor. And this batting
2 eye-lashing thing sounds like shucking and jiving which we
3 have already got case law on. So I mean, that is
4 certainly not a race neutral reason. In regards to number
5 130, let me turn to that. She is 21-years-old, Judge.
6 And we have other young people that are servers in such
7 that, she readily put on the jury who would not have the
8 maturity of a college student or the intelligence to
9 perhaps to get into college. The fact that they put the
10 Wild Wing server on, of course she may not be interested
11 in higher education, I think that belittles the statement
12 that she made to the Court and I believe that was
13 obviously pretextual and they were all emotional
14 motivated, Your Honor. And I would ask that you strike a
15 new jury.

16 THE COURT: Do you want to respond at all?

17 MS. SWANSON: Only if I need to, Your Honor.

18 THE COURT: I am going to deny your motion, Mr.
19 Plexico. I do find that these are race neutral reasons.
20 The history of traffic charges, and two being college
21 students, the Wild Wing server who was seated and is
22 19-years-old is not a college student. And number 164, I
23 do find that it has a race neutral reason given her
24 potential knowledge of or having heard something about
25 these events from the folks that live in that area. So

1 thank you, your motion is respectfully denied. While the
2 jury is out, any other motions that you want to make?

3 MR. PLEXICO: Yes, Your Honor. Also I had a motion
4 to quash. I don't believe the indictment in regards to,
5 in regards to possession of a weapon during the commission
6 of a violent crime. The statute clearly says, Judge, that
7 it needs to be, in 16-23-490 (d), Your Honor, excuse me,
8 (e), the additional punishment may not be imposed unless
9 the indictment alleged is a separate count and the person
10 was in possession of a firearm or visibly displayed what
11 appeared to be a firearm during the commission of a
12 violent crime and conviction was had upon this count in
13 the indictment. We are discussing one indictment and
14 specific rules to draw the indictments. This is a
15 pleading requirement and I believe that she has failed in
16 the pleading requirement, Your Honor. And therefore, that
17 that separate indictment, not a separate count in either
18 of the indictments which allege a violent crime. I
19 believe that should fair and I would move to quash that
20 indictment, Your Honor.

21 THE COURT: I am not following you, what do you think
22 is fatal about the wording of the indictment?

23 MR. PLEXICO: The indictment should allege there is a
24 count two per the statutory requirements. The legislature
25 has imposed statutory pleading requirements on the

1 prosecution, Judge. They have to allege a count two in an
2 indictment for a violent crime that also includes the
3 allegation that the use, that there is an allegation that
4 there is a weapon that was used during the commission of a
5 violent crime. That cannot be had, according to the
6 legislative requirements, as an entirely separate
7 indictment. It must be hinged to an indictment alleging a
8 violent crime. That is the specific pleading, statutory
9 pleading requirements in 16-23-490(e). They talk about
10 the indictment, that is one indictment, not indictments,
11 plural.

12 THE COURT: I am reading subsection (e) which says
13 the additional punishment may not be imposed unless the
14 indictment alleged as a separate count that the person was
15 in possession of a firearm or visibly displayed what
16 appeared to be a firearm or visibly displayed a knife
17 during the commission of a violent crime and conviction
18 was had upon this count in the indictment. The penalties
19 may not be imposed unless the person convicted was at the
20 same time indicted and convicted of a violent crime in
21 16-1-60. So you are saying there can't be a separate
22 indictment for possession of a weapon?

23 MR. PLEXICO: That is what the legislature intended,
24 Judge, clearly from the wording of the statute.

25 THE COURT: You want to respond?

1 MS. SWANSON: I don't believe that we are all reading
2 it the same way as Mr. Plexico. We have always, we have
3 never used count two's or different counts under one
4 indictment number in South Carolina, as far as I am aware
5 unless it is in Federal court, not in State court. The
6 way we have dealt with this issue in the past is in the
7 verdict form. You know, if you do find him guilty of, you
8 know, of any of these attempted murders you go on to the
9 count with possession of a weapon during a violent crime.
10 But beyond that the indictment is a notice document and
11 the Defendant is certainly on notice that he faces that as
12 a charge with the correct statute number that corresponds
13 to the penalty as well as covers the element sufficiently
14 in the verbiage. Thank you.

15 MR. PLEXICO: Your Honor, we routinely handwrite in
16 count two's, an indictment, in Hampton County. That is
17 certainly not unheard of. That is just the way it is,
18 Judge. And that is, I believe, the statutory requirement
19 is that it must be in a count two. Furthermore, the time
20 you have to move to quash the indictment prior to the
21 swearing of the jury. And certainly not the time to have
22 a properly drawn indictment and somehow insert that into a
23 verdict form, that is absurd.

24 THE COURT: I am going to respectfully deny your
25 motion. I do think you are correct in that, you can't

1 have conviction for possession of a weapon during a
2 violent crime unless you also have a conviction for a
3 violent crime. However, I don't think that they are
4 required to be in the same indictment. So thank you.
5 Anything else before we, can we do. Can I bring the
6 jurors that were not selected in and let's go ahead and
7 dismiss them and then I will take up anything else that
8 you would like for me to take up just so we don't keep
9 them in limbo.

10 (Whereupon, the remaining jury panel entered the
11 courtroom.)

12 THE COURT: Ladies and gentlemen, I am going to go
13 ahead and excuse you for the week. This concludes your
14 service, if you have not been selected you are free to go
15 about the rest of your week. We will not be calling you
16 back for any other trials. Two quick things. If you need
17 a work excuse if you will see the Clerk's office. But
18 most importantly, thank you so much for being here. Thank
19 you.

20 (Whereupon, the remaining jury panel was excused from
21 open court for the week.)

22 THE COURT: Okay, anything else that we need to
23 address this morning.

24 MR. PLEXICO: Yes, Your Honor. I mentioned
25 in-chambers I did have a motion to continue. On October,

1 this is October 16th, 2018, on October 14th my client told
2 me of two potential witnesses who could testify, he was
3 away from the crime scene location at the time of the
4 crime. I have been able to successfully subpoena one of
5 those. I am told that the second one is on the way by my
6 staff. I have not been updated on that. Out of an
7 abundance of precaution I do have a motion to continue,
8 Judge, in that, we gave, Sunday evening I found out about
9 the witnesses. Monday we took subpoenas to the sheriffs
10 department. One witness, Ta'Masia Robins had not been
11 able to be subpoenaed, as I understand. We believe that
12 her testimony is material to the defense of the Defendant.
13 We are not moving to delay the Court, Judge, we have made
14 efforts to get Ms. Robins here and she may be on the way.
15 We are, out of an abundance of precaution, we are going
16 to, under Rule 7, Rules of Criminal Procedure, to continue
17 the case, Judge, so that we can have all of our witnesses
18 subpoena. We apologize at this late date for such a
19 request.

20 THE COURT: Ms. Swanson, do you want to be heard on
21 that?

22 MS. SWANSON: Just briefly, Your Honor. This case is
23 1,782 days old. I had transferred this file as part of
24 this special victim's unit on June 3rd of 2018 where we
25 agreed upon a new trial date, trial dates had previously

1 been set. A new trial of October 15th of 2018. So there
2 was plenty of notice in this case. I am additionally, the
3 State is waiving the ten days notice that is required to
4 provide an alibi defense so as not to continue this
5 matter. The State is ready to go. Thank you.

6 MR. PLEXICO: We actually started getting trial
7 notices when the case was assigned to a different attorney
8 in 2016 and we are grateful for the understanding from the
9 Solicitor's office. And that is just where I am at. My
10 client believes she was subpoenaed, nobody has told me
11 that. Maybe I need a few minutes to go ask somebody if
12 they have actually subpoenaed her, if they have actually
13 served her.

14 THE COURT: Mr. Plexico, I appreciate your position,
15 given the fact that it has been pending, I don't know of
16 any reason why any alibi witnesses wouldn't have been
17 known to your client prior to now. But your motion is
18 respectfully denied.

19 MR. PLEXICO: Thank you, Your Honor. I am just going
20 to make this motion to continue part of the Court's record
21 just to protect that in case something happens to the tape
22 or something.

23 (Whereupon, Court's Exhibit number 1 was marked for
24 identification only.)

25 MR. PLEXICO: These are housekeeping matters, Your

1 Honor. I did have motions to sever the indictments. When
2 our Administrative Judge Buckner signed, Perry Buckner
3 signed the trial roster order. He included 2000, these
4 are 2015 indictments. These involve the attempted murders
5 and the use of the weapon. 2016-248 was also noted to be
6 tried in Judge Buckner's trial roster order. That
7 involves intimidation of a witness with some same
8 witnesses but it is a different year, it is a different
9 crime, it is a whole different situation. The Solicitor,
10 I just want it on the record. She is represented she is
11 not bringing in any of those facts baring like me opening
12 the door or something in the trial of this case and she
13 has not called that for trial. I just want to make sure
14 that is on the record and that is the agreement.

15 MS. SWANSON: That is correct. The State is not
16 moving forward at this time on the intimidation of a
17 witness charge. Simply the attempted murders and the
18 possession of a weapon. I have counseled my victim,
19 Tiffany Lakes, not to bring up the allegations from that
20 incident. That occurred a few months after this initial
21 one.

22 THE COURT: Okay. Thank you.

23 MR. PLEXICO: Further, Your Honor. May I, I am
24 sorry.

25 THE COURT: Please.

1 MR. PLEXICO: Further, I also have a 609 motion,
2 Judge, which is in case my client decides to testify we
3 would like to, and I looked again this morning over
4 breakfast, I didn't see where they sent me a NCIC report
5 in my discovery on my client. I had a discussion
6 yesterday, as a matter of fact, with the Solicitor. She
7 represented that they did not have any crimes, if he
8 testified, that they would use to impeach him with, Judge,
9 any prior convictions. We also discussed any prior bad
10 acts under 404 and my understanding is, nor does the State
11 have any prior bad acts they would use to impeach him
12 with. I just want to make sure that is correct.

13 THE COURT: Ms. Swanson.

14 MS. SWANSON: The only conviction that I see on his
15 record is a 2014 public disorderly conduct which does not
16 fall under the rules to use against him. As far as prior
17 bad acts, I do not intend to get into any, unless he
18 should open the door, I do intend to ask some of the
19 witnesses if they know what the relationship between Mr.
20 Blake and Mr. Dobson is without getting into the details.
21 They had some problems together. They did not get along,
22 not going to go into the details of why they didn't get
23 along. But any prior difficulties are animus between the
24 parties, without getting into the details, are appropriate
25 things to address with witnesses when we have an attempted

1 homicide. It goes to motive and identity. And, again,
2 not going into the details so it is not a 404(b) analysis.
3 It is just a relevance analysis.

4 THE COURT: Okay.

5 MS. SWANSON: And I can provide the Court case law if
6 that is disputed by Mr. Plexico.

7 MR. PLEXICO: I believe it will be subject to a
8 proper foundation.

9 THE COURT: We will see when we get there. Thank
10 you. Anything else, from a legal standpoint, that we need
11 to address?

12 MS. SWANSON: The only other matter that I would have
13 is I see of Mr. Plexico's, I believe, alibi witnesses in
14 the courtroom. I would move to sequester the witnesses in
15 this case. I would ask that Tiffany, as the victim in
16 this case, be able to remain in the courtroom under the
17 victim rights act.

18 MR. PLEXICO: Your Honor, I would not have an
19 objection to the sequestration. Ms. Rena Garvin, I do
20 have an objection because essentially that just takes all
21 the visible family support out of the courtroom and it is
22 such a psychological advantage to the State, Judge. I
23 mean, this is a five minute defense. He was home, he was
24 home with his mama and his girlfriend and a friend came to
25 visit. That would be the friend that came to visit,

1 number one. That would be his mom, number two. And that
2 would be his girlfriend, number three. They have already
3 had ample opportunity to talk about all of this, if they
4 all know each other. But we know sequestration, it would
5 just seem to strip my client of any social support in this
6 courtroom, Your Honor. I don't think that is a fair
7 presentation for my client.

8 THE COURT: I think this is pretty standard stuff. I
9 am going to grant the motion to sequester.

10 MR. PLEXICO: Your Honor, could I request then that I
11 be allowed, because I have not met Ms. Robins. I only
12 found out about her Sunday night. When I get her here can
13 I please talk to Ms. Robins.

14 THE COURT: Let's talk about our timing. It is
15 11:30, can we do our, my instructions to the jury,
16 openings, you tell me how far we can get before we break
17 for lunch.

18 MS. SWANSON: Let's see. My first key witnesses are
19 911, paramedic and a responding officer. So I mean I
20 think most of them are going to be relatively short. They
21 are here so I am ready to proceed however the Court
22 wishes.

23 THE COURT: Okay. Why don't we, let's just take a
24 ten minute break, we will come back. We will see how much
25 we can do. I would like for us to let the jury break for

1 am going to ask, either before you leave for lunch or
2 whenever you get back from lunch please select a
3 foreperson. Anyone is eligible except for our alternates
4 to be the foreperson of the jury. You don't have to have
5 any special training or qualifications. You will simply
6 be the spokesperson for the jury. If there's something
7 that needs to be brought to my attention or there's a
8 question during deliberations you will basically write the
9 note to send to me. You will also, as the foreperson,
10 record the verdict on behalf of the jury at the end of
11 deliberations. So again, if you'll do that either before
12 you leave for lunch or once you return. Any objections or
13 exceptions to anything that were in the instructions?

14 MS. SWANSON: None from the State.

15 MR. PLEXICO: None from the Defense, Your Honor.

16 THE COURT: Okay. Ms. Swanson, if you want to make
17 an opening statement.

18 MS. SWANSON: Thank you. May it please the Court,
19 Your Honor. I'm just going to set up this easel. I'm
20 just going to kind of try and get it in the corner so I'm
21 not blocking anyone. It was almost three years ago that
22 Tiffany Lakes was airlifted with a gunshot wound and a
23 prayer for her unborn child. She has waited courageously
24 for justice and she is here today to see this horribly
25 traumatic event through. You see, on November 7th of 2015

1 she was seven months pregnant and it was at night. She
2 was standing outside of her home and a bullet, one of six,
3 shot by this man, Benjamin Blake, went flying into her
4 insides. Now, I want to show you where this took place.
5 We're talking about the town of Estill. Okay. And
6 Tiffany has lived and lives in the Fairwood Apartments,
7 has for several years with her children. Okay. Why do
8 people live in these apartments. There are about four
9 different large buildings that house people of all ages,
10 people with disabilities, children, women. And what we
11 know is that the shooting was coming from the Estill
12 Baptist Church, a couple blocks down from the Fairwood
13 Apartments, found six shell casings there. Okay. Also
14 heard an argument that was going on right before shots
15 were fired. A lot of people heard the shots fired. And
16 Benjamin Blake was the man who fired those shots. Now,
17 was he aiming for Tiffany. No, he wasn't. He was aiming
18 for a man named Jeantavienne Dobson. You're going to hear
19 from Mr. Dobson. And I'm going to tell you that he does
20 not want to be here. He doesn't want to talk to you. He
21 doesn't want to talk to me. But this case stopped being
22 about him when the bullets meant for him hit Tiffany and
23 her unborn child. Okay. So I want you to remember that
24 this is not Jeantavienne Dobson versus Benjamin Blake or
25 anything like that. Don't take it out on Tiffany if you

1 don't like this guy, Jeantavienne. Because what was
2 occurring over at the Baptist church was something else.
3 Some sort of score that people were trying to settle. It
4 doesn't matter why people were shooting. It doesn't
5 matter why Benjamin Blake was shooting. You can't do
6 that. And this is the perfect example of why. There are
7 laws in this state against shooting recklessly where
8 people live. Tiffany's children stood at the back patio
9 watching EMS and paramedics treat her. This was traumatic
10 for everyone. Jeantavienne, as much as he's not wanting
11 to be here today three years later, he did stick around
12 that day. He stuck around the scene and he talked to
13 police because he was worried about Tiffany. He knows
14 Tiffany. He didn't want anything bad to happen to her.
15 And by the grace of God she survived, as did her child.
16 But they were in danger and their lives were in danger
17 that night. The person that didn't stick around is
18 Benjamin Blake. And we know he was out there because
19 there are three people that are going to say he was out
20 there and this is a small town. These people know each
21 other. Benjamin's father, who he was living with,
22 actually lives right down here just a few blocks from the
23 Fairwood Apartments and a few blocks from where the
24 shooting occurred. Now, that's going to be the question
25 that you have to decide. Who's telling the truth. You

1 guys as the jurors are the fact finders of the case. You
2 get to determine what really happened. Who was telling
3 the truth, the people that were out there back in 2015.
4 So that's really the question that you're going to decide,
5 is Benjamin Blake, was he the shooter in November of 2015.
6 Obviously the State believes so. But it's also the
7 State's burden to prove that to you and how are we going
8 to do that is put up those witnesses, present any
9 evidence, present pictures so that you can understand
10 exactly how the scene was. There is no question that
11 Tiffany was shot. Okay. There's no question that her
12 life and her baby's life were in jeopardy. But we also
13 have to present that to you because we bear the burden of
14 giving you the full story. Okay. You know, meeting all
15 those elements. And what you need to do is decide if you
16 are firmly convinced by the evidence in this case. That
17 is our burden, beyond a reasonable doubt. Are you firmly
18 convinced that Benjamin Blake did this. One of the other
19 areas of law that you're going to hear about from Judge
20 Curtis when she charges you on the law, which means she'll
21 instruct you as to what the law says, what the elements of
22 certain things are, is something called transferred
23 intent. And that means that if somebody shoots a bullet
24 towards someone and it hits someone else, that doesn't
25 mean they're not responsible for that. The intent to hit

1 someone else is transferred to the person that was hit.
2 Okay. And, of course, we're dealing with attempted
3 murder. So it doesn't matter whether or not they were hit
4 or attempted to hit. Okay. I just want you all to
5 remember what an awesome responsibility you have as jurors
6 in this case and as members of your community and, you
7 know, retain your commonsense and your collective
8 knowledge. And at the end of this case if you do believe
9 that Benjamin Blake committed these crimes I'm going to
10 ask you to find him guilty on all counts.

11 THE COURT: Mr. Plexico.

12 MR. PLEXICO: Your Honor, ladies and gentlemen of the
13 jury, Madame Solicitor. We are here for attempted murder,
14 several counts in another indictment. One of those is
15 2015-380. 2015-380 says it's attempted murder on
16 Jeantavienne Dobson. So I don't have a, I don't know
17 about why Mr. Dobson is not relevant today. Furthermore,
18 since I have just re-read, just to make sure I didn't miss
19 anything because we've been here a while, getting a little
20 gray headed, there are words of attempt on three of those
21 indictments. So I'm humbled by what the Solicitor said
22 about where attempt does not come into this because the
23 charge is attempted murder. Therefore attempt is what
24 we're really looking at. They have to show that there
25 was, a murder is taking a life of another with malice.

1 Okay. They have to show direct malice here. There's no
2 implied malice that they can show. It has to be direct
3 for attempted murder. Okay. And there's one on Mr.
4 Dobson, and that is just as important in that indictment
5 as it is and if there is no attempts why are we here. I'm
6 not trying to confuse you but I want you to think clearly
7 about this case. I've been here 28 years and I've seen a
8 lot. I don't know how many more I've got left. I've
9 enjoyed each one of them. I enjoy each time I talk to a
10 jury. But I want you all to please pay attention. This
11 isn't a game, as I heard someone -- your duty is to listen
12 to the evidence, to all the evidence, to not make up your
13 mind to begin with but to hear everything and the Judge's
14 instructions. The instructions are there to help to guide
15 you. And what the jury's, what I say about the law
16 doesn't matter. That's my opinion. What the Solicitor
17 says about the law doesn't matter. What Judge Curtis says
18 about the law is the law. That matters. Okay. And just
19 don't get confused. Here all this stuff is very
20 important. This has happened on an evening. You'll hear
21 a series of witnesses. She's already told you that the
22 shots were fired from blocks away at nighttime. So, you
23 know, this is going to be a matter as far as what the
24 facts actually show and what to believe the facts are.
25 I've heard a Judge recently talk about something and that

1 Judge said that, you know, what matters is the facts,
2 fairness, presumption of innocence. That's what matters.
3 Okay. The Defendant comes in the courtroom cloaked with
4 one-hundred percent innocence. Only in that jury room
5 when all the evidence is over, when you all are talking
6 together and sharing your ideas does that cloak ever, a
7 piece of that cloak ever come off. Now, what are facts.
8 Facts are credible facts. You have to believe a fact
9 beyond a reasonable doubt, leaves you firmly convinced.
10 But, you know, I think back to George Washington's time
11 and Abraham Lincoln's time, and Theodore Roosevelt's time
12 at the turn of the last century. Okay. And at the turn
13 of 2000 we all know what guilty beyond a reasonable doubt
14 is and you know what a reasonable doubt is. Okay. And
15 the State has the burden. You're starting out here at
16 zero percent. And you're going down here to the end and
17 that's one-hundred percent no doubt. They've got to wipe
18 all this stuff out until you get to that last little part
19 where you don't have a reasonable doubt left for which you
20 can give a reason for. You know, when you hesitate to
21 act, that is a reasonable doubt. You know, this doesn't
22 add up, he might be right and he might not be. Remember,
23 that's a car case. That's a wreck. What happens when you
24 have a wreck. Okay. Somebody might have a car repair
25 bill and the jury hears the cases in civil court, not in

1 criminal court. And it's like who ran the red light.
2 Well, he did it. No, the other fellow did it. The jury
3 might hear that and then it's, you know, 51 and 49, which
4 adds up to 100. If there is a grain of salt over then
5 you've proved your case and you're a little bit over 50
6 and you've won. That's not the way it's done in criminal
7 court. It's not just tossing things up in the air. It's
8 not balancing things out, misleading symbols or images in
9 criminal justice. If someone is, you know, they're
10 waiting and justice is standing there holding the balance
11 of scales, few people notice that they're turned really
12 cockeyed. Because that's, that symbolizes the State's
13 responsibility. Before you take away a person's freedom
14 in America they have to eliminate every reasonable doubt.
15 And that's a heavy burden weighing on one side of those
16 scales. It's not like that. That's misleading. Okay.
17 It's the State's burden. The Defendant has no burden. We
18 put up no evidence because it's the State's job. Why is
19 the system set up that way. Well, you know, Madison,
20 Jefferson, Washington, all these people, they all knew
21 that in the beginning you have a poor fellow out there and
22 then you have the State taxes, the policing authority.
23 They can go get all the Ritz. They have the United States
24 Constitution, you have specific Amendments there. If you
25 go to like search and seizure. You know, these are all

1 important rights that, you know, we have. You know,
2 spreading our rights to all of our citizens. You know,
3 these are fundamental rights to a fair trial, it is the
4 State's burden. These are important, important
5 responsibilities that our citizens have. I think Winston
6 Churchill said aside from wartime service, okay. And, you
7 know, Winston Churchill saw a couple of wars. You know,
8 service on a jury is your greatest duty that you can give
9 to your fellow community, fellow citizens. This is an
10 important burden that you all have. Our system doesn't
11 function without it. One man just can't defend himself
12 against the acts and power, the power of the State. You
13 know, that's just not -- it's even worse now in the turn
14 of the century than it was way back then. You all have a
15 serious, serious responsibility, and I'm just asking you
16 to listen to all the evidence. Hold the State to their
17 responsibilities of proving their case beyond a reasonable
18 doubt and if there are other reasonable alternatives and
19 sometimes there are, sometimes you just don't know. And
20 not knowing does not fill in the gap. You have to test
21 those, go back and ask why. What do we really know. They
22 have to convince you of what they, you know, what the
23 evidence is. And they have to have a beyond a reasonable
24 doubt. So I want you all to really listen and pay
25 attention and remember facts you can rely on. It's about

1 being fair, to that man's innocence. Thank you.

2 THE COURT: Okay, Ms. Swanson, you can all your first
3 witness.

4 MS. SWANSON: Thank you, Your Honor. State calls
5 Cathy Bozard.

6 CATHY BOZARD, being
7 first duly sworn, testified as follows:

8 DIRECT EXAMINATION

9 By Ms. Swanson:

10 Q Good morning, Cathy.

11 A Good morning.

12 Q Who do you work for?

13 A I worked for Hampton County Communications.

14 Q And as a part of your job duties, do you keep track
15 of 911 phone calls?

16 A Yes.

17 Q And are those recordings kept in the regular course
18 of business?

19 A Yes.

20 Q And did your agency pull and record 911 phone calls
21 from November 7th of 2015?

22 A Yes, we did.

23 Q All right. I'm going to hand you what's been marked
24 as State's exhibit number 1. And, Ms. Bozard, I'm going
25 to ask if you recognize State's Exhibit 1 and if you can

1 tell me what it is, please.

2 A Yes, that was --

3 Q A CD?

4 A -- 911 call of November 7th of 2015.

5 Q All right. And did you, in fact, review those calls
6 with me?

7 A Yes.

8 Q And initial the disk?

9 A Yes, I did.

10 Q Were those fair and accurate depictions of the 911
11 calls?

12 A Yes, they were.

13 MS. SWANSON: State would move Exhibit 1 into
14 evidence at this time.

15 MR. PLEXICO: I have no objections, Your Honor.

16 THE COURT: It's been submitted.

17 (Whereupon, State's exhibit number 1 was admitted
18 into evidence.)

19 MS. SWANSON: Thank you. And I would move to
20 publish.

21 THE COURT: Yes, ma'am.

22 MS. SWANSON: And, Your Honor, I informed the Defense
23 that I have the same recording on my computer, so I'm just
24 going to play it from there.

25 (Whereupon, State's exhibit number 1 was published

1 for the jury.)

2 MS. SWANSON: Thank you, Ms. Bozard, I have no
3 further questions.

4 THE COURT: Mr. Plexico?

5 MR. PLEXICO: No questions of this witness.

6 MS. SWANSON: And, Your Honor, I would ask that Ms.
7 Bozard be allowed to be released from her subpoena at this
8 time.

9 THE COURT: Any objection?

10 MR. PLEXICO: No objections, Your Honor.

11 THE COURT: She is released.

12 MS. SWANSON: Thank you, Your Honor.

13 (Whereupon, the witness stepped down from the witness
14 stand.)

15 MS. SWANSON: May I proceed or --

16 THE COURT: It's 12:27. Is it a short witness or do
17 you think it will take a little bit of time?

18 MS. SWANSON: It's a paramedic. It might -- it might
19 take a minute.

20 THE COURT: Let's go ahead and break for lunch at
21 this point. Ladies and gentlemen, I'm going to release
22 you to have lunch. Please don't begin discussing the case
23 with anyone. Not with your fellow jurors, not with
24 friends or family. What time do I need to have the jury
25 back?

1 MS. SWANSON: However long the Court deems sufficient
2 for them to grab lunch. I would say maybe an hour, or
3 whatever Your Honor prefers.

4 THE COURT: Why don't we say an hour and 15 minutes.
5 So it's 12:30. If you'll be back at 1:45, and we'll let
6 you go ahead and break. Thank you.

7 MS. SWANSON: Thank you, Your Honor.

8 (Whereupon, the jury was excused from open court for
9 a lunch break.)

10 THE COURT: Okay. We'll be at recess until 1:45.

11 MS. SWANSON: Thank you, Your Honor.

12 (Whereupon, a lunch break was taken.)

13 MR. PLEXICO: Your Honor, I'll inform the Court that
14 Ms. Robins has appeared. She will be coming. She
15 understands she's under subpoena. She will be arriving
16 around 9:30 in the morning. She says, I've explained the
17 rule of sequestration to her. I'd like to thank the
18 sheriff for such a good job in getting the subpoenas
19 served.

20 THE COURT: Yes. Thank you so much. Okay. Are we
21 ready for the jury?

22 MS. SWANSON: Yes, Your Honor.

23 THE BAILIFF: Judge, they're still voting on the
24 foreperson. They'll be done shortly.

25 THE COURT: That's fine.

1 (Whereupon, the jury came into open court at
2 approximately 2:50 p.m.)

3 THE COURT: Okay. Ladies and gentlemen, I understand
4 you've selected a foreperson. Tell me your name, sir?

5 THE FOREPERSON: Larry Capers.

6 THE COURT: All right. Thank you, Mr. Capers. Okay.
7 Ms. Swanson, you can call your next witness.

8 MS. SWANSON: Thank you, Your Honor. The State calls
9 Westley Driggers.

10 WESTLEY DRIGGERS, being
11 first duly sworn, testified as follows:

12 DIRECT EXAMINATION

13 By Ms. Swanson:

14 Q Hey, Westley, how are you doing?

15 A Good. How are you?

16 Q Good. Tell us who you work for?

17 A Hampton County EMS.

18 Q All right. And how long have you been with EMS?

19 A I've been in the EMS field 17 or 18 years.

20 Q All right. And now are you a paramedic?

21 A I am.

22 Q How long have you been a paramedic?

23 A Six years.

24 Q Okay. And what does being a paramedic allow you to
25 do?

1 A The scope of practice is a wide range of practice.

2 You can do all the advanced things in the EMS field.

3 Q Like lifesaving measures and --

4 A Correct.

5 Q -- and things of that nature?

6 A Correct. Any advanced cardiac, tracheotomies,
7 intubation, lung decompression, crackotomies, (phonetic).

8 I mean, just a long list.

9 Q Right. And so, that required some experience and
10 quite a bit of training?

11 A It does.

12 Q Did you have an occasion to respond to a call on
13 November 7th of 2015?

14 A Yes, ma'am. I responded to multiple calls on that
15 day. I'm sorry. I'm not being rude.

16 Q That's okay. Would it help if I gave you a copy of
17 your report to refer to?

18 A Yes, I'd like one, please.

19 Q Okay.

20 MS. SWANSON: May I approach the witness, Your Honor?

21 THE COURT: Yes.

22 Q Okay. Mr. Driggers, I'm going to give you a copy of
23 your report. Can you tell us about the call that you
24 responded to around 11:00 p.m. on November 7th of 2015?

25 A Excuse me. I have to get my glasses.

1 Q Sure, your glasses.

2 A I'm getting old. Yes, ma'am. I'm sorry.

3 Q So what sort of call did you get from dispatch the
4 night of November 7th of 2015?

5 A It went out -- the complaint went out as a pain
6 complaint and then it was clarified into a gunshot.

7 Q Okay. And what time were you dispatched to a gunshot
8 complaint?

9 A Dispatch received it at 23:05, which would be 11:05
10 p.m., and we responded at 11:05 and were in route towards
11 the location at 11:06.

12 Q Okay. So you were pretty fairly immediately at the
13 incident location?

14 A Yes, ma'am. It was a three minute response time. We
15 were on scene at 23:09 and we were in route at 23:06, so
16 it would be a three minute response time.

17 Q Okay. And let me ask you this. Where was the
18 incident location?

19 A It was Grayson Street and -- I think it was on
20 Grayson. Yes, it was on Grayson.

21 Q All right. Is that in the town of Estill?

22 A It is.

23 Q Within Hampton County?

24 A Yes, ma'am.

25 Q Is it also known as the Fairwood Apartments?

1 A Yes, ma'am. I think it was the new apartments.

2 Q All right. And tell us about your patient. How --
3 what condition did you find your patient in and who was
4 your patient?

5 A I'm sorry. I need to look up her name. Tiffany --
6 Ms. Tiffany Lakes, 25-year-old female. She was pregnant
7 and she was like about anyone else that would probably be
8 shot and not killed when they were shot. She was upset.
9 It was, you know, an upset scene where she was highly
10 agitated or, they weren't quite sure when I got on scene
11 or what the injury truly was.

12 Q Okay. What sort of pain was she describing?

13 A She was describing a burning pain, and that can be
14 common with someone that is pregnant. But once she got to
15 describing the pain, my mind went to gunshot, because it's
16 a pain that I usually associate with a gunshot wound.

17 Q Okay. And so, after she describes this pain did you
18 then take her to the ambulance?

19 A I did. I did one of, one part of our treatment in a
20 trauma, a possible trauma situation of unknown cause is to
21 get rid of all clothing from the patient. And there was a
22 lot of people around us so I wanted to protect her
23 privacy. So once I got in the ambulance we got rid of the
24 clothing and stuff, started to do a head to toe exam.

25 Q Okay. And what did you find when you examined her

1 after you were able to remove her clothing?

2 A I did a once over real quick and then I started
3 getting head, a detailed head to toe exam. And I found a
4 gunshot wound, or what appeared to be a gunshot wound
5 under her left breast.

6 Q Okay. And so, are we talking like right about here?

7 A We are talking, if you move forward just a little
8 bit. Forward, right there. When we run a 12-lead --

9 Q Right.

10 A -- no breast sits perfectly out. And we have to put
11 the leads right where the crease of the breast joins the
12 chest. So we take the back of our hand and move the
13 breast just a little bit and put the leads there. And
14 when I moved the breast the gunshot wound --

15 Q And that's --

16 A -- became visible.

17 Q And that's how you found it?

18 A Yes, ma'am.

19 Q Okay. And that's why it was previously hidden from
20 sight?

21 A It was. There was no really blood, which is common.

22 Q Was the entrance wound large or small in your
23 experience?

24 A It was a bullet entrance wound. It wasn't like a
25 shotgun entrance wound. A caliber can be angled and

1 everything. But it was, I would say probably a medium
2 caliber gun.

3 Q Was there an exit wound?

4 A I did not see an exit wound.

5 Q After you established that she had this gunshot
6 wound, there did not appear to be an exit wound, what
7 decisions did you all make regarding her care at that
8 point?

9 A She was having, her respiratory rate was a little bit
10 elevated. And the problem with an entrance wound into the
11 thoracic cavity is, and the lung involvement in the
12 thoracic cavity you can have something called a sucking
13 chest wound which it sucks air from the atmospheric
14 pressure into your chest and it collapses your lung or it
15 can make the atmospheric pressure around the lung too
16 high. So your lung can't expand and contract to give you
17 a full range of breathing. And one way to remedy that is
18 anything in the thoracic area, which is the front of the
19 chest or the back of the chest in the rib cage area, is
20 you put something called an occlusive dressing to keep it
21 from sucking that air in. And what that boils down to is
22 the dressing is placed and one side is left not fastened
23 down. I used a chest seal on it, which is a commercial
24 device and it bleeds itself. When it gets to a certain
25 pressure it will let the air off. So I covered it to try

1 and improve her respiratory patterns.

2 Q Okay. So her breathing was in trouble but she's also
3 has this gunshot wound.

4 A Correct.

5 Q So did you guys, where did you guys decide to
6 transport her and how?

7 A We decided, because of the capabilities and the
8 amount of time it takes to get to a level one trauma
9 center, we called for a MedFlight, a helicopter.

10 Q Okay. And so, a landing zone was set up nearby?

11 A It was, behind the police, I mean, the fire station
12 in Estill which is where we responded from initially. So
13 it was around three to five minutes away.

14 Q And did you believe that she and her baby's life
15 were, lives were in danger?

16 A They very well could have been.

17 MS. SWANSON: All right. I have nothing further for
18 this witness at this time.

19 THE COURT: Mr. Plexico.

20 MR. PLEXICO: Yes, ma'am.

21 CROSS-EXAMINATION

22 By Mr. Plexico:

23 Q You arrived after everything was all over obviously,
24 correct?

25 A As in regards to --

1 Q Well, I mean, you don't know anything about the
2 incident itself that caused the injury?

3 A No. I just, you know, I've taken what the people
4 told me when I got there.

5 Q Okay, all right. And you said she was highly
6 agitated; is that correct?

7 A Not agitated in a mad way, but agitated as in a I
8 don't know what just happened to me scared way.

9 Q Okay. And she didn't know how she was injured or why
10 she was injured? She just knew she was injured?

11 A She wasn't quite sure. They told me that they heard
12 a shot and they may have heard a bullet zip, but they
13 weren't sure of whether she was shot or not.

14 Q All right. And you all stayed there until the
15 helicopter took off and then you reported back to your
16 station?

17 A No, sir. We had to set up a landing zone to where it
18 would be safe to land the helicopter. So we transported
19 her from the incident scene to the landing zone, which is
20 set up behind Estill Fire Department.

21 Q Okay. And you just reported back to duty and went
22 back on call after the helicopter had left?

23 A Right. We cleaned our ambulance and reported back
24 in.

25 MR. PLEXICO: All right. I don't have anything

1 further. Thank you.

2 MS. SWANSON: I would ask that Mr. Driggers be
3 released from his subpoena at this time.

4 MR. PLEXICO: I have no objections, Your Honor.

5 THE COURT: Thank you, sir. You are released.

6 THE WITNESS: Thank you.

7 (Whereupon, the witness stepped down from the witness
8 stand.)

9 MS. SWANSON: Thank you. State calls Bryan Thorpe.

10 BRYAN THORPE, being
11 first duly sworn, testified as follows:

12 DIRECT EXAMINATION

13 By Ms. Swanson:

14 Q Good afternoon, Officer. Who are you working for
15 now?

16 A Chester County Sheriff's Office.

17 Q Chester County Sheriff's Office? But who were you
18 working for back in November of 2015?

19 A Estill Police Department.

20 Q All right. And so, were you on duty the night of
21 November 7th of 2015?

22 A Yes, ma'am. I just got finished working the Fall
23 Festival.

24 Q You all had a Fall Festival in Estill that night?

25 A Yes, ma'am.

1 Q All right. And so, do you recall anything unusual
2 that night when you were getting off the shift?

3 A When I arrived at the police department parking lot I
4 heard multiple gunshots coming from the apartments area.
5 What we call the projects.

6 Q All right. The projects, which are about how far
7 from the police department?

8 A Maybe two blocks maybe.

9 Q All right.

10 MS. SWANSON: I'm going to -- I'm actually going to
11 request, Your Honor, that the witness be able to step down
12 and point out on this map a few things.

13 THE COURT: Sure.

14 MS. SWANSON: Come on down, Officer Thorpe.

15 (Whereupon, the witness stepped down from the witness
16 stand.)

17 Q I'm going to switch places with you and put this up
18 here. And do you recognize this area?

19 A Yes, ma'am.

20 MR. PLEXICO: May I, Your Honor?

21 THE COURT: Yes, sir.

22 Q And if you could stand right there, Officer Thorpe,
23 so that the Court Reporter can hear you and that the jury
24 can see you. All right. So point out to me where the
25 Estill Police Department is.

1 A It's right here.

2 Q All right. And so, you were there after the Fall
3 Festival?

4 A Yes, ma'am.

5 Q And then where did you respond after hearing the
6 gunshots?

7 A You want me to show you on the map or just tell you?

8 Q Yes, sir.

9 A Right in front of the apartments, which is right in
10 this area.

11 Q So the Fairwood Apartments?

12 A Yes, ma'am.

13 Q Right here?

14 A Yeah, we was on the back of it. The back end of the
15 apartments.

16 Q So you came from the police department by the Baptist
17 Church up to the apartments?

18 A Yes, ma'am.

19 Q All right. You can have a seat.

20 (Whereupon, the witness returned to the witness
21 stand.)

22 Q All right. Do you recall about how many gunshots you
23 heard?

24 A Maybe three or four. I know it was multiple shots.

25 Q All right. And was any other law enforcement officer

1 responding when you got there?

2 A When I turned onto -- I can't remember the name of
3 the street. But coming out of the police department, when
4 I made that right, Officer Bailey was actually coming up
5 as well. Me and him arrived basically simultaneously
6 behind each other.

7 Q All right. Were you the first guys to arrive?

8 A Yes, ma'am.

9 Q Who was on scene when you arrived?

10 A Ms., I think her name is Tiffany. She was actually
11 in the grass. And then she had a male friend that was
12 actually sitting in a car that was still parked in the
13 street. Both of them, and then it was some other people
14 that was at the apartments outside.

15 Q And then some bystanders?

16 A Yes, ma'am.

17 Q All right. Did you speak with Tiffany's male friend
18 who was sitting in the car?

19 A Yes, ma'am.

20 Q All right. And did he want to speak to you?

21 A No, ma'am.

22 Q All right. Did he eventually tell you what he knew?

23 A Yes, ma'am.

24 Q Okay. And were you able to determine what his name
25 was?

1 A He told me his name, but he didn't want to put it on
2 the witness statement.

3 Q And did he tell you why, without saying why?

4 A Without saying why?

5 Q Yeah. Did he tell you the reason that he didn't want
6 to put his name --

7 A Yes, ma'am.

8 Q Okay. And what did you tell him?

9 A I told him -- this was after -- after I talked to him
10 the first time he told me he didn't want to, he didn't
11 want to get involved because of, you know, whatever he had
12 going on in his personal life. Okay. Then an EMS worker
13 told us that the victim had been shot. So that's when I
14 went back to him and I was like, well, you don't want to
15 do it for yourself or her, at least do it for the baby.
16 And that's when he actually talked to me.

17 Q All right. And so, he told you what he knew?

18 A Yes, ma'am.

19 Q Did you ever talk to, and so, you talked to, and that
20 man's name was Nate Fuller; is that right?

21 A Yes, ma'am. Nate.

22 Q And did you ever talk to a Jeantavienne Dobson?

23 A No, I never spoke to him.

24 Q Did you see him on scene?

25 A Yes. He was there.

1 Q Did you see Benjamin Blake on scene?

2 A No, ma'am.

3 MS. SWANSON: I think that's all I have for you at
4 this time. Please answer any questions that Mr. Plexico
5 may have.

6 THE WITNESS: Yes, ma'am.

7 CROSS-EXAMINATION

8 By Mr. Plexico:

9 Q Nathaniel Fuller.

10 A Sir?

11 Q Nathaniel Fuller is the person you spoke to that
12 night?

13 A The one they call Nate?

14 Q I don't know what they call him, but is that
15 Nathaniel Fuller?

16 A If his name was Nate. Yes, sir.

17 Q All right. That's not the name he gave you to start
18 with, is it?

19 A Sir?

20 Q That's not the name he gave you to start with?

21 A What do you mean? I said I couldn't remember his
22 name, but they did call him Nate.

23 Q Didn't he tell you his name was Williams?

24 A No. No, sir.

25 Q Did you get his last name?

1 A I just know they called him by Nate and I didn't get
2 his last name.

3 Q Did you make a written report?

4 A No. I wasn't, I wasn't the initial officer. The
5 Officer Bailey was due to the fact that he was actually in
6 front of me.

7 Q Okay. So you have no, this has been three years ago,
8 correct?

9 A Yes, sir.

10 Q So you have no contemporaneous notes from November
11 7th, or thereabouts, 2015, correct?

12 A No, sir. I'm pretty much aware of like certain bits
13 and pieces of the situation. I remember the incident.

14 Q Right. That's a high crime area in that four or five
15 block area; isn't it?

16 A Yes, sir. At that time.

17 Q As a matter of fact, you've had a murder over there
18 right between the apartments at the laundromat?

19 A Not when I got there.

20 Q 2015?

21 A Now, since then they have.

22 Q All right. Were you there when there was an armed
23 robbery at the Party Shop?

24 A Yes, sir. I was working that night.

25 Q All right. And they had a melee involving Barrington

1 Grant and guns over at the apartments one night with 20 to
2 40 people. Were you there then?

3 A No, sir.

4 THE COURT: Mr. Plexico, I'm sorry to interrupt you.
5 Sir, if I could get you to speak up.

6 MR. PLEXICO: Sure.

7 Q Would it be safe to say that guns are fairly common
8 in that area?

9 A At that time when I was working, since I've been
10 working at Estill those eight months, I've only had two
11 incidents where I responded to where there was actually
12 guns involved.

13 Q Yeah, that's a, Estill's a very small town?

14 A Yes, sir.

15 Q You were only there eight months?

16 A Yes, sir.

17 MR. PLEXICO: I don't have any more questions.

18 MS. SWANSON: Just one followup.

19 REDIRECT EXAMINATION

20 By Ms. Swanson:

21 Q Mr. Plexico just asked you about a number of other
22 violent incidents that occurred in Estill. Did you have
23 any other pregnant women shot?

24 A No, ma'am.

25 MR. PLEXICO: Your Honor, that's, I object, Your

1 Honor. That's just an emotional, that's just a question
2 to prejudice, Your Honor, in regards to that matter. And
3 I move to strike and ask for a curative instruction.

4 THE COURT: Overruled. Thank you.

5 MS. SWANSON: I don't have any further questions for
6 Officer Thorpe. Thank you. And I would ask that he be
7 released from his subpoena.

8 THE COURT: Any objection, Mr. Plexico?

9 MR. PLEXICO: No, Your Honor.

10 THE COURT: Thank you, sir. You're released.

11 (Whereupon, the witness stepped down from the witness
12 stand.)

13 MS. SWANSON: The State calls Jeantavienne Dobson.

14 JEANTAVIENNE DOBSON, being
15 first duly sworn, testified as follows:

16 DIRECT EXAMINATION

17 By Ms. Swanson:

18 Q Mr. Dobson, can you spell your name for the court
19 reporter, please?

20 A J-e-a-n-t-a-v-i-e-n-n-e Dobson, D-o-b-s-o-n.

21 Q All right. Thank you. And how old are you,
22 Jeantavienne.

23 THE COURT: Just a moment. Can you lean up to the
24 microphone, please. Thank you.

25 Q Thank you, sir. How old are you, Jeantavienne?

1 A Twenty-one.

2 Q All right. So back in 2015 you were about 18; is
3 that right?

4 A (Nods head in the affirmative.)

5 Q All right. And you've got sisters, right?

6 A (Nods head in the affirmative.)

7 Q How many?

8 THE COURT REPORTER: Wait. I need --

9 MS. SWANSON: Oh, sorry.

10 A Eight.

11 MR. PLEXICO: Your Honor, I object. There's no
12 relevance under Rule 402 whether he's got sisters or dogs
13 or cats or what he's got. There's actually no relevance.
14 It's a question to evoke emotion and base a verdict
15 eventually on --

16 MS. SWANSON: It actually goes to how he would know
17 Mr. Blake.

18 THE COURT: I'm going to allow it at this point. Mr.
19 Dobson, I noticed that you were nodding your head. I need
20 you to answer out loud because this lady right here is
21 taking down everything that everybody says. And so, we
22 can all see that you're nodding, but she's not going to
23 have that on her recording if you don't answer out loud.
24 Okay?

25 THE WITNESS: Oh, yeah.

1 THE COURT: There you go.

2 Q Thank you, sir. But you've got sisters, right?

3 A Yes, ma'am.

4 Q And one of your sister's, is she very close to you,
5 Tiffany Lakes?

6 A Yes, ma'am.

7 Q Okay. And the other sister, does she have a baby
8 with Benjamin Blake?

9 A Yes, ma'am.

10 Q Okay. So you know Tiffany --

11 A Like a sister.

12 Q -- and you know Benjamin, right?

13 A Yes, ma'am.

14 Q Do you see Benjamin Blake in the courtroom today?

15 A Yes, ma'am.

16 Q All right. Can you point him out for me?

17 (Whereupon, witness identifies the Defendant.)

18 Q All right. The Defendant sitting over there. Did
19 you grow up in Estill?

20 A No, ma'am.

21 Q How long did you live in Estill?

22 A About three years.

23 Q All right. And when did you live in Estill?

24 A Back in 2018, or, like you say, 2015.

25 Q Yeah, okay. So back in 2015 you were living in

1 Estill?

2 A (Nods head in the affirmative.)

3 Q All right. And so, in November of 2015 ---

4 THE COURT REPORTER: Wait, I didn't get a, I was
5 looking down.

6 MS. SWANSON: I'm sorry.

7 THE COURT REPORTER: Did you say yes or no?

8 THE WITNESS: Yes, ma'am.

9 THE COURT REPORTER: Say yes or no.

10 Q Yes. Just remember, she's got to take down every
11 response, yes or no. So back in November of 2015 you were
12 living in Estill?

13 A Yes, ma'am.

14 Q Were you, where were you living?

15 A I don't know. In Estill.

16 Q Over by the Baptist church?

17 MR. PLEXICO: That's leading. I object, Your Honor.

18 THE COURT: Sustained.

19 A Down the road from the church.

20 Q Okay. Were you living close to the Fairwood
21 Apartments?

22 A Walking distance.

23 Q All right. Did you know where Benjamin Blake was
24 living at the time?

25 A No, ma'am.

1 Q I'm sorry?

2 A No, ma'am.

3 Q Okay. Do you know his nickname?

4 A No, ma'am.

5 Q Do you remember the night Tiffany got shot?

6 A Yes, ma'am.

7 Q Okay. And can you tell me what happened?

8 A He shot at me. He shot at me. He was shooting at me

9 and accidentally hit my sister in the middle of the road.

10 He shot at me like seven times.

11 Q When you came across him did he say something to you

12 and did you say something --

13 A I can't remember though.

14 Q Okay. Was it just a fussing at each other type

15 thing?

16 A (Nods head in the affirmative.)

17 Q All right. And did you --

18 A Yes, ma'am.

19 Q -- and did you say something back?

20 A I can't remember.

21 Q All right. Did you see him actually pull out a gun?

22 A No, ma'am.

23 MR. PLEXICO: That's leading. I object, Your Honor.

24 Move to strike.

25 THE COURT: That's overruled. Thank you.

1 Q Did you see him firing at you?

2 A No, ma'am.

3 Q Do you remember telling police that he pulled out a
4 gun, you ran, and he shot five or six times and hit
5 Tiffany?

6 A No, ma'am.

7 Q All right. You don't remember telling police that
8 and writing that in a statement on November 7th of 2015?

9 A No, ma'am.

10 Q Okay.

11 MS. SWANSON: Pursuant to Rule 613(b), at this time
12 I'm going to offer extrinsic evidence of a prior
13 inconsistent statement. And so, this is --

14 MR. PLEXICO: Your Honor, I do have a matter of law,
15 Your Honor.

16 THE COURT: Okay, thank you. Ladies and gentlemen,
17 we're going to take up a matter of law. If I could ask
18 you to step back to the jury room.

19 (Whereupon, the jury was excused from open court at
20 approximately 2:20 p.m.)

21 THE COURT: Yes, sir.

22 MR. PLEXICO: I believe in Rule 613 he needs to be
23 given an explanation to explain or deny the statement. I
24 don't believe that he's done that. Further, I don't think
25 it's necessary. I believe, I just wrote down that he

1 said, Mr. Dobson testified, "He shot at me. He shot seven
2 times. Accidentally hit my sister." What's the point?
3 He's already testified. He's admitted to what's in the
4 statement.

5 THE COURT: What you can do, the proper thing to do
6 is to show him the statement. Ask him --

7 MS. SWANSON: See if he remembers.

8 THE COURT: Yes. He can refresh his recollection
9 with the statement and --

10 MS. SWANSON: Yes, Your Honor.

11 THE COURT: -- see if at that point he contradicts or
12 does not contradict, and we'll go from there.

13 MS. SWANSON: Okay.

14 MR. PLEXICO: Your Honor. I don't understand what
15 she's trying to contradict, because everything --

16 THE COURT: Well, I do.

17 MR. PLEXICO: May I give you the statement?

18 THE COURT: Sure.

19 MR. PLEXICO: Here. I believe all of this has been
20 testified to. It's only five lines.

21 THE COURT: I'm going to allow it, again based on
22 the, I don't want to say what the statement is until you
23 have a chance to ask him.

24 MS. SWANSON: Sure.

25 THE COURT: But I do think that she can question him

1 as to his statement that he made to the police. Again,
2 you're going to show it to him. Is this my copy?

3 MR. PLEXICO: Yes. You may keep that, Your Honor.
4 I'll make that a copy of, a Court's exhibit also, Your
5 Honor, when you're, when you're done with it.

6 (Whereupon, Court's Exhibit 2 was marked for
7 identification only.)

8 THE COURT: Okay.

9 MS. SWANSON: Yes, Your Honor. I'll show it to him
10 and ask if he recalls, if he can review it, refresh his
11 memory and if he recalls making it. Thank you.

12 THE COURT: Okay. You can bring the jury back in.

13 MR. PLEXICO: Your Honor, it's still objectionable
14 because there's no evidence from the person who took the
15 statement that he actually gave that statement. The fact
16 that they have a statement that has not been established
17 through a clear foundation that an officer got it from
18 this person, somebody got it from this person, it's still
19 not admissible.

20 THE COURT: At this point she's not admitting it.
21 She's going to hand it to him and see if he recognizes it
22 and then she's going to ask him about it.

23 MR. PLEXICO: I thought she said she wanted it
24 published.

25 THE COURT: She's not going to publish it at this

1 point. She's going to hand it to him. That's what we
2 just discussed. The first thing she's going to do is hand
3 it to him and let him take a look at it before she ask him
4 any more questions about it.

5 (Whereupon, the jury came into open court at
6 approximately 2:25 p.m.)

7 CONTINUE DIRECT EXAMINATION

8 By Ms. Swanson:

9 Q Okay, Mr. Dobson. I was asking you if you remember
10 talking to the police that night. I want to hand you a
11 piece of paper and ask that you read over it to see if
12 this is going to refresh your memory. Okay?

13 A It's true.

14 Q Okay. And so, who's, did you write that statement?

15 A (Nods head in the affirmative.)

16 Q Is your --

17 THE COURT: Is that a yes?

18 THE WITNESS: Yes, ma'am.

19 THE COURT: Thank you.

20 Q And so, that is a statement that you wrote the night
21 that Tiffany was shot?

22 A Yes, ma'am.

23 Q And did you tell police that Benjamin Blake pulled
24 out a gun?

25 A I don't remember.

1 Q Is it contained in that statement?

2 A What do you mean contained?

3 Q Did you write that in your statement?

4 A No.

5 MS. SWANSON: May I approach the witness?

6 THE COURT: Yes.

7 A Oh, yeah, I did.

8 Q Can you read that right here? Can you read this,
9 sir?

10 A "Pulled out a gun. I ran. He shot it."

11 Q "I ran and he shot."?

12 MR. PLEXICO: And I'll object, Your Honor, it's not
13 proper if she reads the statement. She can question him
14 about it.

15 THE COURT: I'll allow it.

16 A "He shot five or six times at me."

17 Q Okay. Thank you. When he was shooting at you where
18 -- where was he standing?

19 A I don't know.

20 Q Where did you run after he shot at you?

21 A Tiffany's house.

22 Q And did you come across Tiffany when you ran?

23 A Yes, ma'am.

24 Q You saw her?

25 A (Nods head in the affirmative.)

1 Q Okay. And what did you do?

2 A She was shot. Ain't nothing I could do.

3 Q Okay. Did you stay and wait on the police?

4 A Yes, I did.

5 Q Did you have a gun that night?

6 A No.

7 Q And did you tell them who the shooter was?

8 A I can't remember.

9 Q Okay. Well, I believe you already testified to it,
10 but thank you.

11 MS. SWANSON: Please answer any questions Mr. Plexico
12 might have for you.

13 CROSS-EXAMINATION

14 By Mr. Plexico:

15 Q You're over by the Estill Baptist church, correct?

16 A Uh-huh.

17 Q All right. So that is about two blocks up from --

18 A My house.

19 Q -- from where Ms. Tiffany Lakes is, correct?

20 A (Nods head in the affirmative.)

21 Q All right. So you're saying you ran the --

22 THE COURT: Is that a yes?

23 THE WITNESS: Oh, yes ma'am.

24 Q -- two blocks; is that correct?

25 THE COURT REPORTER: Wait a minute. I didn't get

1 your question.

2 Q You were at the Estill Baptist church. Could you sit
3 up toward the microphone.

4 A I was walking past the Estill Baptist church.

5 Q But you were right at the Estill Baptist church,
6 correct?

7 A Yes. Yeah.

8 Q All right. At that point you say there are shots?

9 A (Nods head in the affirmative.)

10 Q All right.

11 A Yes, ma'am. Sir.

12 Q Then you ran about two blocks down the street to
13 Tiffany's place, correct?

14 A Yes, sir.

15 Q All right. Now, I'm a little confused. All right.
16 So you're not saying you saw my client shoot at you,
17 correct?

18 A No.

19 Q That's correct?

20 A Yeah.

21 Q All right. So it is correct that you did not see my
22 client shoot at you, right?

23 A No, it's not correct.

24 Q Could you explain your answer.

25 A It's my first time being here. And for everybody I

1 don't know nothing that, none of this stuff that going on
2 right now. I'm going to say it like this right here.
3 Like I seen this man, that thing going on. For a fact
4 that I got down the road and I looked back, I could see
5 him running with a group of more people that was females,
6 which I know they ain't had no guns or nothing like that
7 right there. And prior to that me and this man had
8 already got into it where he already pulled out guns and
9 threatened me and stuff like that that day. But they
10 gone. Like I ain't see him that night when he pulled out
11 a gun.

12 Q All right. But you didn't see him that night that he
13 pulled out the gun?

14 A Yeah, but I know he shot at me, because I know I
15 passed him.

16 Q He's, all right.

17 A But I know I passed him.

18 Q Thank you for your answer.

19 A Yeah, I passed him.

20 Q He's with, he's with a group of people?

21 A Two. Two people.

22 Q All right. But you're running, you think, for your
23 life --

24 A I passed him.

25 Q -- right?

1 A I passed him before that happened.

2 Q You are running for your life because you are getting
3 shot at, right?

4 A (Nods head in the affirmative.)

5 Q Okay. This is --

6 THE COURT: Hang on. Is that, that's a yes?

7 THE WITNESS: Yes, ma'am.

8 Q So this is the Fall Festival, right?

9 A I don't know.

10 Q All right. There are a lot of people out and about?

11 A No.

12 Q All right. Now, so nobody goes to the Fall Festival
13 and --

14 A I don't think it was the night of the Fall Festival.

15 Q All right. Now, but you're running for your life?
16 There are a lot of large trees over there, correct?

17 A No.

18 Q Well, the trees behind those apartments when you're
19 running down from the church.

20 A There's like one or two trees back there.

21 Q Okay. But they are large trees, right?

22 A In the air. Not down low.

23 Q Right, and they obstruct light.

24 A I could still see.

25 Q A tree, does a tree canopy, the canopy of a tree

1 obstruct light? Of course it does, right?

2 A Up in the air, right.

3 Q Okay. So if it stops it up in the air it doesn't get
4 to the ground, correct? The light doesn't? It's a matter
5 of logic, correct?

6 A All right.

7 Q All right. Well, for whatever bad feelings you've
8 got to say, you have bad feelings for my client?

9 A No.

10 Q Okay. All right. So bottom line is you just
11 testified that you didn't see my client shoot at you, but
12 you saw him running, right?

13 A (Nods head in the affirmative.)

14 Q Okay.

15 THE COURT REPORTER: Yes?

16 THE COURT: And again, is that a yes?

17 A Yes.

18 MR. PLEXICO: Court's indulgence, please.

19 THE COURT: Yes, sir.

20 Q All right. Now, had you, did you have any alcohol or
21 marijuana to smoke that night?

22 A No.

23 Q Did you have a gun?

24 A No.

25 Q Have you ever handled a gun?

1 A No.

2 Q You've never touched a gun?

3 A No.

4 MR. PLEXICO: Court's indulgence.

5 THE COURT: Yes, sir.

6 MR. PLEXICO: I don't have any further questions.

7 THE COURT: Any redirect?

8 MS. SWANSON: Just briefly.

9 REDIRECT EXAMINATION

10 By Ms. Swanson:

11 Q Jeantavienne, I thought we covered it before. But
12 you told, you just told Mr. Plexico that you did not see

13 --

14 A You all asking me questions too fast. I can't
15 understand.

16 Q Okay. Well, I'm going to go slow. You just told Mr.
17 Plexico that you did not see his client pull out a gun and
18 shoot at you?

19 A Uh-huh.

20 Q All right. Is that what you just told him?

21 A (Nods head in the affirmative.)

22 THE COURT REPORTER: Yes or no?

23 A Yeah.

24 Q And when I handed you this statement -- the written
25 statement that you made to police the night that Tiffany

1 was shot, you read it and it says something different,
2 right?

3 A Huh?

4 Q Did you see him pull out a gun? Is that what you
5 told police in your written statement that we reviewed?

6 A I don't even remember that statement. I can't -- I
7 don't even know.

8 Q Okay. So you would agree with me -- or would you
9 agree with me that your memory back in 2015 was better
10 than it is today?

11 A (Nods head in the affirmative.)

12 Q Thank you.

13 THE COURT REPORTER: Is that a yes or a no?

14 THE WITNESS: That's a yes, I guess.

15 MS. SWANSON: Okay.

16 THE COURT: Yes, sir.

17 MR. PLEXICO: Thank you.

18 RECROSS-EXAMINATION

19 By Mr. Plexico:

20 Q All right. Now, you were -- your sister had been
21 shot, correct?

22 A Yeah.

23 Q You all weren't sure what was wrong to start with,
24 correct?

25 A I didn't hear you.

1 Q You weren't sure what was wrong with your sister to
2 start with because she didn't know, correct?

3 A Correct.

4 Q All right. So she was highly agitated?

5 A Huh?

6 Q She was very upset. She was highly agitated,
7 correct?

8 A Huh?

9 Q At the time because she didn't know -- your sister
10 didn't know what was wrong with her. She was highly
11 agitated, correct? She was upset?

12 A (Nods head in the affirmative.)

13 Q You were upset for her, correct?

14 A (Nods head in the affirmative.)

15 Q And you were upset --

16 THE COURT REPORTER: Judge.

17 THE COURT: Please don't ask him a question until he
18 actually answers out loud. Okay?

19 MR. PLEXICO: I'm sorry, Your Honor.

20 THE COURT: It's all right.

21 THE COURT REPORTER: And if I could ask you just slow
22 down.

23 MR. PLEXICO: I got you. Thank you, Madam Court
24 Reporter.

25 Q Your sister was highly agitated?

1 A Yes, sir.

2 Q Okay. You were upset about your sister being upset?

3 A Uh-huh.

4 Q You were upset independently after, otherwise, right?

5 A What do you mean by upset?

6 Q She was highly agitated. She didn't know what was

7 wrong with her. She was in pain. That's upsetting. Is

8 that correct?

9 A (Nods head in the affirmative.)

10 Q Please say yes or no.

11 A Yeah. Yeah.

12 Q I'm sorry. You have to say something in a courtroom.

13 Please don't nod your head. Just relax and think about

14 it.

15 A It's cool.

16 Q All right, yes. You had been running for two blocks,

17 correct?

18 A I don't think it's two blocks.

19 Q Almost.

20 A It's like a quick second run and a hop and you are

21 there from the church, from the apartments. They're right

22 there beside each other. I don't think it's a block away.

23 It's like, it's not even a mile. From Tiff's house --

24 from Tiff's house to right here that I'm at right now,

25 it's probably going to be from --

1 Q So you've been running. You're out of breath almost,
2 correct?

3 A (Nods head in the affirmative.)

4 Q Yes, sir or no, sir.

5 A Yeah.

6 Q Okay. You see your sister who's injured, correct?

7 A Yeah.

8 Q All right. You're upset, correct?

9 A Yeah.

10 Q All right. Would it be fair to say that the officers
11 talking to you had a hard time communicating with you
12 because of the situation and you being upset? Is that
13 fair?

14 A I don't get that question.

15 Q Okay. All right. So you were agitated and talking
16 fast with all the commotion. Is that correct?

17 A I can't remember.

18 Q The EMT's were there, correct?

19 A I can't remember.

20 Q Do you remember the police being there?

21 A No, I don't.

22 Q So your memory of back then --

23 A Gone.

24 Q -- is actually hazy? Okay. Now, do you have any
25 diseases?

1 A No.

2 Q All right. Could you have made statements to the
3 police based on assumptions that weren't true? Is that
4 possible?

5 A No.

6 Q How do you know if you can't remember?

7 A Because back then, probably.

8 Q Probably.

9 MR. PLEXICO: I don't have anything further.

10 THE COURT: Thank you, sir. You can step down.

11 MS. SWANSON: And I would ask that Mr. Dobson be
12 released from his subpoena.

13 THE COURT: Any objection?

14 MR. PLEXICO: No objection from the Defense.

15 MS. SWANSON: Thank you.

16 (Whereupon, the witness stepped down from the witness
17 stand.)

18 MS. SWANSON: The state calls Nate Fuller.

19 NATE FULLER, being
20 first duly sworn, testified as follows:

21 DIRECT EXAMINATION

22 By Ms. Swanson:

23 Q Nate, how are you?

24 A I'm great.

25 Q Good. Thank you for being here. Tell us how you

1 know Tiffany Lakes?

2 A She's my daughter mother.

3 Q All right. And what is your daughter's name?

4 A Minor [REDACTED].

5 Q And how old is she?

6 A She's two, will be three in November.

7 Q All right. And when was she born?

8 A [REDACTED].

9 Q All right. And so, we're talking about the daughter
10 that Tiffany was pregnant with the night of the shooting?

11 A Yes.

12 Q And so, were you -- where were you the night of the
13 shooting?

14 A I was sitting in my car.

15 Q All right. Sitting in your car where?

16 A In Tiffany's back yard.

17 Q And is that the Fairwood Apartments in Estill?

18 A Yes.

19 Q All right. I'm going to show you two pictures, Nate.
20 These are marked as State's exhibit number 2 and number 3,
21 and just ask if you recognize what's contained in these
22 pictures?

23 A Yes, I recognize the area.

24 Q Right. And so, what area is that?

25 A Actually this, this area is right, right above, a

1 little past that sign is where I was parked at.

2 Q Are those the Fairwood Apartments in Estill?

3 A Yes.

4 Q Okay. And is that how they basically looked when you
5 were parked there that night?

6 A Yes.

7 MS. SWANSON: Okay. The State would move 2 and 3
8 into evidence at this time.

9 MR. PLEXICO: I have no objections to 2 and 3.

10 THE COURT: They are admitted.

11 (Whereupon, State's exhibits 2 and 3 were admitted
12 into evidence.)

13 MS. SWANSON: So at this time I would move to
14 publish.

15 THE COURT: Yes, ma'am.

16 Q And so, you're saying that you were parked on the
17 street outside the apartments, right?

18 A Yes.

19 Q Okay. And were you parked close to that speed limit
20 sign?

21 A Yes. You can say I'm fairly close.

22 Q All right. Do you remember if you were facing
23 towards Canal Street or towards the Baptist Church?

24 A Where the church is at my, the rear of my car is
25 there. So I was faced the opposite direction.

1 Q All right. So the church was behind you?

2 A Yes.

3 Q Okay. And you were sitting in the driver's seat?

4 A Yes.

5 Q And where was Tiffany when you all were talking?

6 A She was at the passenger window.

7 Q Okay. And I know you're injured but can you, what
8 was she doing? Was she leaning into your window or --

9 A Yes, leaning in the window, as usual. But she was
10 leaning in the window.

11 Q Leaning in the window talking to you like this?

12 A Yes.

13 Q What had you been doing that night?

14 A I didn't hear you.

15 Q What had you -- what had you all been doing that
16 night?

17 A I was -- actually I was dropping off something from
18 the store for her.

19 Q Okay. Now, when you and Tiffany were talking and you
20 were sitting in the car did you see anyone walk past?

21 A Yes. Actually I saw three occupants pass.

22 Q Okay. Who were, who did you see pass? Did you
23 recognize any of those people?

24 A Yeah. Actually, I didn't recognize the two girls
25 that was with him, but Benjamin was walking past with two

1 girls and I spoke, he spoke and that was it.

2 Q So you saw Benjamin Blake walk past your car?

3 A Yes. I spoke with him.

4 Q All right. How do you know Benjamin Blake?

5 A I've pretty much known him all my life.

6 Q All right. And can you point him out in the
7 courtroom?

8 A Actually, I'll need glasses. I don't have them with
9 me.

10 Q Do you know Benjamin Blake's nickname?

11 A Boot.

12 Q Bouke?

13 A Boot.

14 MR. PLEXICO: Object, Your Honor. That's irrelevant.

15 THE COURT: I'm going to allow it. And he said Boot
16 or Bouke?

17 THE COURT REPORTER: And you said Boot or Bouke?

18 THE WITNESS: Yeah, he was called Bouke because he
19 was --

20 THE COURT REPORTER: Bouke. How do you spell it?

21 THE WITNESS: Ma'am?

22 THE COURT REPORTER: How do you spell it?

23 THE WITNESS: I don't --

24 Q B-o-u-k-e, does that sound right?

25 A Actually it all sound the same, Boot, Bouke.

1 MR. PLEXICO: That's leading. I'll object, move to
2 strike.

3 THE COURT: Hang on just a minute.

4 MS. SWANSON: I'll withdraw the question. It doesn't
5 really matter.

6 Q But you've known Benjamin all of his life?

7 A Yes, pretty much.

8 Q And so, you recognized him and you all spoke, and he
9 was with two females?

10 A Yes.

11 Q Was he heading towards the church or away from the
12 church?

13 A Actually, he was, I was parked here. I was parked
14 here towards the bridge, and they were going behind. So
15 you could say towards the church.

16 Q Okay. He was heading toward the church. Was he on
17 foot?

18 A Yes.

19 Q After you see him walk by with those two females what
20 do you notice next?

21 A Actually nothing because we was still in
22 conversation. Me and Tiffany.

23 Q Did you hear any arguing or anything of that nature?

24 A It was some arguing further down the road. But you
25 could hear, hear someone arguing, but I couldn't tell who

1 was arguing.

2 Q And then what happened after that?

3 A I asked her, I was like who's arguing, and --

4 MR. PLEXICO: Objection, Your Honor. It would be
5 hearsay, the answer to that.

6 A And I was asking her who was arguing. And she said,
7 oh, that's --

8 Q Just, you can say what you asked her but not what she
9 said.

10 A Okay. I was asking her who was arguing, because I
11 couldn't tell what was going on at the time because I was
12 on the driver's side. And we was just, just kept talking.
13 So it was nothing really going on other than our
14 conversation. But then moments after that we heard the
15 pop, pop. And the first thing I did was went down because
16 I heard the gunshots and that was it.

17 Q Okay. And did you, what did Tiffany do after you
18 heard the gunshots?

19 A She was, she was saying, oh, I'm hit. I'm hit. And
20 being that she was seven months pregnant, the first thing
21 I'm thinking that she was startled and panicking and she
22 was going through contractions. So I was like, stop
23 joking. Stop playing. And she was like, I'm hit. I'm
24 hit. So I figured that she wasn't joking. So I was like
25 steady looking at her. And when she fell to the ground

1 I'm like, are you for real. She said it's burning. And
2 when she said it's burning I knew she was hit. So the
3 first thing I did was dial 911.

4 Q Okay. And so, one of the phone calls to 911 was
5 yours?

6 A Ma'am?

7 Q One of the phone calls to 911 was from you?

8 A Yes, ma'am.

9 Q And did you see Jeantavienne that night?

10 A Yes. As I was assisting her, I was down trying to
11 figure out what was happening, because I knew she was shot
12 but I couldn't find where she was shot. There was no
13 blood or anything. And then when I looked up I saw
14 Chabby. And I'm like, hey, where you come from, you know.
15 And he was all startled. But we didn't got into
16 conversation because I was attending to her.

17 Q Okay. And so, when you say Chabby, that's
18 Jeantavienne's nickname?

19 A Yes.

20 Q Okay. And was he running, what direction was he
21 running? Was he running up from behind you or was he
22 running towards you?

23 A Pretty much towards me, because when I'm, actually I
24 can't say towards me either, because I had my head down.
25 So when I looked up he was --

1 Q Okay. You're out of the car at this point?

2 A Yes. Yes, ma'am. I was assisting her, so I had my
3 head down. So when I looked up he was there. So I can't
4 actually tell you where he come from, because I didn't
5 know.

6 Q All right. You're just not sure what direction he
7 came from?

8 A No, ma'am.

9 Q Fair enough. Did he ever tell you who was shooting
10 without saying what he said?

11 MR. PLEXICO: Your Honor, I object. That's clearly
12 hearsay, Your Honor.

13 MS. SWANSON: I'm not eliciting what he said.

14 A Actually, if he did --

15 THE COURT: Hang on just a minute. You can ask him,
16 but not the substance of the statement.

17 Q Correct.

18 A If he did, I have no knowledge to it, because I was
19 so focused on Tiffany there that if he did, I didn't even
20 hear him.

21 Q All right. And so, did you and Chabby wait with
22 Tiffany while EMS and police arrived?

23 A Yes. Like I say, I was mainly focused on her, so I
24 waited. If he was there or not, I don't, I can't
25 remember.

1 Q I got you. Now, when you first talked to police, did
2 you not really want to talk to them?

3 A Yes, ma'am. I didn't want no parts of that actually.

4 Q Okay. And did you not want to give them your name?
5 Your real name?

6 A That's, actually, I didn't give them my real name.

7 Q Okay. And why is that? Can you tell the jury why?

8 A Because I was married and I wasn't supposed to be at
9 her house.

10 Q All right. So you just didn't want to get busted by
11 your wife?

12 A Yes, I just didn't want to be --

13 MR. SWANSON: All right, Nate. Thank you very much.
14 Just please answer any questions that Mr. Plexico might
15 have for you.

16 THE WITNESS: Okay.

17 MR. PLEXICO: Court's indulgence for must a moment.
18 I don't have any questions, Judge.

19 THE COURT: Thank you. Okay, sir, please step down.
20 And any problem with him being released?

21 MS. SWANSON: None from the State.

22 MR. PLEXICO: None from the Defense, Your Honor.

23 THE COURT: Okay. You may go.

24 MS. SWANSON: Thank you, Mr. Fuller.

25 THE WITNESS: You're welcome.

1 (Whereupon, the witness stepped down from the witness
2 stand.)

3 MS. SWANSON: The State calls Tiffany Lakes.

4 TIFFANY LAKES, being
5 first duly sworn, testified as follows:

6 DIRECT EXAMINATION

7 By Ms. Swanson:

8 Q All right, Tiffany. Where are you from?

9 A [REDACTED] Street, Apartment 5A, Estill, South
10 Carolina.

11 Q Okay. And so, Grayson Street is where you live. So
12 you live in Estill still?

13 A Uh-huh.

14 Q And you were living there in November of 2015?

15 A Correct.

16 Q Are you from Estill?

17 A No. I'm originally from Garnett.

18 Q Got you. How long have you lived in Estill?

19 A I want to say seven years.

20 Q And how many children do you have?

21 A Three.

22 Q How many children did you have the night of November
23 7th of 2015?

24 A I was pregnant with one and had two.

25 Q Okay. Were they living at the Fairwood Apartments

1 with you?

2 A Correct.

3 Q How pregnant were you with your third child in
4 November of 2015?

5 A I was 25 weeks and 5 days, 7 months.

6 Q All right. So let's talk about the night of November
7 7th of 2015. What were you doing that night?

8 A Well, I just had got finished doing hair, let's see,
9 I want to say about 9:00, 9:00 o'clock. And once I got
10 back home I was thinking of what I was going to eat. And
11 I was craving for Chinese food that, all that day. So I
12 called my child's father, which is Nate, and asked him
13 could he take me to China Town. But he said no, I'll just
14 go, you just order. So he went and got the food and
15 brought it back. I took the food to my kids inside of the
16 house and he came back because he had brought two sodas
17 and a bag of ice. And I was about to go back in the house
18 to take the kids the drink and the ice but we started
19 talking about something else. So I put the bag down and I
20 went back. I was on the passenger window and we started
21 talking. And, you know, with this car, the lights, when
22 you turn the car off the lights doesn't go off. So the
23 light remained on for a good 15 minutes. So once I looked
24 up, because I seen a shadow and I seen Benjamin Blake and
25 two females was standing at the bridge and they sat there

1 at least 15 to 20 minutes, Benjamin was on the phone.

2 Q Okay. Let me stop you right there because I want to
3 make sure we all understand where things are located.

4 (Whereupon, State's exhibits 4, 5 and 6 were marked
5 for identification.)

6 Q Okay, Tiffany. I'm going to hand you State's exhibit
7 4 and ask you what this is a picture of?

8 A It's my, the back of my apartment.

9 Q Okay. And can you see the bridge that you're
10 referring to in that picture?

11 A It's right here.

12 Q Okay. And is that the way your apartment and the
13 bridge look today?

14 A Yes.

15 Q And back in 2015?

16 A Uh-huh.

17 MS. SWANSON: Okay. State moves 4 into evidence at
18 this time.

19 THE COURT: Any objection?

20 MR. PLEXICO: No objection, Your Honor.

21 THE COURT: It is admitted.

22 MS. SWANSON: Thank you.

23 (Whereupon, State's exhibit number 4 was admitted
24 into evidence.)

25 Q And I'm going to hand you State's 5 and ask what

1 that's a picture of.

2 A It's the bridge where he was standing.

3 Q Okay. And then can you kind of see your apartment
4 building in it, too?

5 A It's right there.

6 MS. SWANSON: All right. State would move 5 into
7 evidence.

8 THE COURT: Any objection?

9 MR. PLEXICO: No objection, Your Honor.

10 (Whereupon, State's exhibit number 5 was admitted
11 into evidence.)

12 MS. SWANSON: Move to publish?

13 THE COURT: Yes, ma'am.

14 MS. SWANSON: Thank you.

15 Q Okay. So the bridge is over by what street? Is that
16 Canal?

17 A Yeah.

18 Q Is that right?

19 A Uh-huh.

20 THE COURT REPORTER: Is that a yes?

21 THE WITNESS: Yes.

22 Q And it's got those guardrails on it?

23 A Yes.

24 Q That's why you all call it a bridge? Because it's
25 not like a wooden bridge or anything?

1 A Right.

2 Q Okay. And about how far from your apartment is that?

3 A I wouldn't even say, probably a half a mile.

4 Q Let's talk, let's talk blocks. Like how many blocks

5 --

6 MR. PLEXICO: Your Honor, that's asked and answered.

7 A I wouldn't even say one block.

8 THE COURT: I'm going to allow --

9 A It wasn't one block.

10 THE COURT: I'm going to allow the question.

11 Q Can you see it from the back of your apartment?

12 A Yes.

13 Q Okay. Are those apartments, are there street lights
14 around those apartments?

15 A Correct.

16 Q Okay. And then the car lights were also on?

17 A Yes.

18 Q How did you know who Benjamin Blake was?

19 A I knew him through Jeantavienne's sister.

20 Q Okay.

21 A But personally as far as me actually knowing him,
22 like I never really knew him.

23 Q I got you.

24 A I know him through his sister.

25 Q Through mutual friends?

1 A Yeah.

2 Q Okay. And your, who is your good friend? What
3 sister is your good friend?

4 A Vonda.

5 Q Vonda Dobson?

6 A Uh-huh. And Delisha, she's--

7 Q Delisha Dobson is Jeantavienne's other sister?

8 A Yes.

9 Q And does she have a baby with Benjamin Blake?

10 A Yes.

11 Q Can you identify Benjamin Blake in the courtroom? Do
12 you see him in here today?

13 A Yes, right there.

14 (Whereupon, the witness identifies the Defendant.)

15 Q All right. And that was the person that you saw over
16 by the bridge that night?

17 A Yes.

18 Q What did he do after he was on the phone by the
19 bridge?

20 A After he got off the phone, after he got off the
21 phone he was walking towards our way and he looked
22 directly at us. I mean, he spoke to Nate, but I looked at
23 him and he, I didn't see him say anything but he kept
24 walking. And that's when I looked, because I thought it
25 was his baby mother was walking. So I told Nate to turn

1 down the radio just in case, I didn't want, just to make
2 sure that they didn't jump her. But when I did look it
3 wasn't her. It was Jeantavienne. And after I seen
4 Jeantavienne, that's when I told, that's when I told Nate,
5 I was like, turn that down a little bit more. And he
6 turned the radio down. And the only thing I heard was
7 Jeantavienne said nigger, you are a bitch.

8 Q Okay. Jeantavienne said that?

9 A Jeantavienne said that. And once he said that,
10 that's when I seen the beam light, a red beam light. But
11 I still wasn't, you know, you're not going to sit there
12 and think, oh well, you know, that red beam light, that
13 means it's a gun, it's about to go down. So I seen the
14 red light. But about the time I really could realize that
15 Jeantavienne already turned around and started running I
16 was already hit. So once I got hit, the second bullet,
17 when it came, I kind of like backed up a little bit
18 because I felt the breeze from, I guess, the bullet. I
19 felt it. So as I backed, as I backed up, that's when it
20 started burning. So I jumped down to my knees and I
21 started throwing up. But I already had knew when I got
22 shot that I, that I got shot, because it instantly started
23 burning.

24 Q All right. Do you, do you remember hearing gunshots,
25 or not really?

1 A Not really.

2 Q And so, what direction do you recall was Jeantavienne
3 coming from?

4 A He was coming from the church.

5 Q All right. I'm going to show you what's been marked
6 as State's exhibit number 6 and ask what this is a picture
7 of.

8 A The church. First Baptist Church.

9 Q And is that close to your apartments?

10 A Yes.

11 Q And is that the church that you said that
12 Jeantavienne was coming from?

13 A Yes.

14 Q All right. And is that how it looks?

15 A Yes.

16 MS. SWANSON: State would move 6 into evidence and
17 move to publish, please.

18 MR. PLEXICO: I have no objections to State's exhibit
19 number 6.

20 THE COURT: Okay. It's admitted.

21 (Whereupon, State's exhibit number 6 was admitted
22 into evidence.)

23 Q All right. Did Jeantavienne stay with you while the
24 police came?

25 A Yes. As I dropped down he came and slid under and he

1 grabbed me by the neck so I wouldn't have fell to the
2 ground completely.

3 Q All right. And did he know who shot you?

4 A Yes.

5 MR. PLEXICO: Your Honor, no objection.

6 A He literally said that --

7 Q Not what he said.

8 A Oh, okay.

9 Q Okay.

10 A Okay, yeah. I can't say that.

11 Q But did you, did you see Benjamin Blake after that?

12 After you were shot --

13 A No.

14 Q -- or after Jeantavienne was running --

15 A No.

16 Q -- towards you?

17 A Well, I seen him standing there still shooting. But
18 after the police and everything I didn't see him.

19 Q You saw him standing there still shooting?

20 A Yes.

21 Q Where?

22 A He was standing to the church. And as Jeantavienne
23 was zigzagging running, he was still just pointing and
24 just firing.

25 Q And then was Benjamin Blake still around when police

1 got there?

2 A No.

3 Q Okay. Where were your kids when you got shot?

4 A Sitting to the backdoor.

5 Q All right. So once everything happened they, were
6 they inside originally?

7 A They was inside. As I was dropping down they walked,
8 they was walking to the door.

9 Q So did they see you on the ground?

10 A Yes. They seen me dropping to the ground.

11 Q And when the ambulance came?

12 A Well, when the ambulance respond they told me that I
13 didn't got shot. They told me I was having early
14 contractions, which I basically told them this is my third
15 child. I'm pretty sure I know the difference between
16 early contractions and actually, you know, something else
17 being wrong. So when, they asked me could I get up and I
18 told them no, that I wasn't moving for them to do their
19 job. So they got the stretcher and put me on the
20 stretcher and they put me in the back of the ambulance.
21 And they went to go take, cutting off my clothes. And
22 once they got to the bra I told them that I would have
23 just took the bra off because that was a \$50.00 dollar
24 bra. So I asked them can I remove the bra, but they
25 proceeded to cut it. And once, when I went to go lift up

1 my arm for them to cut it, that's when they seen the hole.

2 Q Okay. And so, that's when they found the entrance
3 wound?

4 A Yes.

5 Q And you actually had to take a helicopter ride over
6 to Savannah Memorial, right?

7 A Yes.

8 Q Okay. And so, what happened when you got to Savannah
9 Memorial?

10 A When I got there they was, kept asking me my name.
11 After they asked me my name and asked me my date of birth,
12 like they was telling me to count back from 10. I just
13 remember nine.

14 Q So did you, did you end up going into surgery?

15 A Oh, yeah. I went straight into a seven hour surgery.

16 Q And do you recall what procedures you had to get
17 done?

18 A They cut me and took my baby first. And I had
19 surgery on my pancreas, kidney, liver, lungs, spleen
20 removed, gallbladder taken out, and there's some other
21 stuff but I can't --

22 Q And were all of those surgeries that night or has it
23 been something that's --

24 A The majority all of them. The only one didn't occur
25 that night was my gallbladder, which that got taken out a

1 month later.

2 Q Okay. And how long did you spend in the hospital?

3 Do you remember?

4 A I want to say a month.

5 Q Okay. And Minor, your baby girl, how long did she
6 spend in the hospital?

7 A She stayed a month and two weeks.

8 Q What kind of issues did she have from having to be
9 born so early?

10 A Well, her head, a lot of things in her head hadn't
11 finished developing. She was on a breathing machine.
12 Well, she had to get oxygen. I guess the normal preemie.
13 I mean, I'm not medically knowing everything.

14 Q Sure.

15 A But I know when she did come home she was, she only
16 could breathe fifty percent of her breathing. She was on
17 a, what do they call it? Not the nebulizer, but the
18 oxygen tank.

19 Q A ventilator or --

20 A Yeah. She was on that all the way up until she
21 turned one. And she's currently still taking oxygen.

22 Q So she's still getting oxygen and having some lung
23 issues --

24 A Yes.

25 Q -- from being born so early?

1 A Yes.

2 Q Otherwise, is she developing okay?

3 A Oh, yes.

4 Q Is she in the terrible two's?

5 A Yes.

6 Q So did you end up going back to Savannah Memorial to
7 the ER?

8 A Yes. I went to Hardeville first because I was having
9 real sharp pains. And they took me, I did a CT scan. And
10 that's when they developed that it was a bullet. And I
11 later went to Savannah and they cut, cut it out.

12 Q And were you awake during that procedure?

13 A Oh, yes.

14 Q Okay. And so, where did the doctor end up cutting it
15 out?

16 A Directly across from where it went in, under my right
17 breast.

18 Q Okay. So it had moved kind of like all the way
19 across your body?

20 A It dropped, hit everything in my stomach and
21 positioned on the opposite side.

22 Q Okay. And what did the doctor do with that bullet?

23 A They gave it to me and I brought it, I gave it to the
24 police, Estill Police Department.

25 Q Okay. You gave that to Estill Police Department?

1 A Yes.

2 Q Okay. I'm going to show you what's been marked as
3 State's exhibit 7 and ask if you recognize this item.

4 A That's the bullet.

5 Q That's the bullet that the doctor --

6 A Right.

7 Q -- took out of you?

8 A Uh-huh.

9 MS., SWANSON: Okay. State would move 7 into evidence
10 at this time.

11 MR. PLEXICO: I have no objections, Your Honor.

12 THE COURT: It's admitted.

13 (Whereupon, State's exhibit number 7 was admitted
14 into evidence.)

15 MS. SWANSON: And you all will have these items back
16 in the jury room. All right. Tiffany, I appreciate it.
17 Please answer any questions that Mr. Plexico has for you
18 at this time.

19 CROSS-EXAMINATION

20 By Mr. Plexico:

21 Q You've seen this picture? This is Exhibit 6.

22 A Correct.

23 Q And that's the church?

24 A Correct.

25 Q Okay. And this is a picture of the bridge?

1 A Correct.

2 Q Now, did you know the two girls that you say you saw
3 walking by the car that night?

4 A The two girls that I saw walking that night, no, I
5 don't.

6 Q Okay. Now, and you recall seeing this Exhibit 4?

7 A Uh-huh.

8 MR. PLEXICO: May I approach?

9 THE COURT: You may. Is that a yes?

10 THE WITNESS: Yes.

11 Q All right. Where in Exhibit 4 would the church be?
12 Could you point to it?

13 A The church would be right over this area.

14 Q Right around here, behind the tree?

15 A Yes.

16 Q So the tree is covering, the tree here is covering up
17 the church?

18 A It's, on there it's covering the church, yes.

19 Q Could you circle where the church is?

20 A (Witness complies).

21 Q And this is the bridge? That's what you're talking
22 about?

23 A Right.

24 Q Point to where you think the car was.

25 A The car was right here.

1 Q Could you circle, like a small dot where the car was?

2 A (Witness complies).

3 Q Put a C inside of it.

4 A (Witness complies).

5 Q Okay. Where's your apartment here?

6 A You want me to just circle that too?

7 Q Sure.

8 A (Witness complies). I'll put T on it.

9 Q Okay. And the larger circle here is the church?

10 A Uh-huh.

11 Q All right. Now, I don't see any streetlights heading
12 down toward the bridge. There aren't any streetlights
13 down the bridge, are there?

14 A There's a streetlight at the church, where the church
15 is. And we have streetlights on the back of our
16 apartment.

17 Q You have apartment lights in the back of your
18 apartment you mean?

19 A No, apartment lights is on our apartment. I mean,
20 there are actually streetlights in between, it's probably
21 not on that picture.

22 Q Okay. But there would be large telephone poles,
23 correct?

24 A Uh-huh.

25 Q And you can see large telephone poles in this

1 picture?

2 A You can see back there, period.

3 Q Right. So you can see the telephone poles that hold
4 the lights?

5 A Uh-huh.

6 Q And you can see --

7 A Wait. I don't know. Could you bring --

8 THE COURT REPORTER: I need a yes or a no, please.

9 A He confusing me. Can I see that picture again,
10 please?

11 Q All right.

12 A Yeah, there's a light right here, a light right
13 there. A light right here, a light right there, and this
14 light by the church.

15 Q So you're saying there's a light by the church?

16 A Uh-huh.

17 Q Where's the next light?

18 A There's a light right there.

19 Q Is there a pole there?

20 A Yes. They have a light right there. It's a pole
21 there.

22 Q Okay. So there are three lights you're talking
23 about?

24 A Yes.

25 Q So could you put an X where the, where the lights

1 are?

2 A And there's a light right here, too.

3 Q All right. So, and this is Exhibit 4, correct? Now,
4 you gave a statement. Is that correct?

5 A Correct.

6 Q So when the shooting started you were looking inside
7 the car. Is that correct? You were leaning and looking
8 inside the car at Nate?

9 A Uh-huh.

10 THE COURT: You have to say yes or no.

11 A I mean, yes. Yes.

12 Q So you put in this statement, "I seen another suspect
13 walking from the other side. I couldn't see who it had
14 been. So I just turned my head and kept on with my
15 conversation". Is that correct?

16 A Correct.

17 Q So you had seen Benjamin Blake, you say?

18 A Uh-huh.

19 Q All right. And then you saw another suspect?

20 A Yes.

21 Q Okay. And you said you bent down to get some ice,
22 and then you heard arguing.

23 A No. I bend down to sit the bag on the, by the car
24 with the ice in it.

25 Q Well, you didn't write, "I bend down to get some ice

1 from my bag"?

2 A Right, yeah. I did.

3 Q So that's what you were doing?

4 A What I did.

5 Q All right. So when you got shot you felt the
6 stinging. Is that correct?

7 A Correct.

8 Q And you went down?

9 A No. After I got shot I stepped back, because the
10 second bullet was coming. But by the time the second
11 bullet came and it, I felt the strong wind from it, I
12 eased back. As I eased back I turned around, because I
13 started throwing up. Then I dropped down.

14 Q All right. So all this happened very quickly?

15 A Uh-huh.

16 THE COURT REPORTER: Is that a yes or is that a no?

17 THE WITNESS: Yes.

18 MR. PLEXICO: Court's indulgence, please?

19 THE COURT: Yes, sir.

20 MR. PLEXICO: I don't have anything further, Judge.

21 THE COURT: Any redirect?

22 MS. SWANSON: Just briefly.

23 REDIRECT EXAMINATION

24 By Ms. Swanson:

25 Q Mr. Plexico asked you about the person that you

1 mentioned in your written statement that you saw coming
2 from the other side.

3 A Uh-huh.

4 Q Were you ever able to determine who that was?

5 A Yes. It was Jeantavienne. I, when it first started,
6 when he first started walking towards I didn't see then.
7 But once he got where the church light was I then seen who
8 it was. I seen it was Jeantavienne. But I thought it was
9 his, Lisha, I thought it was Lisha. But once he actually
10 came to the light that's when I seen that it was
11 Jeantavienne and not Lisha.

12 Q Okay. And so, that was what you testified about
13 earlier?

14 A Yes.

15 Q Did you see Jeantavienne with a gun that night?

16 A No.

17 Q Did you see anyone besides Benjamin Blake shooting?

18 A No.

19 MR. SWANSON: Thank you.

20 MR. PLEXICO: Briefly.

21 RECROSS-EXAMINATION

22 By Mr. Plexico:

23 Q So you were confused about, it was dark that night,
24 correct?

25 A Yes.

1 Q And how well do you know Jeantavienne Dobson?

2 A I mean, he's a brother. So I know him pretty well.

3 Q And you were confused about the appearance of your
4 own brother that night in the darkness.

5 A Because the way that he was walking is no light. But
6 the minute when he walked in front of the church where
7 there's a big bright light, even at what time it is at
8 night, you still can be able to see him.

9 Q While you're looking the other way?

10 A Okay.

11 Q Yeah? Was that your answer, yeah?

12 A No. Because once, I just said that I turned around
13 when I heard the arguing. That's when I looked up. When
14 I looked up I told Nate to turn down the radio. And once
15 I looked up, that's when I seen Jeantavienne.

16 Q Coming down the road? But you were confused when you
17 first saw him. Is that correct?

18 A Correct.

19 Q And does the light shine with a tree canopy and all
20 those trees in that picture from that church?

21 A It's only one tree. So where all the trees at?
22 You're talking about the trees that's behind the
23 apartment.

24 Q Is this, if you're back, you're beyond this picture,
25 aren't you?

1 A Uh-huh.

2 Q All right. Is that one big tree?

3 A They wasn't standing --

4 Q Isn't there another one there, another one here?

5 Aren't these all big trees and big canopies?

6 A First of all, where they were standing, they were not
7 standing by the tree. They were standing in the road.

8 Q They were standing beyond the tree and it's blocking
9 the light.

10 A In the road where there's no trees where you can see
11 straight down. That's where they were standing at.

12 MR. PLEXICO: I don't have anything further.

13 THE COURT: Thank you, ma'am. You can step down.

14 (Whereupon, the witness stepped down from the witness
15 stand.)

16 MS. SWANSON: May I approach, Your Honor?

17 THE COURT: Yes. Mr. Plexico, would you mind coming
18 up to the bench.

19 (Whereupon, a bench conference was held in the
20 presence of the jury but out of the hearing of the
21 jury.)

22 THE COURT: Okay. Ladies and gentlemen, we like to
23 make sure we give you a break after we have supplied you
24 with food and drinks for lunch and then we hate to keep
25 you in here for too long. So we're going to take a ten

1 minute break. Please don't begin any deliberations or
2 begin discussing any of the testimony that you heard.
3 Thank you.

4 (Whereupon, the jury was excused from open court for
5 a break.)

6 THE COURT: Anything we need to discuss?

7 MS. SWANSON: Nothing from the State.

8 THE COURT: All right. We'll be at recess for ten
9 minutes.

10 (Whereupon, a short break was taken.)

11 THE COURT: Please bring the jury in.

12 (Whereupon, the jury came into open court at
13 approximately 3:42 p.m.)

14 THE COURT: Okay. Ms. Swanson, call your next
15 witness.

16 MS. SWANSON: Thank you, Your Honor. The State calls
17 Officer Rufus Bailey.

18 RUFUS BAILEY, being
19 first duly sworn, testified as follows:

20 DIRECT EXAMINATION

21 By Ms. Swanson:

22 Q Good afternoon, Officer.

23 A Good afternoon.

24 Q Who do you work for?

25 A Right now Hampton Police Department.

1 Q And who did you work for back in November of 2015?

2 A Estill Police Department.

3 Q All right. And do you remember responding to a
4 shooting at the Fairwood Apartments?

5 A I do.

6 Q Do you have a copy of your report in front of you?

7 A I do not.

8 Q Would it help you if I provided you with one?

9 A Sure.

10 Q I'll give you a copy of your report to refer to if
11 that helps with your testimony.

12 A Thank you.

13 Q All right. So where did you respond the night of
14 November 7th, 2015?

15 A Near the intersection of Lawton and Grayson.

16 Q Okay. Is that within Hampton County?

17 A It is.

18 Q In the town of Estill?

19 A It is.

20 Q And what did you see when you arrived?

21 A I saw Tiffany Lakes laying on the ground. She was in
22 a lot of pain and shortly after we called for EMS.

23 Q Were there any other people standing around?

24 A Yes. Mr. Dobson was there.

25 Q Okay. Did you obtain a statement from Mr. Dobson?

1 A I did.

2 Q All right. And did you obtain a verbal statement
3 from Jeantavienne Dobson?

4 A He said quite a bit. I'm not sure if we had body
5 cameras at the time.

6 Q I don't believe so. But you spoke to him though?

7 A I did.

8 Q And did you obtain a written statement from him as
9 well?

10 A Yes.

11 Q All right. And did he tell you the name of the
12 shooter?

13 A Yes.

14 Q All right. What, did you guys go looking for a
15 suspect?

16 A Briefly. We had two separate crime scenes we had to
17 monitor at the same time.

18 Q Okay. Who did you go looking for and where?

19 A Benjamin Blake. We went looking for him in the very
20 vicinity of the crime scene and we knew he lived very
21 close.

22 Q Okay. Do you recall where he lived?

23 A Canal Street.

24 MS. SWANSON: All right. And if you don't mind, Your
25 Honor, I'm going to ask that the witness step down.

1 THE COURT: Sure.

2 Q All right. Officer Bailey, I'm going to ask that you
3 step down and you step over here so that the Court
4 Reporter can still hear you.

5 (Whereupon, the witness stepped down from the witness
6 stand.)

7 Q And let's talk about where you went --

8 MR. PLEXICO: May I approach, Your Honor, so I can
9 see what they're talking about?

10 THE COURT: Sure.

11 MS. SWANSON: Yes, sorry.

12 Q So tell me where you responded.

13 A Okay. I responded here. She was right about here in
14 the grass, and there's Canal Street right there.

15 Q All right. And Canal Street is where you went
16 looking for Benjamin Blake?

17 A Yes.

18 Q What two different crime scenes are you talking
19 about?

20 A We had one here. I'll try to move out of the way.
21 We had one here where the victim was and we had another at
22 this church right up here. That's where the shell casings
23 were found.

24 Q All right. And I'll let you have a seat.

25 (Whereupon, the witness returned to the witness

1 stand.)

2 Q And I'm going to show you what's been entered as
3 State's 6 and ask what this is a picture of.

4 A It's the church where the shell casings were found.

5 Q All right. So you found how many shell casings at
6 the church?

7 A I believe five altogether.

8 Q Could it be six?

9 A Five or six.

10 Q Okay.

11 (Whereupon, State's exhibit number 8 was marked for
12 identification.)

13 Q All right. And who located the shell casings?

14 A Actually Mr. Dobson is the one who brought me over to
15 the shell casings.

16 Q All right. So Mr. Dobson took you over to the
17 church?

18 A He did.

19 Q And where were the casings found in conjunction to
20 the church?

21 MR. PLEXICO: Your Honor, I ask he doesn't answer
22 until I can see where he's talking about.

23 THE COURT: Sure.

24 A Just here right in front of the church. On the
25 sidewalk portion right here.

1 Q In that little parking area --

2 A Yes.

3 Q -- on the hard ground? And is this, is this Grayson
4 right here? Is this the roadway?

5 A That is Lawton.

6 Q Oh, Lawton.

7 A Yeah. Grayson is to the left of that scene.

8 Q Okay, got you. All right. Who else was out there at
9 the crime scenes with you?

10 A It was Officer Bennett, myself, Officer Thorpe, EMS.
11 I believe the fire department came out and gave us the
12 flood lights so we could look for more casings, evidence,
13 that sort of thing.

14 Q All right. And evidence collected was turned over to
15 you?

16 A It was, and I turned it into the --

17 Q Evidence department?

18 A -- evidence collection, yes.

19 Q Okay. Now, once Dobson showed you where the shell
20 casings were did you physically go over there and locate
21 them and mark them?

22 A I did.

23 Q I'm going to show you State's, what's been marked as
24 State's 8 and ask if you recognize this item, or these
25 items.

1 A Yes. That is a bag I filled out.

2 Q Okay. To place the shell casings in?

3 A Yes.

4 Q Okay. That came from the scene that night?

5 A Yes.

6 MS. SWANSON: All right. I would like to move
7 State's 8 into evidence at this time.

8 MR. PLEXICO: I'd like to cross-examine him in
9 regards to that. I don't believe that's the original bag.
10 There could have been manipulation or some substitution.

11 MS. SWANSON: It's non-fungible evidence.

12 MR. PLEXICO: Your Honor, I believe that's a SLED bag
13 and I believe SLED has opened it. I'm not sure he's
14 identified what the paper bag is or is the plastic bag his
15 or was it sealed.

16 THE COURT: Let me let you lay some foundation, if
17 you would.

18 MS. SWANSON: Sure.

19 Q So the paper bag, is that what you filled out?

20 A Yes.

21 Q And is your name there?

22 A That it is.

23 Q Is it beside the, collected by?

24 A Yes.

25 Q And the date is what?

1 A 11-08-2015.

2 Q And the time?

3 A 01:32.

4 Q All right. Location from which they were collected?

5 A First Estill Baptist Church.

6 Q All right. And does this paper bag have some tape on
7 it?

8 A It does.

9 Q All right. And what does it say?

10 A SLED.

11 Q All right. So did it go to SLED for analysis?

12 A I believe it did.

13 Q But it was originally collected by you guys?

14 A It was.

15 MS. SWANSON: State would move 8 into evidence at
16 this time.

17 MR. PLEXICO: Your Honor, I don't know if those are
18 the original, the shell casings could have been changed or
19 manipulated. And I don't know what SLED has done, and we
20 haven't heard from anybody from SLED to show there's been
21 no manipulation in regards to that particular evidence.

22 MS. SWANSON: Your Honor --

23 MR. PLEXICO: It's a break in the chain.

24 MS. SWANSON: This is non-fungible evidence for which
25 we do not need to prove chain, just where it came from.

1 THE COURT: Your objection is overruled. Thank you.
2 (Whereupon, State's exhibit number 8 was admitted
3 into evidence.)

4 Q So once you and Officer Bennett and Officer Thorpe
5 finished up at the scene was the case turned over to
6 someone else?

7 A Not that evening.

8 Q Right. But did you have anything further to do with
9 the case?

10 A After I turned it all in I turned it over to
11 investigations.

12 Q Okay. And investigations is who would have sent
13 items off to SLED?

14 A Yes, it would.

15 Q And filled out those request forms?

16 A Yes.

17 Q Got you.

18 MS. SWANSON: All right. That's all I have. Please
19 answer any questions that you have for, I mean that Mr.
20 Plexico may have for you.

21 CROSS-EXAMINATION

22 By Mr. Plexico:

23 Q Have you had the opportunity to review any reports
24 from SLED with regards to any of this?

25 A I have not.

1 MR. PLEXICO: I don't have anything further.

2 MS. SWANSON: Thank you. I would ask that Officer
3 Bailey be released from his subpoena, please.

4 MR. PLEXICO: I have no objections.

5 THE COURT: Okay. Thank you, sir. You are free to
6 go.

7 THE WITNESS: Thank you.

8 (Whereupon, the witness stepped down from the witness
9 stand.)

10 MS. SWANSON: The State calls Perry Bennett.

11 PERRY BENNETT, being
12 first duly sworn, testified as follows:

13 DIRECT EXAMINATION

14 By Ms. Swanson:

15 Q Good afternoon, Officer Bennett. Where do you work?

16 A Langford County Sheriff's Office.

17 Q All right. And back in November of 2015 who were you
18 working for?

19 A Estill Police Department here in Hampton County,
20 South Carolina.

21 Q Do you recall responding to a shooting on November
22 7th, 2015?

23 A I do.

24 Q Can you tell me about that?

25 A I responded to a call in reference to shots being

1 fired in the area of Lawton Avenue and Grayson Street.
2 Upon arrival I noticed a female that appeared to be
3 suffering from a gunshot wound to her torso and that's
4 basically what the call was in reference to.

5 Q Did you talk to any of the people that were on scene
6 that night?

7 A Yes.

8 Q Do you recall talking to Jeantavienne Dobson?

9 A I do.

10 Q Do you recall witnessing a written statement given by
11 Jeantavienne Dobson?

12 A Yes, ma'am.

13 Q Okay. And did you locate shell casings that night?

14 A Yes, ma'am. I did.

15 Q And did you collect shell casings from, where did you
16 find them?

17 A Shell casings were found on the scene. They were
18 photographed and placed into proper evidence before being
19 picked up from the scene. They were located on Lawton
20 Avenue in front of the church there and as well as close
21 to proximity of where the incident location took place.

22 Q Okay. And did Rufus Bailey actually find them?

23 A Yes.

24 Q Okay. I'm going to show you State's number 8 and ask
25 if you can identify these as the shell casings that were

1 found. And if you need to look at the paper bag that --

2 A That's correct.

3 Q Okay. Now, did you and Officer Bailey tape off the
4 scene or anything that night?

5 A Yes, ma'am.

6 Q Okay. So in Fairwood Apartments are there sometimes
7 people milling about?

8 A That's correct.

9 Q Bystanders?

10 A Yes, ma'am.

11 Q Were there bystanders that night?

12 A Yes, there were.

13 Q But were you all able to ensure that nobody
14 manipulated the, the evidence found at the scene?

15 A That's correct. Upon arrival at the scene our first
16 priority was to secure the crime scene to make sure no
17 parties could intervene with the investigation.

18 Q Okay. Did you all get there pretty immediately?

19 A That's correct. Yes, ma'am.

20 MS. SWANSON: All right. I have nothing further for
21 this witness at this time.

22 CROSS-EXAMINATION

23 By Mr. Plexico:

24 Q The shell casings you're talking about, these were
25 actually found on the church property in the parking area.

1 Is that correct?

2 A On Lawton Avenue.

3 Q Okay. Well, the church is on Lawton Avenue. Here's
4 Lawton Avenue and here's the church?

5 A It's part of the property, but Lawton Avenue, yes
6 sir.

7 Q All right. So it was on the church property that's
8 adjacent to Lawton Avenue?

9 A The shell casings themselves was found on the actual
10 state maintained highway of Lawton Avenue.

11 Q On the highway?

12 A Yes, sir.

13 Q Okay. So no officer would have any reason to believe
14 statements that evidence were actually found in the
15 parking area, right?

16 A Can you repeat that, please? I'm sorry.

17 Q No one would have any reason to believe that the
18 bullets that were found, were found in the parking area,
19 correct?

20 A That's correct.

21 Q But you didn't collect them. Is that correct?
22 Officer Bailey actually collected them?

23 A Yeah, I photographed them and they were collected by
24 Officer Bailey. That's correct.

25 MR. PLEXICO: I don't have anything further.

1 MS. SWANSON: Just briefly.

2 REDIRECT EXAMINATION

3 By Ms. Swanson:

4 Q I just want to clarify something that Mr. Plexico was
5 asking you about. I'm going to show you State's Exhibit
6 number 6, a picture of the church. And where were those
7 shell --

8 MR. PLEXICO: May I come around, Your Honor?

9 THE COURT: Sure.

10 Q Where were those shell casings located?

11 A The shell casings were found --

12 Q Were they in this area or this area?

13 A This area here. Not on the actual property where the
14 church is, but here --

15 Q Right.

16 A That's where they were located.

17 Q Yes.

18 A Some were located here on the state maintained
19 highway here on Lawton Avenue, as well as right here,
20 before you get to the church itself.

21 Q Sure. And so, also in this paved parking area?

22 A On the paved portion. Yes, ma'am. That's correct.

23 MS. SWANSON: Thank you. I don't have anything
24 further.

25 MR. PLEXICO: I don't have any recross.

1 THE COURT: Thank you, sir. You can step down.

2 THE WITNESS: Thank you, Your Honor.

3 MS. SWANSON: And I would ask that he be allowed to
4 be released.

5 MR. PLEXICO: I have no objections, Your Honor.

6 THE COURT: Thank you, sir. You're free to go.

7 THE WITNESS: Thank you, Your Honor.

8 MS. SWANSON: Thank you, Officer Bennett.

9 (Whereupon, the witness stepped down from the witness
10 stand.)

11 MS. SWANSON: The State calls Michael Thomas.

12 MICHAEL THOMAS, being
13 first duly sworn, testified as follows:

14 DIRECT EXAMINATION

15 By Ms. Swanson:

16 Q All right. Investigator Thomas, back in 2015, in
17 November, where were you working?

18 A Estill Police Department.

19 Q All right. And what was your position at Estill
20 Police Department?

21 A Investigator.

22 Q So what was your role in investigating the shooting
23 of Tiffany Lakes?

24 A After being notified by the chief of police of the
25 shooting, the next day I came in and began attempting to

1 re-walk the, both crime scenes and attempt to get any
2 statements from any possible witnesses.

3 Q Okay. And so did you interview the victim, Tiffany
4 Lakes?

5 A Yes, ma'am.

6 Q And did you obtain a written statement from her?

7 A Yes, ma'am.

8 Q And you were here for her testimony. Was that
9 consistent with what she told you back in 2015?

10 A Yes, ma'am.

11 MR. PLEXICO: Your Honor, I believe that's pitting
12 witnesses and that's, I would object to that and I'd move
13 for, to strike from the record and that's just improper,
14 Judge.

15 THE COURT: Do you want to respond to that?

16 MS. SWANSON: It's just a question about whether or
17 not it was consistent.

18 MR. PLEXICO: It's an improper question.

19 THE COURT: I'm going to sustain, yes sir. I'm going
20 to sustain the objection. Thank you.

21 MR. PLEXICO: Would you strike it from the record and
22 give a curative instruction, please, Your Honor.

23 THE COURT: Yes. If you will, I'm going to ask you
24 to disregard his response to the last question. You heard
25 the testimony of Tiffany Lakes yourself and you are the

1 sole judges of the credibility of the witnesses. Thank
2 you.

3 Q Okay. So, Investigator Thomas, you went out to the
4 scene?

5 A Yes, ma'am.

6 Q And are you familiar with that location?

7 A Very.

8 Q Had you ever been out there at night?

9 A Absolutely.

10 Q What would you say the lighting is like?

11 A It is probably one of the most lit areas in the town
12 of Estill.

13 Q What about, okay. So there's the Fairwood Apartments
14 and then the church, are both lit?

15 A Yes. Fairwood Apartments has a very bright light
16 pole in the very corner, in the adjacent corner. And
17 there is a streetlight that sits on the off side of the
18 church. A regular streetlight. Yes.

19 Q Okay. Were you able to determine about how far the
20 church was to where Tiffany was shot?

21 A Yes.

22 Q What was that?

23 A About .10 miles.

24 Q Okay. So like a tenth of a mile?

25 A Yes.

1 Q All right. And when you received, actually, let me
2 ask you this. I'm going to show you State's 7 and ask if
3 this is the bullet that you received from Tiffany?

4 A Can I see it?

5 Q Oh, yeah. I'm sorry.

6 A Yes.

7 Q Okay. And then you placed it into evidence at Estill
8 Police Department?

9 A Yes. I received it from Tiffany after receiving it
10 from her doctor who removed it. And I placed it into a
11 locker, yes.

12 Q Okay. And then State's Exhibit number 8. These
13 shell casings were placed into evidence at Estill PD?

14 A Yes.

15 Q All right. And so, these two items, did you send
16 these items anywhere to be analyzed?

17 A Yes ma'am, I did.

18 Q Where did you send these items?

19 A I hand-carried them to SLED.

20 Q Okay. And what were you asking SLED to do with
21 those?

22 A I was asking for latent prints, as well as touch DNA,
23 and ballistics.

24 Q Okay. And did you review the reports on the latent
25 prints and DNA?

1 A Yes.

2 Q Did anything useful come back?

3 A No, ma'am.

4 MS. SWANSON: I think that's all I have at this time.

5 Please answer any questions that Mr. Plexico might have.

6 THE COURT: Yes, sir.

7 MR. PLEXICO: Thank you.

8 CROSS-EXAMINATION

9 By Mr. Plexico:

10 Q Do you have that report from SLED about the latent
11 prints and the DNA?

12 A Do I personally still have it now?

13 Q Yes.

14 A That's all property of the Estill Police Department.

15 Q But you don't have a copy of that?

16 A No, I do not.

17 MS. SWANSON: Beg the Court's indulgence, and I may,
18 I have the case file here. Let me just see if it's
19 contained in there, because I'm happy to hand this up to
20 the witness.

21 MR. PLEXICO: Court's indulgence, please.

22 THE COURT: Sure.

23 Q Is this it by any chance?

24 MR. PLEXICO: May I approach?

25 THE COURT: Sure.

1 A I believe so. Yes, sir.

2 Q And this, this report from SLED, they found there's
3 no fingerprint evidence observed. Is that correct?

4 A Correct.

5 Q And this is the only report that you saw from SLED,
6 correct? There's no contradicting report?

7 A Not that I know, sir, no.

8 Q Are there any other reports you saw from SLED?

9 A None that I know of. No, sir.

10 Q So this report says it was forwarded to the DNA
11 casework department. So you never got a report back on
12 DNA, did you?

13 A There could have been after my time leaving the
14 department, but I don't believe so.

15 Q When did you leave?

16 A I left October of last year.

17 Q October of 2017?

18 A Yes, sir.

19 Q And this happened 11/7 of 2015?

20 A Yes, sir.

21 Q Now, I understand SLED's backed up. But generally
22 don't they get it back to you within two years?

23 A To be honest, there's 480 police departments in the
24 State of South Carolina and SLED works them all. So
25 whatever they determine to be a priority.

1 Q So two years?

2 A Yeah. I've seen two years in my experience. Yes,
3 sir. Two years.

4 Q But you're, you're the lead officer for years on this
5 case and you don't know anything about a SLED DNA report,
6 correct?

7 A Correct.

8 Q All right.

9 MR. PLEXICO: The Court's indulgence. May I
10 approach, please, Your Honor?

11 THE COURT: Yes.

12 Q Are these your handwritten notes?

13 A No, sir.

14 MS. SWANSON: Your Honor, may I request to see what
15 Mr. Plexico is showing the witness --

16 MR. PLEXICO: Sure.

17 MS. SWANSON: -- before he shows it to him?

18 THE COURT: Sure.

19 MS. SWANSON: Thank you.

20 MR. PLEXICO: I don't have anything further.

21 REDIRECT EXAMINATION

22 By Ms. Swanson:

23 Q Investigator Thomas.

24 A Yes, ma'am.

25 Q Do you recall requesting that SLED perform DNA

1 analysis on the ballistics?

2 A Yes.

3 Q On the casings?

4 A On the shell casings themselves, yes.

5 Q Right. And the bullet that was taken from Tiffany?

6 A Yes.

7 Q And do you recall getting a report on April 11th of
8 2017?

9 A I'm not sure.

10 Q You just don't recall?

11 A Right. I just don't recall.

12 MS. SWANSON: And, Your Honor --

13 MR. PLEXICO: Your Honor, I believe I have a Rule 5
14 issue.

15 THE COURT: Sure.

16 MR. PLEXICO: Could we have, hear that outside the
17 presence of the jury?

18 THE COURT: Let's make sure.

19 (Whereupon, a bench conference was held in the
20 presence of the jury but out of the hearing of the
21 jury.)

22 MR. PLEXICO: Your Honor, withdraw that. I did get
23 that report, Judge.

24 THE COURT: Okay, thank you.

25 MS. SWANSON: Thank you. That's all I have.

1 THE WITNESS: Thank you, Your Honor.

2 (Whereupon, the witness stepped down from the witness
3 stand.)

4 MS. SWANSON: Your Honor, may we approach?

5 THE COURT: Sure.

6 (Whereupon, a bench conference was held in the
7 presence of the jury but out of the hearing of the
8 jury.)

9 THE COURT: Okay. Ladies and gentlemen, we are going
10 to call it for the day. We will have two additional
11 witnesses for the State, I think, tomorrow. I cannot
12 guarantee that we will finish the case tomorrow, but
13 there's a shot. There's a possibility. So we're going to
14 excuse you today and we're going to ask you to be back at
15 10 o'clock tomorrow morning. We would normally start a
16 little earlier but we're trying to work around some
17 witnesses' schedules. So if you will be here at 10
18 o'clock tomorrow morning we'll be ready to go forward.
19 Once again, you've only heard a portion of the testimony.
20 Please don't begin discussing the case amongst yourselves.
21 Please don't discuss the case with anyone this evening. I
22 know that's sometimes hard. You don't want to talk about
23 what you've heard so far and be able to tell your
24 families. Again, when the case is over you can share with
25 them all of it, none of it, however much you want to

1 share, but right now we're going to ask that you please
2 don't discuss it. And have a good evening.

3 (Whereupon, the jury was excused from open court for
4 the day at 4:15 p.m.)

5 THE COURT: Okay. Anything else before we break for
6 the day?

7 MS. SWANSON: Your Honor, I would like to address the
8 issue of Benjamin Blake's bond now that his case has been
9 called for trial. I would ask that he be taken into
10 custody for the duration of the case. While he was out on
11 his original bond he was charged with intimidation of a
12 witness for actions in reference to Tiffany. He resides
13 literally like two, three blocks from her. She, both she
14 and Jeantavienne were certainly scared and intimidated to
15 testify in front of him. But, you know, bond is something
16 that is to ensure the Defendant's presence at trial and it
17 goes away once the trial's called unless the bonding
18 company has agreed to stay on it. So, you know, if that
19 has not been put into place then I would ask that he be
20 taken into custody. And I would also ask that he be
21 warned not to have any contact, indirect, direct, with any
22 of the witnesses, the victim, drive-by of the house,
23 anything like that.

24 THE COURT: Mr. Plexico?

25 MR. PLEXICO: Your Honor, I can get Brad on the

1 phone, Brad's Bail Bonding, and I'm sure Brad is going to
2 stand on it. He normally stands on my bonds. I don't
3 have a problem getting in contact with him. That was a,
4 it was a 2015 incident. The other allegation she's
5 talking about was 2016. My client's been on bond for a
6 long time and there have been no problems. And she's just
7 mistaken about where he lives.

8 THE COURT: He does not live in the area?

9 MR. PLEXICO: He doesn't live in the city of Estill
10 as I understand the city limits. But if I could have a
11 moment to call Brad, Brad's Bail Bonding, that would be
12 great.

13 THE COURT: Okay.

14 MS. SWANSON: Judge, if he does not live at his
15 father's residence over there by Canal Street, then he
16 would have no reason to be constantly driving by my
17 victim's apartment. So I would ask that that stop. But
18 also, he has not been out on bond for a while. His bond
19 was just reinstated in May of this year. So I just want
20 to put that out there.

21 MR. PLEXICO: That's a while, Judge, that it's been
22 reinstated since May. And he's on an ankle monitor. How
23 can he do anything wrong on an expensive ankle monitor?
24 We know where he's at 24/7. What's the point of throwing
25 him in jail aside from pre-punishment.

1 THE COURT: I do see that GPS monitoring was ordered.
2 And is that still in effect?

3 MR. PLEXICO: Please stand up. Show the Judge that
4 you have that monitor on. He has it on. It's activated
5 and it's doing, there's been no violation. There's no
6 point in putting him in jail tonight.

7 THE COURT: If you can verify that they'll stand on
8 the bond. He's appeared today. Occasionally though we do
9 have people who don't show up for day two. But if you
10 will just, if you can verify with the bonding company.
11 I'm looking to see the, I'm looking at the previous bond
12 order.

13 MR. PLEXICO: And he's shown up Monday. He's been
14 here Tuesday. I mean, this is Wednesday.

15 THE COURT: Subject to the bail bondsman, let's
16 confirm that he's going to stay on the bond. And I do see
17 that original condition was GPS monitoring and also no
18 direct or indirect contact with victims. I'm just going
19 to say, Mr. Blake, no contact with any of the witnesses
20 who have testified or are to testify. And when we say no
21 contact, of course, that means no personal contact, no
22 text messages, phone calls, email, no social media
23 contact. Don't send anybody else by to deliver a message.
24 Don't drive by the house, et cetera. That literally means
25 no contact of any sort. And again, that's both for Ms.

1 Lakes and any of the witnesses. And, of course, you're
2 going to stay on the GPS monitor.

3 MR. PLEXICO: He lives with his mom who is a witness,
4 but he can't help that, Judge. They live in the same
5 house.

6 THE COURT: I understand. And I really was concerned
7 with the State's witnesses.

8 MS. SWANSON: Thank you, Your Honor. That was my
9 main concern that was conveyed to us.

10 MR. PLEXICO: If I could just step out briefly and
11 make this call.

12 THE COURT: That's fine. We'll just be at ease for a
13 moment.

14 (Whereupon, a short break was taken.)

15 MR. PLEXICO: Your Honor.

16 THE COURT: Yes, sir.

17 MR. PLEXICO: I do have Bridget from Brad's Bail
18 Bondsman who says she'll stand on his bond overnight.
19 Would you like to talk to her? I mean, all I can do is
20 put her on speaker phone.

21 THE COURT: If you tell me you're on the phone with
22 her, I believe you're on the phone with her.

23 MR. PLEXICO: Yes, Your Honor.

24 THE COURT: And you tell me she will obligate herself
25 to be on the bond?

1 MR. PLEXICO: Yes, Your Honor.

2 THE COURT: Okay. Thank you.

3 MR. PLEXICO: All right. Thank you. Thank you,
4 Judge.

5 THE COURT: Anything else?

6 MS. SWANSON: Nothing further from the State.

7 MR. PLEXICO: I have nothing further from the
8 Defense.

9 THE COURT: All right. We'll be at ease until 10
10 o'clock tomorrow morning.

11 MS. SWANSON: Thank you, Your Honor.

12 (Whereupon, the trial will resume the next morning at
13 10:00 a.m.)

14 October 17, 2018

15 THE COURT: Okay. Are we ready for the jury?

16 MS. SWANSON: Yes, Your Honor.

17 MR. PLEXICO: Yes, Your Honor.

18 (Whereupon, the jury came into open court at
19 approximately 10:15 a.m.)

20 THE COURT: Good morning, ladies and gentlemen. I
21 hope you had a good evening. Thank you again for being
22 here. We're going to jump right in with the State's next
23 witness.

24 MS. SWANSON: Thank you, Your Honor. The State calls
25 Suzanne Cromer.

1 SUZANNE CROMER, being
2 first duly sworn, testified as follows:

3 DIRECT EXAMINATION

4 By Ms. Swanson:

5 Q Good morning, Suzanne.

6 A Good morning.

7 Q How are you?

8 A I'm fine. How are you?

9 Q Good. Let's start by telling the jury who you work
10 for and what you do there?

11 A My name is Suzanne Cromer. I work for SLED, which is
12 commonly the South Carolina Law Enforcement Division. I
13 work in the forensic services laboratory as a firearm
14 examiner and toolmark examiner. What we do is called
15 firearms identification. We look at ammunition components
16 to determine their caliber, their size, their weight, and
17 to see whether they were fired by or loaded into and
18 extracted out of a specific firearm. If I do not have a
19 specific firearm but I have a projectile, or a fired
20 bullet, I can possibly give investigators a list of
21 potential firearms that could have fired that particular
22 bullet. I also look at the fired cartridge cases at a
23 scene and can tell investigators approximately how many
24 firearms were fired at that scene.

25 Q And if you can briefly describe the education, your

1 educational background and training that you received
2 prior to getting into this field.

3 A I have a Bachelor's degree from Clemson University.
4 I did some graduate work at the University of South
5 Carolina in criminal justice.

6 Q Okay. And what sort of training have you done with
7 SLED? What experience do you have with SLED in the
8 firearms and toolmarks field?

9 A I was hired on at SLED. It will be 20 years ago this
10 December. I've spent my whole time in the firearms
11 department, but I moved into the firearms examiner
12 training program in February of 2000. I completed our
13 in-house training program which is a three to five year
14 intense study program where we take written tests, oral
15 tests, practical exercises. It's more of an
16 apprenticeship, if you will. We work along other
17 examiners. We prepare cases for them. Then upon
18 completion of all of our modules in our training manual we
19 are given a comprehensive final exam which includes
20 essays, terms, firearm familiarizations and practical mock
21 casework. Upon completion of all that it's graded on by
22 your training officer and your lieutenant, then you are
23 granted the right to complete casework on your own. As I
24 said, I've completed that. I've also taken training with
25 the association of firearm and toolmark examiners which is

1 an international organization for our profession. They
2 meet for a week long conference every year to discuss
3 relevant issues in our field. As I said, I've been
4 privileged enough to attend several of those and take
5 extra workshops at those including machine gun conversion,
6 Hi-Point firearm familiarization, barrel making ethics,
7 several others. I've also taken classes with the South
8 Carolina Chapter of the International Association of
9 Identification, most pertinent being two separate
10 three-day shooting scene reconstruction workshops. I've
11 taken classes with the Bureau of Alcohol, Tobacco and
12 Firearms, commonly referred to as the ATF, on serial
13 number restoration and the Integrated Ballistics
14 Identification System, which is a digital database for
15 images of cartridge cases. I'm also a member of the ATF's
16 User Conference for the IBIS system, and I represent North
17 and South Carolina. I've toured numerous firearm
18 manufacturers and toolmark manufactures.

19 Q Okay. Do you have any idea about how many cases
20 you've worked on over your years?

21 A I would say thousands.

22 Q And have you ever testified in Court before?

23 A Yes, I have.

24 Q How many times?

25 A Approximately 106 times and that's in Federal and

1 State Court.

2 Q Okay. And were you declared an expert by the Court
3 in firearms and toolmarks?

4 A Yes, I was.

5 MS. SWANSON: At this time the State would offer
6 Agent Cromer as an expert in firearms and toolmarks.

7 MR. PLEXICO: I have no objections, Your Honor.

8 THE COURT: Okay. I do find that she can testify as
9 an expert in those areas. So let me just tell you, ladies
10 and gentlemen, ordinarily a witness cannot give opinion
11 testimony. However, if a witness has been declared to be
12 an expert in their field because of either training,
13 background, education or other experience, then it just
14 means that they are qualified to give you an opinion. You
15 can give the testimony whatever deference you believe it's
16 fairly entitled to. Thank you.

17 Q All right. Agent Cromer, did you receive evidence
18 and have the occasion to analyze evidence from Estill
19 Police Department in a shooting involving a suspect named
20 Benjamin Blake?

21 A Yes, I did.

22 Q What did you, what did you analyze?

23 A I received one fired bullet and six fired .380 auto
24 caliber cartridge cases.

25 Q All right. I'm going to hand you what has been

1 entered as State's Exhibit 7. Can you identify this item?

2 A Yes. This is the fired bullet I analyzed. This was
3 my item one. Again, it's still in a sealed container with
4 my initials and seal date.

5 Q And then I'm handing you State's Exhibit 8, if you
6 can identify these items, please.

7 A Yes. These are the six fired cartridge cases I
8 received. Again, they are still in a sealed container
9 with my initials and seal date.

10 Q And then I'm handing you a bag. Can you tell me what
11 that bag is?

12 A This is the envelope that I received both of those
13 pieces of containers of evidence in.

14 Q And did you send them back in that envelope?

15 A Yes, I did.

16 Q Okay. But they were contained in that envelope in
17 these bags?

18 A Those were contained in those bags inside this
19 envelope.

20 Q Okay. Thank you. Can you please tell the jury what
21 your findings were in conjunction to the cartridge cases
22 that you received.

23 A Yes. I analyzed all six of the cartridge cases and
24 did a microscopic comparison of them and I determined that
25 they were all fired by one firearm.

1 Q Were you able to conclude what type of firearm that
2 likely was?

3 A A .380 auto is typically a semiautomatic pistol
4 caliber.

5 Q Okay. So .380 pistol. And then what were your
6 conclusions or your findings in reference to the bullet?

7 A Okay. The bullet that I received was consistent with
8 being a .380 auto caliber projectile. And when I looked
9 at its rifling marks, and rifling is what's put in the gun
10 barrel by the manufacturer to give it a rotating motion,
11 very similar to a quarterback who throws a football, wants
12 it to go into a tight spiral so it'll go more accurately
13 towards it's target. Those riflings can leave impressions
14 on that, on that bullet when it fired. So looking at
15 those markings I determined that at this time the only
16 known manufacturer that can, uses those rifling
17 specifications displayed on that bullet were a Smith and
18 Wesson firearm.

19 Q Okay. And that's a .380 automatic?

20 A Yes. It was consistent with a .380 auto caliber.

21 Q Okay. And this may be something that most of the
22 jury knows, but what is the difference between automatic
23 weapon and a revolver?

24 A Okay. Well, an automatic weapon will fire, when you
25 pull the trigger it'll fire until it's empty. A

1 semiautomatic, which most people confuse between automatic
2 and semi-auto, is when you pull the trigger it'll fire one
3 round, eject that cartridge case, and then load another
4 cartridge into the chamber ready to fire. A revolver
5 typically has what we call a cylinder, you see that in
6 most of the Western movies, that will rotate around one
7 firing pin. So in that cylinder you have multiple, what
8 we call chambers, that hold cartridges. So you can have
9 five, six, and they will rotate around. Typically a
10 revolver does not eject cartridge cases. You have to open
11 the cylinder and dump them out.

12 Q And when an automatic weapon ejects a cartridge case,
13 or semiautomatic weapon ejects a cartridge case, can you
14 tell where a shooter was standing?

15 A We call that ejection pattern testing. And we don't
16 do that because there's so many variables that go into
17 that. You'll see people that will say, oh well, the
18 shooter had to be standing here because all the cartridge
19 cases are here. Well, some of the variables are, first
20 off, how tall your shooter is can affect where those
21 cartridge cases land, if they're left-handed or
22 right-handed, how they're holding the firearm. If they're
23 holding the firearm cocked to the side where the ejection
24 pattern, or ejection port is facing up, it's going to make
25 a difference. If they're holding it cocked with the

1 ejection port facing down, it's going to make a
2 difference. Also, type of ammo can make a difference.
3 There is so many variables, sometimes when I go shooting
4 they'll come back and land on my clothes and then I have
5 to shake them out. Sometimes they'll go past my head and
6 sometimes they'll go to the right. So we do not do that
7 type of testing just because of all the variables that you
8 have to control.

9 Q Now, is another variable the surface that the
10 cartridge case lands on?

11 A Yes, it can be. Because if it lands on a hard
12 surface it can bounce, it can roll. If that particular
13 crime scene has not been secured fast enough, people can
14 drive over them and they can get stuck in the tread of a
15 tire. There are many different variables.

16 Q Okay. So would you expect a cartridge case to bounce
17 if it landed on pavement?

18 A It could, yes.

19 Q Now, we talked about the fact that one of your
20 conclusions was that the bullet that came out of Tiffany
21 was consistent with all six shell cartridge cases that
22 were found, that were turned into you for analysis.

23 A Yes. They were all the same caliber.

24 Q Right. But is there any test to say that that
25 particular bullet came out of one of those cartridge

1 cases?

2 A No, there's not.

3 Q Okay. So the best you can say is that it's
4 consistent?

5 A That's correct.

6 Q And it's your testimony that there was, the evidence
7 that you received only pointed to one weapon?

8 A That's correct. We have three, or sorry, six fired
9 .380 caliber cartridge cases that were all fired by one
10 gun and one fired .380 auto caliber bullet.

11 Q Okay. Let me ask you this. How far can a .380
12 bullet travel?

13 A Typical rule of thumb when you're shooting a
14 semiautomatic pistol, you give yourself a mile, to be
15 safe. A mile's approximately 1,760 yards. Doing, looking
16 up a .380 auto it ranges anywhere from 1,070 yards, I
17 believe, to 1,700 yards.

18 Q Okay. And you said you give yourself a mile to be
19 safe. What do you mean to be safe?

20 A A typical firearm rules of safety is one of them is
21 be aware of what's beyond your target. If you're shooting
22 something, make sure that anything behind your target
23 cannot get hit if you miss.

24 MS. SWANSON: Okay. Thank you, Agent Cromer. Please
25 answer any questions that Mr. Plexico might have for you.

CROSS-EXAMINATION

1
2 By Mr. Plexico:

3 Q Thanks for coming today. You came from Columbia. We
4 appreciate that. Let me ask you about when guns eject
5 those bullets. You call that ejection pattern testing.
6 Is that correct?

7 A That is correct.

8 Q And you, and y'all just don't do that?

9 A We don't do that because of all the variables I
10 discussed.

11 Q So essentially if anyone's trying to figure out where
12 the individual firing the gun was by comparing it to the
13 location of the shells, that would just be a guess?

14 A It would be a guess.

15 Q Okay. And one guess is as good as another?

16 A Right. Because you would have to know exactly how
17 that person was holding the gun, where exactly they were
18 standing and what was around at that moment.

19 MR. PLEXICO: All right. Thank you.

20 THE COURT: Any followup?

21 MS. SWANSON: No redirect. And I would ask that
22 Agent Cramer be allowed to be released from her subpoena.

23 THE COURT: Any objection?

24 MR. PLEXICO: No objections, Your Honor.

25 THE COURT: Thank you, ma'am. You're free to go.

1 (Whereupon, the witness stepped down from the witness
2 stand.)

3 MS. SWANSON: The State calls Dr. James Dunne.

4 DR. JAMES DUNN, being
5 first duly sworn, testified as follows:

6 DIRECT EXAMINATION

7 By Ms. Swanson:

8 Q Good morning, Dr. Dunne.

9 A Good morning.

10 Q Thank you so much for being here today. Can you
11 please tell the jury where you work and what you do there?

12 A Yes. I'm the Chief of Trauma and Surgical Critical
13 Care at Memorial Medical Center in Savannah, Georgia.

14 Q And how long have you been at Memorial?

15 A Since August of 2014.

16 Q All right. And how long have you been in the field?

17 A Since 2012. I've been a trauma surgeon since 2012.

18 Q Okay. And if you can just briefly describe your
19 educational background and training that led you to that
20 field?

21 A Sure. I've received four years of college, four
22 years of medical school, six years of general surgery
23 residency and two years of trauma critical care function.

24 Q Okay. Have you ever testified in court before?

25 A I have.

1 Q How many times?

2 A Five or six maybe.

3 Q All right. And have you been declared an expert in
4 emergency medicine?

5 A I've been declared an expert in trauma.

6 Q Trauma?

7 A Yeah.

8 Q Okay.

9 MS. SWANSON: At this time, Your Honor, I would offer
10 Dr. Dunne as an expert in trauma and/or emergency
11 medicine.

12 MR. PLEXICO: I have no objections, Your Honor.

13 THE COURT: Okay. I find he's qualified in those
14 areas.

15 MS. SWANSON: Thank you.

16 Q Dr. Dunne, do you have any documents with you
17 regarding a patient that you treated on August 8th, I'm
18 sorry, November 8th of 2015?

19 A I have reviewed documents, but I do not have them
20 with me.

21 Q Okay. If it will help you out, I'm happy to hand you
22 the summary.

23 A That would be helpful, yes.

24 Q Great.

25 A Thank you.

1 Q Now, just to clarify something. The victim's name in
2 this case, I believe you've confirmed as Tiffany Lakes,
3 but she had a different name listed on her records?

4 A That is correct. She does.

5 Q And what is the purpose behind that?

6 A Well, all trauma patients when they first come in
7 they get an alias of a city and a country. And then if
8 they're a victim of violence they get a regular name
9 because the city and country name is too easy to identify
10 them as a trauma patient, so they get another alias of a
11 real name.

12 Q Okay. And that's for safety purposes?

13 A Yes, ma'am. It is.

14 Q Did you have the occasion to treat Tiffany Lakes?

15 A I did. Yes, ma'am.

16 Q All right. And can you tell us what your initial
17 contact with her was like and then what you immediately
18 did thereafter.

19 A Yes. I was called, I was on backup call for trauma
20 at the time. I was called that there was a gunshot wound
21 to the abdomen, that the patient was headed to the
22 operating room. I met the patient on the operating room
23 table before they went to sleep. I had a chance to
24 examine the patient and talk to the patient and then
25 determined that they had a gunshot wound to the abdomen.

1 The individual was pregnant. The obstetrician was in the
2 room with me as well, and we, given the location of the
3 gunshot wound it was determined that the patient needed an
4 operation, an urgent operation at that time.

5 Q Okay. So it was an emergency situation?

6 A Yes, ma'am. It was.

7 Q Okay. And what operation was done first?

8 A The operation that was done first was an exploratory
9 laparotomy to determine that the patient wasn't actively
10 bleeding to death or there was no life-threatening issue
11 going on at the time. And then we had a discussion, me
12 and the obstetrician, about whether or not the baby needed
13 to be delivered at that time. Initially the baby was
14 doing fine, but then the baby's heart rate slowed
15 significantly. And it was determined between both of us,
16 the obstetrician and myself, that the safe thing to do
17 would be to deliver the baby at that time.

18 Q Okay. And then did Tiffany have other surgical
19 procedures after the baby was taken by emergency
20 C-section?

21 A Yes. Once the baby was out I believe we looked, we
22 then re-explored the abdomen and found that she had a
23 couple holes in her stomach and that the path of the
24 bullet had injured the blood supply to the spleen and
25 injured a portion of the pancreas. So she had a repair of

1 the holes in her stomach, as well as removal of the
2 spleen.

3 Q And so, in your medical opinion, was Tiffany's life
4 in danger as well as her baby's?

5 A Yes, ma'am. I did.

6 MS. SWANSON: Okay, thank you. Please answer any
7 questions Mr. Plexico might have.

8 THE WITNESS: Absolutely.

9 CROSS-EXAMINATION

10 By Mr. Plexico:

11 Q You had no idea about what caused the injury because
12 you weren't there, correct?

13 A That's correct. Yes, sir.

14 MR. PLEXICO: I don't have anything else.

15 THE COURT: Anything else?

16 MS. SWANSON: No redirect, and I would ask that Dr.
17 Dunne be allowed to be released from his subpoena.

18 MR. PLEXICO: No objection, Your Honor.

19 THE COURT: Thank you, sir. You're free to go.

20 THE WITNESS: Okay, thank you.

21 MS. SWANSON: Thank you.

22 (Whereupon, the witness stepped down from the witness
23 stand.)

24 MS. SWANSON: Your Honor, at this time the State rest
25 it's case.

1 THE COURT: Okay. Ladies and gentlemen, there are a
2 few matters of law that we'll need to take up outside of
3 your presence. I'm going to excuse you to the jury room.
4 Please do not begin any deliberations.

5 (Whereupon, the jury was excused from open court at
6 approximately 10:37 a.m.)

7 THE COURT: Okay. Mr. Plexico, anything you want to
8 take up, sir?

9 MR. PLEXICO: Yes, Your Honor. I'd move for a
10 directed verdict in regards to indictments 2015-GS-25-380,
11 381 and 382, Your Honor. The three indictments for
12 attempted murder. I don't believe the State's reached the
13 evidence, Your Honor, to go forward with regards to this.
14 They have conceded, I believe, in their, in their opening
15 even, that there was no attempt on Jeantavienne Dobson.
16 Dobson says that he never saw my client with a gun, never
17 saw my client shooting a gun, Your Honor. His testimony
18 was completely perilous, (phonetic). Furthermore, that's
19 the only testimony that has any reliability that could
20 possibly lead anyone to believe that he was shooting at
21 Tiffany Lakes or the unborn child, Your Honor. And I'd
22 move for a directed verdict in regards to that. And as a
23 consequence of that, a directed verdict for possession of
24 a weapon during a violent crime, 2015-GS-25-383, because
25 there's no violent crime.

1 THE COURT: Yes, ma'am.

2 MS. SWANSON: Thank you, Your Honor. As you know,
3 the evidence at this stage is taken in the light most
4 favorable to the State. We have presented testimony of
5 two eyewitnesses that place Benjamin Blake as the shooter.
6 They've both identified him, said he was shooting. And
7 Jeantavienne further said that he placed the gun in his
8 hand, through his 2015 written statement, and that he was
9 shooting at him multiple times as he ran towards Tiffany,
10 away from the church. That testimony is corroborated by
11 the State's shell cases fired by the same weapon that were
12 found at the church scene from the direction that the
13 witnesses testified about. The .380 bullet that was
14 retrieved from Tiffany's body also corroborates that
15 testimony and is consistent with the shell cases that were
16 found at the scene. Regarding the specific intent to kill
17 established by the 2017 King case, we can look at the
18 surrounding circumstances, including the use of a deadly
19 weapon, the nature of attack, and the nature of attack.
20 Here we do have testimony that there was some sort of
21 verbal altercation that took place right before Benjamin
22 Blake unloads his gun. You know, there was verbal
23 altercation, there were insults being thrown. And at that
24 point Benjamin Blake pulls out his gun and shoots multiple
25 times, at least six based on the physical evidence,

1 towards Jeantavienne Dobson. He kept shooting because he
2 kept missing. He's shooting a deadly weapon at a human
3 being in close range and he didn't stop. That is
4 certainly intent to kill. And a jury can find that from
5 those facts. That intent, pursuant to State vs. Williams,
6 which I have provided to the Defense, and I do have a hard
7 copy for Your Honor, if I may pass it up.

8 THE COURT: Sure.

9 MS. SWANSON: But intent can certainly be transferred
10 to an unintended victim. And neither victim has to
11 actually be shot for attempted murder and transferred
12 intent to apply. Here the intended target was not shot,
13 but obviously the unintended targets were, that being
14 Tiffany and Baby **Minor**. And so, although the Court has
15 to apply the transferred intent doctrine, it is
16 appropriate here. I believe the jury will be charged on
17 it and the jury could find from the facts presented that
18 Benjamin Blake is guilty of attempted murder, three counts
19 and possession of a weapon during a violent crime.

20 THE COURT: Okay. I'm going to deny the motion for a
21 directed verdict at this point. Again, I'm only concerned
22 at this point with the existence of evidence and not its
23 weight. I do think we've got the testimony of Mr. Dobson.
24 He did specifically say that his memory back at the time
25 of the incident was better than his memory now. Of

1 course, he did give a statement saying that he saw the
2 Defendant firing a gun. And my recollection is that
3 Tiffany Lakes also testified that she saw the Defendant
4 firing a gun. So at this point I'm going to deny the
5 motion for a directed verdict.

6 Mr. Blake, the State has rested, sir. So I just need
7 to go over with you your decision whether or not to
8 testify in the case. You have the right to testify, but
9 you also have the right to remain silent, and that is a
10 constitutional right. And what that means is that if you
11 exercise that right and you choose not to testify, that
12 I'm going to instruct the jury that they cannot hold that
13 against you. I will further instruct them that they
14 cannot even discuss the fact that you chose not to testify
15 in their deliberations. It's not a factor that can weigh
16 into their deliberations at all. Again, because that's a
17 constitutional right. You don't have the burden of
18 proving yourself innocent. The State has the burden of
19 proving you guilty. But it's an important decision. You
20 should certainly discuss it with your attorney. If you
21 decide to take the stand then, of course, you have the
22 opportunity to testify but you're also subject to
23 cross-examination. The State will get the opportunity to
24 ask you questions. I don't know if you have any criminal
25 record, but if you do it may be that they can impeach you

1 with evidence of prior crimes. My understanding, I think,
2 before we began is that there is no prior record that they
3 will, they can use to impeach you. But you should discuss
4 this with your attorney. At the end, however, it is your
5 decision to make as to whether or not you want to testify.

6 And why don't we take a quick recess. And when we
7 come back in, Mr. Plexico, you did intend on calling some
8 witnesses?

9 MR. PLEXICO: Yes, Your Honor, I do. It should go
10 pretty fast, Your Honor, depending on the length of the
11 cross. I don't know what the State, of course, will do.

12 THE COURT: Do we need a break or can we go right
13 now?

14 MR. PLEXICO: I'd appreciate just a few minutes.

15 THE COURT: Okay. Then let's be at ease for ten
16 minutes.

17 (Whereupon, a short break was taken.)

18 THE COURT: Okay. Are we ready for the jury?

19 MS. SWANSON: The State is.

20 MR. PLEXICO: Yes, Defense is, Your Honor. And my
21 first witness is Monica Cylear. Why don't you go ahead
22 and get her. Monica Cylear.

23 (Whereupon, the jury came into open court at
24 approximately 11:04 a.m.)

25 (Whereupon, the jury entered the courtroom at 11:04

1 a.m.)

2 MR. PLEXICO: The Defense calls Monica Cylear. She's
3 on her way into the courtroom.

4 MONICA CYLEAR, being
5 first duly sworn, testified as follows:

6 DIRECT EXAMINATION

7 By Mr. Plexico:

8 Q Yes. Could you say and spell your name for the Court
9 Reporter, please, ma'am.

10 A Monica, M-o-n-i-c-a. Cylear, C-y-l-e-a-r.

11 Q Do you know Benjamin Blake?

12 A I do.

13 Q Do you remember hearing anything about November 7th
14 or thereabouts of Ms. Lakes being shot?

15 A No, sir.

16 Q Okay. Do you know where you were on November 7th?

17 A I do.

18 Q All right. And could you tell me where you were on
19 November 7th?

20 A That morning Benjamin and I left the hospital here in
21 Hampton.

22 Q Why were you all at the hospital?

23 A He was having a sickle cell crises.

24 Q Okay. And what is a sickle cell crises? What
25 happens to you?

1 A That's when your blood's sickled up in your veins and
2 causes excruciating pain that you, it's like no other
3 person can tolerate.

4 Q All right. And what time did you all get out of the
5 hospital?

6 A We left around about 6:00 that morning.

7 Q And where did you take Benjamin at that time?

8 A I took Benjamin back to Estill to his father's house.

9 Q And his father's house is --

10 MR. PLEXICO: If I may, please.

11 Q Do you recognize this general vicinity here, best way
12 for the jury to see, do you recognize this general
13 vicinity? Would that be some of the apartments here?

14 A It looks like the projects over there, over there
15 somewhere.

16 THE COURT REPORTER: I can't hear, Judge. What did
17 she say?

18 A I said it look like the projects. That's the
19 projects right there.

20 Q Right here?

21 A Yes.

22 Q In relation to these projects would, excuse me, I am
23 sorry, where would Benjamin live? Where does Benjamin's
24 daddy --

25 A On Tyson Avenue. It's like right, it's close to the

1 projects, like a block over.

2 Q So it's a block over this way?

3 A To the left. Going like there.

4 Q So that would be this way?

5 A Yes.

6 Q All right. So let me do this like this. I think all
7 the jurors can see. So if these are the projects, he
8 would live over a block away this way?

9 A Yes.

10 Q Which way, down?

11 A This way.

12 Q You haven't seen this before?

13 A It's like a block over.

14 Q All right. Now, where does Benjamin, him, this young
15 man, where does he normally live?

16 A At [REDACTED] Drive.

17 Q Okay. And who does he live there with?

18 A His mother.

19 Q Okay. Now, did you go back over to Frank, is that
20 Frank Blake, Sr.'s, house, his daddy?

21 A It is.

22 Q And that's the one that's a block away or so from the
23 apartments? Did you go back over there later that night?

24 A I did.

25 Q Okay. And what did you, about what time did you go

1 back over there?

2 A Ten o'clock.

3 Q And what did you do when you went over there?

4 A I picked Benjamin up and went out to his house for
5 the rest of the night.

6 Q Okay. Is that in the city of Estill or out of the
7 city?

8 A Out of the city of Estill.

9 Q Okay, all right. And who was there when you got
10 there?

11 A His mother.

12 Q Did anybody visit that you recall that night?

13 A His cousin.

14 Q All right. And who is that?

15 A Ta'Masia.

16 Q Now, what time was that?

17 A It was about 11:00, 11:00 something.

18 Q All right. Did he leave the house, or your side,
19 after 10:00 o'clock?

20 A No, sir.

21 Q All right. Is there any way approximately, 11:00
22 o'clock, he could have been behind those apartments
23 walking?

24 A No, sir.

25 Q Were you ever walking with him on the bridge that

1 night?

2 A No, sir.

3 Q Okay. But after 10:00 o'clock you can fully account
4 for his whereabouts?

5 A Yes, sir.

6 Q Okay. He simply wasn't in that area?

7 A No, sir.

8 Q Was he near the Estill First Baptist Church?

9 A No, sir.

10 Q Have they done anything to the Estill First Baptist
11 Church compared to 2015, with your knowledge, such as add
12 any lighting?

13 A Yes, sir.

14 Q Okay. Did they add a fence?

15 A Say it again?

16 Q Did they add a fence since 2015?

17 A Yeah. It's a fence there also.

18 Q All right. Was that about the first of the year?

19 A Beginning part of the year.

20 Q All right. Was that because of criminal activity
21 around the church?

22 A Yes, sir.

23 Q Okay. So the lighting today is entirely different at
24 that church than it was in 2015?

25 A Yes, sir.

1 MS. PLEXICO: Answer any questions the Solicitor may
2 have for you.

3 MS. SWANSON: Thank you, Your Honor.

4 CROSS-EXAMINATION

5 By Ms. Swanson:

6 Q All right, Monica. How do you know Benjamin Blake?
7 You guys date, right?

8 A Yes, ma'am.

9 Q And you've been dating for a while, hadn't you?

10 A Yes, ma'am.

11 Q So like several years?

12 A Yeah, some years.

13 Q And so, you all were dating before and in 2015?

14 A That's correct.

15 Q And you're still dating now?

16 A Yes, ma'am.

17 Q But you're, you haven't been his only girlfriend,
18 have you?

19 A Off and on, it was like off and on.

20 Q Okay. Because he has a baby with Lisha Dobson,
21 doesn't he?

22 A That's correct.

23 Q All right. And that's Jeantavienne's sister?

24 A Yeah.

25 Q Now, you testified that you didn't remember hearing

1 anything about Tiffany Lakes getting shot?

2 A Not that day. The next day when I went to work some
3 of my coworkers were talking about it.

4 Q So you just didn't hear anything that night about her
5 getting shot. But you heard about it the next day and
6 probably for the remaining three years before you came
7 into this courtroom, right?

8 A Yes, I heard about the shooting in Estill.

9 Q Okay. And you and Benjamin Blake have discussed the
10 shooting, right?

11 A No.

12 Q Okay.

13 A I mean, as far as like the shooting, when I heard
14 about it, it was like a while after that he was telling me
15 that they was accusing him of being the shooter, which I
16 knew wasn't true.

17 Q Okay. But you didn't make any statements to the
18 police regarding that, right?

19 A No.

20 Q Right. This is the first time we're hearing about
21 this, correct?

22 A About what?

23 Q About the fact that he was at home or by your side
24 from 10:00 p.m. that night throughout the rest of the
25 night?

1 A This isn't the first time. I mean, when they first
2 made accusations that he was the person that was doing the
3 shooting, that's when, you know, I spoke with Plexico
4 about it..

5 Q Okay. But you did not do any written statements or
6 anything of the sort with police, did you?

7 A No.

8 Q Now, did you all get any discharge papers for the
9 sickle cell crises that Benjamin was suffering?

10 A He should have that.

11 Q And that was at the hospital?

12 A Uh-huh.

13 THE COURT REPORTER: Is that a yes or a no?

14 THE WITNESS: Yes, ma'am.

15 Q Now, Benjamin's dad lives on Tyson Avenue, right?

16 A That's correct.

17 Q Just a few blocks from the apartments?

18 A (Nonverbal response).

19 Q And Monica, I'm going to show you this. This might
20 make more sense to you. All right. So Fairwood
21 Apartments are right here and then Tyson Avenue is kind of
22 right here off of Canal Street, right?

23 A That's correct.

24 Q And daddy lives in this bend right here, right?

25 A Yes.

1 Q And [REDACTED], where mama lives, that's about a six
2 minute drive, right?

3 A Like five or six minutes.

4 Q Okay. Five to six minutes. So it's just, it's about
5 two and a half miles from dad's house?

6 A Uh-huh.

7 Q Would you agree with that?

8 A I do.

9 Q And Mr. Plexico asked you about the Baptist Church
10 and anything that they had done differently. And you
11 stated that they put a fence up?

12 A (Nonverbal response).

13 Q I'm going to show you what's been admitted as State's
14 6 and ask if it's that cyclone fence right here that you
15 are talking about?

16 A That's it.

17 Q Okay. And it doesn't extend this way? It just goes
18 to the back of the church, right?

19 A (Nonverbal response.)

20 THE COURT REPORTER: I need a yes or a no, please.

21 THE WITNESS: Yes, ma'am.

22 Q So it's the fence pictured in this picture that does
23 not extend to the parking area, correct, in the front?

24 A No, ma'am.

25 MS. SWANSON: All right. Thank you, Monica. That's

1 all I have.

2 THE COURT: Any redirect?

3 REDIRECT EXAMINATION

4 By Mr. Plexico:

5 Q Did any policeman ever ask you for a statement and
6 you refused to give one?

7 A No, sir.

8 Q Okay.

9 THE COURT: Anything else?

10 MR. PLEXICO: Nothing further.

11 THE COURT: Thank you, ma'am. You can step down.

12 (Whereupon, the witness stepped down from the witness
13 stand.)

14 MR. PLEXICO: Defense would call Rena Mae Garvin.

15 RENA MAE GARVIN, being

16 first duly sworn, testified as follows:

17 DIRECT EXAMINATION

18 By Mr. Plexico:

19 Q Thank you. You're Rena Mae Garvin?

20 A Yes, sir.

21 Q R-e-n-a?

22 A Yes.

23 Q Okay. Thank you for coming. Do you know this young
24 man?

25 A Yes, sir.

1 Q And who is this?

2 A My son.

3 Q Now, did he live with you in 2015?

4 A Yeah.

5 Q Okay. And where do you live at?

6 A [REDACTED] Drive.

7 Q All right. You've heard about the tragic shooting
8 that happened with Ms. Tiffany Lakes, haven't you?

9 A Yes.

10 Q Okay. All right. Now, on the night that that
11 happened, that was on the 7th of November. Did he live
12 with you on the 7th of November, 2015?

13 A Yeah.

14 Q Did anything of significance happen that day in
15 regards to his health?

16 A He said he was in some pain. He was having a crises.

17 Q And that's a crises for a sickle cell crises?

18 A Yes, sir.

19 Q Okay. And what does that cause when you have sickle
20 cell crises?

21 A Fluid and a blood transfusion.

22 Q Okay. Because the pain's so great?

23 A Yes.

24 MS. SWANSON: Your Honor, could you ask the witness
25 to speak up a little?

1 THE WITNESS: Yes, ma'am.

2 Q Did he come to your house that evening?

3 A Yes, sir.

4 Q Okay. Who did he come with?

5 A Monica.

6 Q About what time did they get there?

7 A Probably a little after 10:00.

8 Q Okay. What did he do after that?

9 A Went in his room.

10 Q Okay.

11 THE COURT: If I can ask you if you will move a
12 little closer to the microphone or speak a little bit
13 louder. Thank you.

14 Q All right. You said he went to his room when he got
15 there?

16 A (Nonverbal response).

17 Q Okay. What kind of mood was he in? Was he
18 exhausted, was he exuberant, was he energetic?

19 A No. He just said his arm was hurting and his back.

20 Q Okay. Is that from the pain from the sickle cell?

21 A Yes.

22 Q So he went to rest?

23 A Yes.

24 Q Okay. Now, do you, did anybody visit later on that
25 night?

- 1 A Ta'Masia came by.
- 2 Q Okay. And what sort of relationship do you all have?
- 3 A Well --
- 4 Q Distant cousin?
- 5 A Well, her niece, her niece is my niece. See, there's
- 6 two sisters kids. So her mother and my niece is two
- 7 sisters.
- 8 Q Does she dream of being a phlebotomist one day?
- 9 A That's what she plans.
- 10 Q Okay. And that works with the blood, right?
- 11 A Right.
- 12 Q All right. And is she concerned about his sickle
- 13 cell disease?
- 14 A Yes, sir.
- 15 Q Did you ever hear, you're sure he was there at 10:00
- 16 o'clock or around 10:00 o'clock?
- 17 A Yes, sir.
- 18 Q Is there any way he could not have been there at
- 19 11:00 o'clock?
- 20 A Not unless he sneaked past me, and I was in the, I
- 21 was in the living room. See, his room, you got to pass me
- 22 to go to his room.
- 23 Q All right. So you're sure at 11:00 o'clock nobody
- 24 slipped past mama?
- 25 A No.

1 Q All right. And you let in Ta'Masia, I believe, to
2 let her visit?

3 A Yes.

4 Q So she could visit?

5 A Yes, sir.

6 Q All right. Was everything calm and peaceful as far
7 as you know over there?

8 A Yes. No problem.

9 Q All right. And you're sure this was a Saturday and
10 this was November 7th, and you're sure that's where he
11 was?

12 A Yes, sir.

13 Q Okay, all right. So was he in any mood to go out and
14 run around and run up and down the streets?

15 A I told him if his pain was that bad for him to go to
16 the ER.

17 MR. PLEXICO: Thank you. Answer any questions the
18 Solicitor may have.

19 MS. SWANSON: I'm sorry. Can the witness repeat that
20 last statement? I didn't understand it.

21 THE WITNESS: I told him, when he say his arms and
22 stuff were hurting, I said you're probably having a
23 crises. I said if it got any worse for him to go to the
24 ER.

25 Q So you thought he might need to go back?

1 A Yes.

2 MR. PLEXICO: Answer any questions the Solicitor may
3 have.

4 CROSS-EXAMINATION

5 By Ms. Swanson:

6 Q All right. How are you doing this morning, Ms.
7 Garvin?

8 A Good.

9 Q Good. Now, you stated that Mr. Blake, your son,
10 lived with you during 2015?

11 A Yes, ma'am.

12 Q But he also stayed at his dad's place, right?

13 A I think he, yeah, sometimes he do.

14 Q And he'd hang out there, right?

15 A Yes.

16 Q Okay. And that's just right around the corner from
17 the Fairwood Apartments, correct?

18 A Right.

19 Q Okay. It's actually like on a curve down Canal
20 Street. But it's, the residence is located on Tyson
21 Street, right?

22 A Right.

23 Q Okay. Do you remember there being a Fall Festival
24 the night of November 7th?

25 A Uh-huh.

1 Q You do? Is that a yes or a no?

2 A Yes.

3 Q Did you attend that?

4 A No.

5 Q When he told you on November 7th that he was in pain,
6 when was that?

7 A When he came in the house.

8 Q And when did he tell you he was in pain when he came
9 into the house? What time was that?

10 A Because I asked him, you know, because I was
11 surprised he didn't want to go to the Festival. I said,
12 what you doing here? I said, you're not going to the
13 Festival? He said, no, my arms start hurting. I said,
14 you're probably having a crises.

15 Q Okay. So that was when he came to your house with
16 Monica?

17 A Yes.

18 Q Okay. And so, your answer was you should go get some
19 medical treatment, right?

20 A Yes, if it was hurting like that. Yes. Because
21 normally when it get like that his blood count is real
22 low.

23 Q Okay. When he has these sickle cell attacks is it in
24 times of stress, in times that he's over exerted himself?
25 Would you agree with that?

1 A No. It's when his blood count is low.

2 Q Okay. But he doesn't have pain when he is physically
3 distressed, stressed or exerts himself?

4 A No.

5 Q Okay. And are you aware that one of the symptoms of
6 sickle cell is irritability?

7 A There's all kinds of side-effects.

8 Q Okay. What are some of the other ones?

9 A Well, he get lumps in his body. He have blood clots.

10 Q Okay. But he wasn't hospitalized on November 7th of
11 2015, was he?

12 A I don't know. He might have went. I don't know.

13 Q Okay. So you absolutely don't know whether or not he
14 was hospitalized on November 7th of 2015, but you
15 absolutely know that he was at your house shortly after
16 10:00 and it wasn't shortly after 11:00?

17 A It wasn't after 11:00, because I was in there
18 watching TV. So if he went to the emergency room, it was
19 afterwards.

20 Q So it's your testimony that if he went to the
21 emergency room on November 7th it was --

22 A No. I didn't say he went to the emergency room. I
23 said if he did.

24 Q Yes. If he did it was afterward?

25 A Right.

1 Q All right. And when Ta'Masia came over where did she
2 go? Did she visit with him in the living room or did she
3 go straight back to his room where he locked himself away?

4 A No. She talked to me for a minute and she asked me
5 where he was. And I said he might be in the room back
6 there. She said can I go back there, and I told her yeah,
7 she could go back.

8 Q Okay. And then what did she do when she was back
9 there? Do you know?

10 A No.

11 MS. SWANSON: Okay. Thank you, Ms. Garvin.

12 MR. PLEXICO: Just briefly, Your Honor.

13 REDIRECT EXAMINATION

14 By Mr. Plexico:

15 Q You wouldn't have no way of knowing what he had done
16 earlier in the day simply because you weren't with him?

17 A Yes.

18 Q So you couldn't honestly testify to what he did
19 earlier when you weren't there, right?

20 A Right.

21 MR. PLEXICO: Okay.

22 MS. SWANSON: Nothing further.

23 THE COURT: Thank you, ma'am. You can step down.

24 (Whereupon, the witness stepped down from the witness
25 stand.)

1 MR. PLEXICO: Ta'Masia Robins will be the next
2 witness, please.

3 Ta'Masia Robins, being
4 first duly sworn, testified as follows:

5 DIRECT EXAMINATION

6 By Mr. Plexico:

7 Q Could you spell your name, first and last name,
8 please, for the Court Reporter?

9 A T-a, apostrophe, M-a-s-i-a. Robins, R-o-b-i-n-s.

10 Q Thank you for being here today, ma'am. Do you know
11 this man here?

12 A Yes.

13 Q And that is Benjamin Blake?

14 A Yes.

15 Q Okay. And you are a distant cousin of his, I
16 believe?

17 A Just a friend of the family.

18 Q Friend of the family. Okay, all right. Do you know,
19 do you know, Monica Cylear?

20 A I know of her, yeah.

21 Q Okay, all right. Now, where do you work at now?

22 A Amazing Creations in Bluffton.

23 Q And what is that?

24 A A preschool.

25 Q Okay. And what do you, what do you plan on studying

1 one day?

2 A To be a teacher.

3 Q Okay, all right. Have you ever talked about being a
4 phlebotomist?

5 A Yes.

6 Q All right. Is there any disease that Benjamin
7 suffers from that you have an interest in?

8 A Sickle cell.

9 Q Okay, all right. Now, so you're friends with
10 Benjamin?

11 A Yes.

12 Q Okay. Now, did, on November 7th, it was a Saturday
13 night in 2015.

14 A Uh-huh.

15 Q All right. Did you hear eventually about the tragic
16 shooting with Ms. Tiffany Lakes?

17 A I've heard of it.

18 Q Okay, all right. November 7th. Did you see Benjamin
19 at any time on November 7th?

20 A Yes. I went by his house like around --

21 Q Where did you go? Where is his house?

22 A In Springfield.

23 Q All right. Is that in the town of Estill?

24 A Yes.

25 Q All right. Did you, is it on Dakota Drive?

- 1 A Yes, I believe so.
- 2 Q Okay, all right. It's toward Estill way?
- 3 A Yes. Yes.
- 4 Q You live that way? You live in Garnett?
- 5 A I live in Garnett.
- 6 Q Okay. But it's not near the apartments?
- 7 A Uh-uh. (Indicated no.)
- 8 Q Or any of the apartments?
- 9 A Uh-uh. (Indicated no.)
- 10 Q All right. Now, what time did you go over there?
- 11 A Around like 11:00 o'clock, because I came as soon as
- 12 I got off work.
- 13 Q Okay. Where were you working?
- 14 A Rue21 in Bluffton.
- 15 Q All right. Did you, who did you see over there?
- 16 A His mother, his girlfriend and him.
- 17 Q Okay. Who answered the door?
- 18 A His mother.
- 19 Q And did you visit with, did you go in the back and
- 20 visit with Monica and Benjamin in his room?
- 21 A Yes.
- 22 Q Do you remember how long you stayed?
- 23 A Probably like 30, 15 minutes, because he was getting
- 24 drowsy anyway.
- 25 Q All right. And was he, what was his physical

1 condition?

2 A His back and his leg was hurting.

3 Q Okay. And that's from what?

4 A His sickle cell crises.

5 Q Is there any way he could have been near the
6 apartments around 11:00 o'clock?

7 A No ma'am, I mean, no sir.

8 Q So you're certain that you saw him and you were
9 there?

10 A Yes.

11 MR. PLEXICO: Okay. Answer any questions the
12 Solicitor may have.

13 CROSS-EXAMINATION

14 By Ms. Swanson:

15 Q Hey, Ta'Masia.

16 A Hi.

17 Q How are you?

18 A Good.

19 Q So although you have an interest in sickle cell and
20 all that, you don't have any medical training, no training
21 in the field, right?

22 A No, ma'am.

23 Q Okay. So you're not really sure why his leg was
24 hurting, right?

25 A Due to his sickle cell crises, because he went to the

1 doctor for it.

2 Q Okay. And how do you know that?

3 A Because he went and I talked to his cousin, which is
4 my aunt and she told me.

5 Q Who's your cousin?

6 A My aunt is his cousin.

7 Q Okay. Who's your aunt?

8 A Tamika Evans.

9 Q How did she know he went?

10 A I guess she talked to him.

11 Q Okay. But you certainly didn't go to the hospital
12 with him, right?

13 A No.

14 Q Okay. And you never saw any discharge papers or
15 anything like that, right?

16 A No.

17 Q Okay. And so, you're just making the inference or
18 the assumption that his leg was hurting because of his
19 sickle cell crises?

20 A Well, I know he took medication.

21 Q Okay. And does that medication make him drowsy --

22 A Yes.

23 Q -- do you know that?

24 A Yes.

25 Q Yes? Okay. And then you didn't get to mom's house

1 until a little bit, your testimony is, after 11:00, right?

2 A Yeah, around 11 o'clock.

3 MS. SWANSON: Okay. Thank you, Ta'Masia. That's all
4 I have for you.

5 THE WITNESS: Thank you.

6 THE COURT: Anything else, Mr. Plexico?

7 MR. PLEXICO: I don't have anything further and she
8 can be released.

9 THE COURT: Thank you, ma'am. You're free to go.

10 MS. SWANSON: No objection.

11 (Whereupon, the witness stepped down from the witness
12 stand.)

13 MR. PLEXICO: Defense would call Benjamin Blake.

14 BENJAMIN BLAKE, being
15 first duly sworn, testified as follows:

16 DIRECT EXAMINATION

17 By Mr. Plexico:

18 Q Now, your name is Benjamin Blake?

19 A Yes, sir.

20 Q Okay. And have you, you know about the shooting of
21 Ms. Lakes? You've heard about that?

22 A Yes, sir.

23 Q All right. Now, I'm going to take you back to
24 November 7th of 2015. Okay? Now, November 7th, 2015 did
25 anything medically of significance happen to you that day?

1 A I was in crises.

2 Q Okay. What do you mean by a crises?

3 A Sick cell.

4 Q You were in a sickle cell crises?

5 A Yes, sir.

6 Q Explain that to me a little bit, because that only
7 affects what type of people?

8 A It's like a severe pain. My blood cells, my blood
9 cells sickle.

10 Q They bend over instead of being round?

11 A Yes. Like a little, they got a end on them instead
12 of being round.

13 Q How does that affect your body?

14 A That will cause the crises, when they sickle. They
15 get, they conjunct together.

16 Q Like they hook up?

17 A Yeah.

18 Q And that's like a clotting?

19 A Yes, sir.

20 Q Okay. And how does it feel passing through your
21 body?

22 A It's a severe pain. It's like real bad pain.

23 Q Is this a disease that's significant only for
24 individuals of African American heritage?

25 A It's like a, some kind of blood disease. But you got

1 to be born --

2 Q But only African American folks pretty much --

3 A Yes, sir.

4 Q -- is that right?

5 A Yes, sir.

6 Q All right. What are the side-effects of that, of the
7 disease?

8 A It's like achy pain, low blood count. I don't know
9 what you would call it for when you don't drink enough
10 fluids.

11 Q Dehydration?

12 A Dehydration and stuff.

13 Q All right. How does it affect your energy level?

14 A It's pretty much have you down.

15 Q What do you want to do generally when you get an
16 attack like that?

17 A You lay down, take medicine, you are icy hot. I
18 normally have to go to the hospital for mine. I have to
19 get IV treatments for mine because I have the full
20 disease, full-blown disease. Like they have a trait and a
21 disease.

22 Q So you have an active --

23 A I have the disease.

24 Q You have an active disease?

25 A Yes, sir.

1 Q All right. Did you go to the hospital ER that day?

2 A It was early that morning of the --

3 Q Saturday morning, Saturday morning, did you go
4 Saturday morning?

5 A Saturday morning I was released from the hospital.

6 Q Okay, all right. And why were you at the hospital?

7 A For my crises. Treatment for my crises.

8 Q Where did you go when you all were, when you were
9 released?

10 A I was with my girlfriend. She dropped me off to my
11 dad's house.

12 Q What did you do when you got to dad's house?

13 A I laid down for a little while and woke up later on.

14 Q All right. Did you leave the house that night?

15 A Yes, sir.

16 Q Where did you go when you, what time did you leave
17 the house?

18 A Left the house around 10:00, close to 10:00.

19 Q Where did you go, who picked you up?

20 A Monica.

21 Q All right. Monica Cylear?

22 A Yes, sir.

23 Q Okay. And where did you and Monica go?

24 A To my house.

25 Q And where is your house?

1 A [REDACTED] Drive.

2 Q Okay. When you got there who was there?

3 A My mom.

4 Q Okay. Does your mom live there?

5 A Sir?

6 Q Does your mom live there?

7 A Yes, sir.

8 Q All right. Where did you and Monica go once you all
9 arrived?

10 A In my room.

11 Q Did you all have a visitor there?

12 A Yes, sir.

13 Q Who visited you?

14 A My cousin niece visited me.

15 Q And who is niece?

16 A Ta'Masia.

17 Q Is that Ta'Masia Robins?

18 A Yes, sir.

19 Q Now, what time do you think she visited?

20 A I couldn't give an exact time. I knew it was after
21 10 o'clock, close --

22 Q After 10 o'clock?

23 A -- close 11:00. Yeah, somewhere around there.

24 Q All right. Now, did you leave your momma's house and
25 go --

- 1 A No, sir.
- 2 Q Were you anyplace near the apartments at 11:00
- 3 o'clock?
- 4 A Besides my father's house earlier that day.
- 5 Q Only when you were at your father's house?
- 6 A Yes, sir.
- 7 Q Now, did you leave your father's house?
- 8 A No, sir.
- 9 Q You left your father's house?
- 10 A That night.
- 11 Q That night. Okay. And you testified earlier that
- 12 you left your father's house. At what time you went to
- 13 your momma's house?
- 14 A Around 10:00. Around 10:00 o'clock.
- 15 Q All right. Now, do you know, do you know Delisha
- 16 Dobson?
- 17 A Yes, sir.
- 18 Q All right. Did you have an affair with her?
- 19 A Yes, sir.
- 20 Q Okay. As a result of that affair what was produced?
- 21 A I have a baby by her.
- 22 Q All right. Now, does she have a brother?
- 23 A Yes, sir.
- 24 Q And who's the brother?
- 25 A Malee, (phonetic), Jeantavienne.

1 Q Jeantavienne was in the courtroom today?

2 A No, sir.

3 Q I mean, not today, yesterday.

4 A Yesterday.

5 Q Okay, all right. So you know the family, right?

6 A Yes, sir.

7 Q All right. Now, you didn't marry Delisha, did you?

8 A No, sir.

9 Q Okay, all right. And Delisha is Jeantavienne's, if
10 I'm saying it correctly, the young man who testified. The
11 Dobson who testified --

12 A That's his sister.

13 Q -- Delisha is his big sister?

14 A Yes, sir.

15 Q Is that right? Okay. And he knows you have this
16 other girlfriend on a pretty regular basis, Monica, right?

17 A Yes, sir.

18 Q Now, in April, I think of 2015. All right. There
19 was an incident with your car being shot. Is that right?

20 A Yes, sir.

21 Q Did you, as you drove by did you see anybody on the
22 corner?

23 A I saw him.

24 Q Who's him?

25 A Jeantavienne.

- 1 Q Does Chappy or Chabby --
- 2 A Chabby. His nickname, Chabby.
- 3 Q With a B, like cabbage. Chabby.
- 4 A Yes, sir.
- 5 Q Okay. So you saw him on the corner?
- 6 A Yes, sir.
- 7 Q And after you passed by what happened?
- 8 A What time was it?
- 9 Q After you passed by, seen him on the corner, what
- 10 happened?
- 11 A I got a gunshot through my car back window through
- 12 the headrest in my passenger seat into the dash.
- 13 Q All right. Did you report that to the police?
- 14 A Yes, sir.
- 15 Q Now, he's kind of family because he's your --
- 16 A Yes, sir.
- 17 Q -- he's your, he's the uncle of your baby?
- 18 A Of my baby.
- 19 Q Right. Did you want to see him go to jail?
- 20 A No, sir.
- 21 Q Okay. You did report it to the police?
- 22 A Yes, sir.
- 23 Q And did you tell them you didn't want him arrested?
- 24 A Yes, sir.
- 25 Q And you said that you would take care of it?

1 A No, sir. I didn't say it exactly --

2 Q Well, how did you say it to them?

3 A I told them I didn't want to press charges against
4 him.

5 Q You were talked to?

6 A Yes, sir.

7 Q Eventually did y'all have a discussion about that?

8 A Yes, sir. We came to a conclusion to wash off the
9 situation.

10 Q Did you explain to him that, you know, you needed to
11 see your baby?

12 A Yes, sir.

13 Q He's the uncle?

14 A Yes, sir.

15 Q So there, the better problem to start with. But
16 whatever the problem was in Jeantavienne's mind, did you
17 believe it was solved?

18 A Yes, sir.

19 Q Did you have any reason to shoot at him that night?

20 A No, sir.

21 Q Your physical shape, were you up to going out running
22 around shooting off a gun?

23 A No, sir.

24 Q Have you ever owned a .380?

25 A No, sir.

1 Q And once again, when you have to go to the hospital
2 with this, what is your energy level?

3 A Your energy level ain't too high. You're on pain
4 medicine.

5 Q And that's absolutely necessary?

6 A Yes, sir.

7 Q And what's the affect of that? What's it do to you?

8 A It puts you to, it make you drowsy. It puts you to
9 sleep.

10 Q Is that why you went to bed? Did you go to bed when
11 you got to your dad's house?

12 A Yes, sir. Pretty much after my company left.

13 Q Okay. Now, I've heard questions about you being over
14 with your father. I don't know if your child's a boy or a
15 girl, but do you think there would be anything wrong with
16 a child spending time with their father?

17 A No, sir.

18 Q Do you think that would be the normal thing you would
19 expect to have happen in society?

20 A Yes, sir.

21 Q Can you think of any indication of guilt that would
22 give anybody because they like to spend time with their
23 daddy and their momma?

24 A Yes, no sir.

25 MR. PLEXICO: Answer any questions the Solicitor may

1 have.

2 CROSS-EXAMINATION

3 By Ms. Swanson:

4 Q All right, Mr. Blake. How old is your baby with
5 Lisha?

6 A He's one-years-old.

7 Q Right. So when is his birthday?

8 A February 3rd.

9 Q Of what year?

10 A 2017.

11 Q Right. So like two years after Tiffany Lakes was
12 shot, correct?

13 A Yes, ma'am.

14 Q Right. He wasn't born until well after this shooting
15 took place, right?

16 A Yes, ma'am.

17 Q And you and Jeantavienne had beef, right?

18 A No sir, no ma'am. We didn't have like beef like --

19 Q Well, you just testified that you squashed, you have
20 to have beef if you're going to squash beef, right?

21 A We had problems.

22 Q Okay. But it wasn't because --

23 MR. PLEXICO: Your Honor, he was answering the
24 question. I'd ask that he be allowed to answer the
25 question.

1 THE COURT: Sustained.

2 Q Go ahead.

3 A Question.

4 Q Okay. But it wasn't because Jeantavienne wanted to
5 be an uncle and you wanted him to be an uncle to the baby
6 that hadn't even been born or conceived yet, correct?

7 A I don't get that.

8 Q Right. Mr. Plexico, when he was questioning you,
9 asked you if the beef was about Jeantavienne and getting
10 along with him because, you know, you're the father of the
11 baby and you didn't marry the baby's mom. Well, the baby
12 wasn't born until two years later, correct?

13 A Yes, ma'am.

14 Q Okay. Thank you. Just want to make sure everyone's
15 clear on that. Now, you're aware that you can get
16 medical, your own medical records, right?

17 A Yes, ma'am.

18 Q Okay. And so, do you have any medical records about
19 your sickle cell crises on November 7th of 2015?

20 A I do have them. If I had known you had needed them I
21 would have qualified them into evidence. I also sent
22 pictures. Email pictures to my lawyer but he said I
23 couldn't use them because they came from a different
24 email, not my email.

25 Q So bottom line is that you don't, you don't have any

1 documentation that you actually went to the hospital on
2 November 7th of 2015. Yes or no?

3 A I have papers at my house now.

4 Q Okay. But not here in the courtroom?

5 A Not now.

6 Q During your trial for attempted murder times three?

7 A No, ma'am.

8 Q Okay. Now, Mr. Plexico talked to you about accusing
9 Chabby, who is Jeantavienne Dobson, of attempting to
10 murder you.

11 A Yes, ma'am.

12 Q Okay. And that occurred six months before he was
13 being shot at and Tiffany Lakes was hit, correct?

14 A I don't know. You have the paperwork now.

15 Q Seven months, in April of 2015? You seem really sure
16 about the November 7th, 2015 date, but you have no
17 recollection of the date that you were being shot at? Is
18 that your testimony?

19 A You have the statement in front of you, ma'am. I
20 don't have it in front of me.

21 Q I do, sir. But do you remember what date you were
22 shot at three years ago?

23 MR. PLEXICO: That's been answered, Your Honor.

24 THE COURT: I'll allow it.

25 Q Do you remember what date you were shot at three

1 years ago?

2 A Yes, ma'am.

3 Q What date is that?

4 A The fourth month, November, October, something like
5 that, the fourth month.

6 Q So and what, it was in October of 2015? Is that your
7 testimony?

8 A No, ma'am. I said it was months prior.

9 Q Okay. But you're not sure of the date?

10 A I'm not sure of the exact date. That was three
11 years. Like long before this, this event occur of me
12 being accused.

13 Q Right. That was three years ago just like the day
14 that Tiffany Lakes was shot and everyone, including you
15 and the members of your family, can recall every little
16 thing about that day.

17 A I was punished for this, ma'am. I spent two years of
18 my life in the county jail. I should have longtime
19 memories about the case or the situation.

20 Q When you say you were punished for this, you never
21 actually have been in trial for this, correct?

22 A No, ma'am.

23 Q Right. So you've not been convicted of this crime?

24 A I was incarcerated.

25 Q Right, pretrial incarceration.

1 A Yes.

2 Q And you're no longer incarcerated, correct?

3 A I just got released May 21st.

4 Q Okay. All right. Mr. Blake, I'm going to hand you a
5 statement, and if you could look over that, please, sir.

6 When did you accuse Chabby of shooting at you?

7 A April 15th.

8 Q Of what year?

9 A 2015.

10 Q All right. And at the top of that page does it say
11 where you live?

12 A The address on my ID at the time was [REDACTED]
13 Avenue.

14 Q Right, which is whose address?

15 A My father's address.

16 Q Okay. And is that in your handwriting?

17 A Yes, ma'am.

18 Q And did you sign that document?

19 A Yes, ma'am.

20 Q Are you on any medication for your sickle cell crises
21 this week?

22 A No, ma'am.

23 Q All right. But you've been able to sit in this
24 courtroom, haven't you?

25 A Yes, ma'am.

1 Q Without riving in pain?

2 A Yes, ma'am.

3 Q And you did state that the pain medication that you
4 take makes you drowsy?

5 A Yes, ma'am.

6 Q All right. But you do take pain medication for your
7 sickle cell from time to time, right?

8 A Yes, ma'am. When I have my crises I take them.

9 Q Right. And what kind of pain medication is that? Is
10 it a narcotic?

11 A Yes, ma'am.

12 MS. SWANSON: All right. That's all I have. Thank
13 you.

14 THE COURT: Any redirect?

15 MR. PLEXICO: Yes, Your Honor.

16 REDIRECT EXAMINATION

17 By Mr. Plexico:

18 Q Are you a chemist?

19 A No, sir.

20 Q Okay. You take Percocet?

21 A Yes, sir.

22 Q Do you have any idea what they are actually made of?

23 A No, sir.

24 Q You don't know if, you know that narcotics are
25 actually made out of opium?

1 A No, sir. I just take the medicine as prescribed to
2 me, sir.

3 Q Okay. You take it as prescribed by your doctor?

4 A Yes, sir.

5 Q Okay. And the truth is, you've been running around
6 with Delisha for years, right?

7 A Yes, sir.

8 Q And her brother knew that?

9 A Yes, sir.

10 Q Okay, all right. So and you were running around with
11 her in 2015?

12 A Yes, sir.

13 Q Okay. And is that what he was mad about?

14 A Could have been.

15 Q Okay. But there shouldn't have been any problems in
16 November?

17 A No, sir.

18 Q Okay. Now, so that's what's on your driver's
19 license?

20 A Yeah, that's what was on my driver's at the time. I
21 never stayed at my father's house though.

22 Q Okay. But you only visited?

23 A I visit.

24 Q So you're not ashamed of your father's address?

25 A No, sir.

1 Q You're not ashamed of your father?

2 A No, sir.

3 Q Okay. So you said you had spent two years because
4 you were too poor to make bond, right?

5 A Yes, sir.

6 Q Okay. But you finally made bond?

7 A Yes, sir.

8 Q Now, since the time you went to jail and you got out,
9 you know the Estill First, Estill Baptist Church near your
10 house?

11 A Yes, sir.

12 Q Okay. Did they make any --

13 A Near my dad's house.

14 Q Near your dad's house. Excuse me. Did they make any
15 changes from the time you got arrested and went to jail
16 until the time you got out, did you notice any changes
17 over that way at night?

18 A Yes, sir.

19 Q What's the changes?

20 A They added fence, they added a fence to the back and
21 they have added lights.

22 Q And while you were in jail, was that because the,
23 Cedric Brown got murdered over there?

24 A They said they had a murder on the church yard since
25 the incident.

1 Q So while you, right. So while you're in jail other
2 people are getting killed in that area?

3 A Yes, sir.

4 Q Is that correct?

5 A Yes, sir.

6 MS. SWANSON: Your Honor, he's enlisting hearsay. He
7 has no personal knowledge of any of this.

8 THE COURT: Sustained.

9 MR. PLEXICO: I don't have anything further, Judge.

10 MS. SWANSON: Just briefly.

11 RECROSS-EXAMINATION

12 By Ms. Swanson:

13 Q Mr. Plexico asked you if Jeantavienne could have
14 possibly been mad about you running around on his sister,
15 Lisha Dobson, right?

16 A Yes, ma'am. He did.

17 Q Right. And so you said, yeah, that's probably what
18 he was mad about, correct?

19 A I said could have been.

20 Q Could have been? So it could have been something
21 else, too, right?

22 A Like?

23 Q I'm glad you asked me. It could have been when
24 Investigator Michael Thomas found you dragging her out of
25 the woods by her hair, correct?

1 MR. PLEXICO: Your Honor, I think we have a matter of
2 law.

3 A Where is a statement that --

4 MR. PLEXICO: I object.

5 THE COURT: Stop just a minute.

6 MR. PLEXICO: We have a matter of law.

7 A Where's the proof of this?

8 THE COURT: Hang on just a minute. Ladies and
9 gentlemen, we're going to take up a matter of law outside
10 of your presence. I'm going to excuse you back in the
11 jury room. Please don't begin any deliberations.

12 (Whereupon, the jury was excused from open court at
13 approximately 11:55 a.m.)

14 MR. PLEXICO: Your Honor, I believe that I made a
15 motion about any criminal offenses that my client had and
16 furthermore any prior bad acts. And Solicitor said she
17 didn't have any. So she's mislead the Court. Further, he
18 hasn't been tried on any of this. There's no evidence
19 that I'm aware of that's going to support these
20 allegations. There's no trial. And he's, that is trying
21 to offer extrinsic evidence to prove a point from another
22 witness, Judge, which he wouldn't be able to do, which
23 again, would not be proper cross-examination. But she's
24 mislead the Court by telling us that, then we could have
25 had a hearing to start with.

1 THE COURT: Yes, ma'am.

2 MS. SWANSON: Thank you, Your Honor. Mr. Plexico
3 opened the door wide open when he asked him what
4 Jeantavienne could have possibly been mad at him about.
5 Okay? I mean, he was getting into, oh well, he doesn't
6 like that he's running around with his sister. And then
7 the Defendant himself asked me like what else is there.
8 He was there. He knows. This is proper
9 cross-examination. This explores the relationship between
10 the parties and the motive that Jeantavienne had and Mr.
11 Blake has in shooting Jeantavienne.

12 MR. PLEXICO: This sets up the Defense, when she's
13 mislead the Court, then it sets up the Defense for what
14 she wants to do when she should have told you about to
15 start with because you were mislead when you wear the
16 robe.

17 THE COURT: Tell me, Mr. Plexico, how you didn't open
18 the door when you asked all manner of questions about the
19 reason Jeantavienne, wasn't he upset with you because you
20 were running around on his sister and had a baby with his
21 sister while he was in another relationship. How does
22 that not open the door?

23 MR. PLEXICO: Why, I was asking him why, Judge.
24 Because this was based on what she had shared with me.
25 She had not shared anything like that with me. So that

1 goes back to the misleading of the Court in setting up the
2 Defense and then claiming they opened the door. That's
3 just not fair. If she had that, that's a Rule 5 discovery
4 violation if she intended to use that and she should have
5 told me.

6 THE COURT: Well, what's the discovery violation?

7 MR. PLEXICO: Well, I mean, she had a prior bad act
8 and she stood here and told the Court she didn't. I
9 couldn't do that.

10 MS. SWANSON: I told the Court I was not going to
11 introduce or attempt to introduce any prior bad acts
12 unless Mr. Plexico or the Defendant opened the door, which
13 is exactly what he did. I don't have a report or anything
14 like that. And when I put Mr. Michael Thomas on the stand
15 in rebuttal, Mr. Plexico didn't cross him about all of
16 this.

17 THE COURT: This was an incident report that was
18 filed?

19 MS. SWANSON: I mean, it's an incident that Michael
20 Thomas recalls observing. Am I stating that correctly?

21 MR. THOMAS: Yes, ma'am.

22 MS. SWANSON: But I can cross him about it. No,
23 we're not trying him on it. And, I mean, I don't even
24 have to put Michael Thomas up to say that. But I do want
25 to put him up in rebuttal regarding the statements by Mr.

1 Blake in reference to accusing Jeantavienne Dobson of
2 shooting at him. And those are in the report and in his
3 statement and the investigator on that case is here and
4 Mr. Plexico was well aware of that.

5 THE COURT: What was the time of this incident, the
6 alleged incident, the pulling of hair?

7 MR. PLEXICO: This was well before the shooting
8 incident.

9 MS. SWANSON: Okay. Well before the shooting
10 incident, sometime during Lisha and Benjamin's
11 relationship or tryst..

12 THE COURT: I'm going to allow the question and, but
13 I'm not giving free rein on this. This is for a very
14 narrow purpose.

15 MS. SWANSON: Yes, ma'am.

16 THE COURT: Thank you. You can bring the jury back
17 in.

18 MR. PLEXICO: Your Honor, I also should have said it
19 was a Brady violation.

20 THE COURT: Thank you.

21 MS. SWANSON: Brady is for exculpatory information,
22 and if anything this is inculpatory.

23 MR. PLEXICO: And if I, if I knew about it, I could
24 have investigated it. That's why it's Brady. Thank you.

25 MS. SWANSON: And he's not being tried on it. It's

1 simply cross.

2 THE COURT: Okay, thank you both.

3 (Whereupon, the jury entered the courtroom at 12:00
4 p.m.)

5 THE COURT: Okay. Yes, ma'am. Your cross.

6 MS. SWANSON: Thank you, Your Honor.

7 CONTINUE RECROSS EXAMINATION

8 By Ms. Swanson:

9 Q All right. So Benjamin, the last question to you was
10 that Jeantavienne's problem with you could not have
11 possibly arisen from how you treated his sister and how
12 you at one point were pulling her by her hair from the
13 wood line?

14 A How would he know how I am treating his sister? How
15 he know what our personal life, what we have going on?

16 Q Okay.

17 A Second, do you have a statement or proof of me
18 dragging Delisha by her hair? You got me on camera doing
19 that to her? Somebody seeing me do that to her? Did she
20 write, tell you that I did that to her?

21 Q I believe I ask the questions here, Mr. Blake. So
22 it's your testimony that sisters and brothers don't talk
23 about their relationships? Is that your position?

24 A Pretty much.

25 MS. SWANSON: Okay. Thank you. Nothing further.

1 MR. PLEXICO: Briefly.

2 REDIRECT EXAMINATION

3 By Mr. Plexico:

4 Q Anybody ever show you a statement?

5 A No, sir.

6 Q Anything that she said, did anybody ever show you a
7 video?

8 A No, sir.

9 Q Okay. Did you ever see a police report on that?

10 A No, sir.

11 MR. PLEXICO: I don't have anything further.

12 THE COURT: Thank you. You can step down.

13 (Whereupon, the Defendant stepped down from the
14 witness stand.)

15 MR. PLEXICO: With that, the Defense would rest, Your
16 Honor.

17 THE COURT: Thank you. Okay, ladies and gentlemen,
18 I'm going to go ahead and allow you all to break for
19 lunch. We have a few matters we're going to take up while
20 you're at lunch. And I do want to give these folks an
21 opportunity to get lunch also. So I'm going to ask if
22 you'll be back by 1:30. And again, please do not begin
23 any deliberations.

24 (Whereupon, the jury was excused from open court for
25 a lunch break.)

1 MR. PLEXICO: Your Honor, I would move to renew my
2 motion for a directed verdict of not guilty on all the
3 indictments based on the sufficiency of the evidence and
4 the evidence you've heard from the Defense testimony, Your
5 Honor. I believe that there is no more than a suspicion
6 that my client could be guilty, Your Honor. And I believe
7 that the evidence taken altogether would not rise and the
8 jury will only have an opportunity to speculate and be
9 suspicious as to regards to whether or not he is guilty in
10 these indictments, Your Honor. So I would move that
11 speculation only, Judge, would not be enough to take this
12 to the jury, and I believe a directed verdict on 2015-380
13 to 382, the attempted murders, Judge. And I would move
14 for a directed verdict on 15, excuse me, 25-383,
15 possession of a weapon during the commission of a violent
16 crime because there's no underlying crime.

17 THE COURT: And again, I'm only concerned with the
18 weight, excuse me, with the existence of evidence and not
19 its weight. I do think that there are both direct and
20 circumstantial evidence that's been presented to the jury
21 to allow it to go forward. Do you all have any jury
22 charges to hand up to me?

23 MS. SWANSON: Your Honor, I could type some up. I
24 don't have them to hand up. I did email your clerk last
25 night just with the request that I have which include

1 transferred intent, the lesser included assault and
2 battery of a high and aggravated nature. The definition
3 of alibi from the Baker case. And I'll hand up a hard
4 copy of that. I know I sent it in electronic form and
5 have provided it to the Defense, or any charge on alibi
6 that Your Honor feels is appropriate. And then lastly,
7 the definition of specific intent from the Williams case.
8 Just that if Your Honor is going to charge that a specific
9 intent to kill is necessary for attempted murder, that it
10 can be inferred by the surrounding circumstances of the
11 case including the use of a deadly weapon and the
12 character of the attack. And that comes straight from
13 State vs. Williams, which interprets State vs. King. This
14 is a 2018 Court of Appeals case. And that cite is 422 SC
15 525.

16 MR. PLEXICO: And what page number would she be
17 reading from?

18 MS. SWANSON: And I was reading from page seven of
19 eight. Second full paragraph at the bottom.

20 THE COURT: You've got the same version that I do.
21 It's also page 926 if you're looking at the S.C. 2nd
22 citation.

23 MS. SWANSON: Correct.

24 THE COURT: So you are requesting a lesser included
25 of ABHAN?

1 MS. SWANSON: I am, Your Honor, because I do believe
2 based on the evidence presented that a jury could deduce,
3 although it's not the State's position, could deduce that
4 he lacked the specific intent to kill and was just out to
5 do bodily harm with, you know, a weapon. And so, I
6 believe that the standard is any evidence from which a
7 jury could deduce or lesser included, instead I would
8 request any lesser included that the Court deems
9 appropriate, including ABHAN.

10 THE COURT: Anything that you're requesting or
11 anything --

12 MR. PLEXICO: Well, Your Honor --

13 THE COURT: -- with regard to the State's requests?

14 MR. PLEXICO: Yes, Your Honor. Well, if they're
15 asking you to charge that the intent could be inferred,
16 that is so close to, what I'm asking, you need to find a
17 specific intent. I'm asking that you add a sentence that
18 says, you know, to find the Defendant guilty of attempted
19 murder requires a specific intent on the part of the
20 Defendant to kill and that's a necessary finding, Judge.
21 And I'm specifically asking that you charge there is no
22 charge of implied malice in the use of a deadly weapon.
23 And I think what she's saying is that's, I think that's
24 the law. If you read King, that's the Supreme Court law.
25 And they are admonishing the lower courts not to use

1 implied malice with the use of a deadly weapon, yet she
2 wants to take the fact of the supposed using of a gun and
3 includes surrounding circumstances and then you can infer
4 that. Well, that's just another word for implied. That's
5 just implied by a different set of words which I think the
6 Court doesn't allow. So I just don't, I don't think you
7 can give a charge that reflects that you can imply malice
8 with the use of a deadly weapon. And you can't give it in
9 other words. It's the same charge. So I would object to
10 that, Your Honor. I think if you need a line on the
11 attempted murder, that attempted murder, a finding of
12 guilt on attempted murder requires the finding of a
13 specific intent on the part of the Defendant to kill him.
14 I would also ask for an assault and battery first, Your
15 Honor, which all these injuries could also fall under.
16 They would not have to be ABHAN, Judge. So I would ask
17 that assault and battery first also be charged as well as
18 ABHAN.

19 THE COURT: I would definitely charge the jury that
20 attempted murder requires the specific intent to kill and
21 I'm going to use some language from King. I do want to
22 look at the language because I know King talks about
23 implied intent versus specific intent and says attempted
24 murder is a specific intent crime. And so I'm going to
25 look at this language that specific intent to kill can be

1 inferred by the use of a deadly weapon. I will look
2 closely at that. I'm definitely going to do a charge on
3 transferred intent, attempted murder being specific
4 intent. Something on alibi. If you all will give us some
5 time to get the charges together and then I can give you
6 each a copy to look at before your closings. So I told
7 the jury to come back at 1:30. So we'll get to working on
8 those and try to have them for you by like 1:15 so you can
9 be looking at it. And then we'll discuss it again on the
10 record before we bring the jury in.

11 MS. SWANSON: Yes, Your Honor.

12 MR. PLEXICO: Yes, Your Honor.

13 MS. SWANSON: And just as far as the, I do intend
14 just very brief rebuttal witness with Investigator Michael
15 Thomas. I've got like two, three questions for him, and
16 then that will complete the State's case and the State
17 will be ready to move forward with closings.

18 MR. PLEXICO: Might I inquiry of the substance of
19 that?

20 THE COURT: That was my next question. Is this going
21 to be with regards to that previous incident?

22 MS. SWANSON: Well, it's for impeachment purposes,
23 because the Defendant did testify that he did not tell
24 anyone that he was going to, he just said that he wanted,
25 he did not want to proceed with charges and that he would

1 take care of it himself. He told the Court and the jury
2 that he did not say he would take care of it himself.
3 Investigator Michael Thomas says that he did tell him he
4 would take care of it himself, the situation, that is.
5 And then also, I mean, and if the Court allows it,
6 obviously. But, you know, I would like to just briefly go
7 into what he observed, what he reported to his chief and
8 the fact that he did not do a written report about the
9 incident between Lisha and Benjamin because she did not
10 want to pursue it.

11 MR. PLEXICO: I don't think it's proper to bring in
12 extrinsic evidence of a crime for which he's not been
13 tried, convicted, represented and there's no police report
14 on. It's just, that's unfair.

15 THE COURT: Okay. I am not going to allow any
16 testimony coming in about the alleged hair dragging
17 incident.

18 MS. SWANSON: Okay.

19 THE COURT: The other sounds like a proper rebuttal.

20 MS. SWANSON: Okay. And I would just ask that Mr.
21 Plexico not cross-examine Investigator Thomas on the hair
22 dragging incident if he does not want me to get into it.

23 MR. PLEXICO: I don't have any response, Your Honor.

24 THE COURT: Thank you. Okay. We're at recess.

25 MS. SWANSON: Thank you, Your Honor.

1 MR. PLEXICO: Your Honor, if they haven't gone to
2 lunch can we go ahead and finish the rebuttal and finish
3 the case now?

4 THE COURT: I think they've already, they are gone.
5 (Whereupon, a lunch break was taken.)

6 THE COURT: Okay. You've got the jury charges in
7 front of you. Did you all want the chance to take a look
8 at those?

9 MS. SWANSON: Yes, Your Honor.

10 THE COURT: Anything you want to discuss?

11 MS. SWANSON: The only thing that I wasn't sure if
12 Your Honor wanted to include, since this is an identity
13 case, although there's no photo lineup or anything, all
14 these people knew Benjamin Blake. So I don't know that
15 it's necessary, but I just wanted to bring up
16 identification. I'm not sure how Mr. Plexico feels about
17 it.

18 THE COURT: You know, it's not so much a question of
19 identification because they all testified they knew who it
20 was.

21 MS. SWANSON: Right.

22 THE COURT: It was more the credibility of the
23 witnesses and whether or not they actually saw him with a
24 gun in his hand. I mean, I guess, it's my feeling, but
25 Mr. Plexico, I'm glad to hear from you.

1 MR. PLEXICO: Well, you know, whether or not they
2 could have seen what they saw, they have already testified
3 they have, essentially, seen him up close, the lighting.

4 THE COURT: So do you want a --

5 MR. PLEXICO: Yes.

6 THE COURT: -- identification?

7 MR. PLEXICO: Out of the pertinence of precaution, I
8 would make a request for, you know, the identity of the
9 subject as far as the lighting goes and the conditions to
10 know, to recognize him. I think that would be
11 appropriate.

12 THE COURT: He requested language from Williams
13 regarding that specific intent can be inferred from the
14 use of a deadly weapon. I declined to include, there is a
15 footnote in the King case that cautions against it. So
16 just, I mean I know that was a Court of Appeals decision,
17 Williams was. So I'm going to steer clear of that. In
18 going through the verdict forms, as to indictment 380,
19 which is with regard to Jeantavienne Dobson. I've got
20 attempted murder and no ABHAN because ABHAN actually
21 requires an injury, assault and battery. It includes that
22 you injured or offered or attempted to injure. So I've
23 included only the assault and battery in the first degree
24 as to Jeantavienne. As to indictment 381, of course,
25 there's attempted murder, then ABHAN, then assault and

1 battery first degree and that's as to both 381 and 382 for
2 Tiffany Lakes and unborn child. And then, of course,
3 indictment 383 is just the possession of a weapon during
4 the commission of a violent crime. And, of course, if
5 they don't find him guilty of some other violent crime
6 then they can't find him guilty of that. Any other
7 exceptions to the jury charges?

8 MS. SWANSON: None from the State.

9 MR. PLEXICO: I don't have any, Judge.

10 THE COURT: Let me just read to you all the
11 instruction that I have for identification. Okay. It
12 says, "An issue in this case is the identification of the
13 Defendant as the person who committed the crime charged.
14 The State has the burden of proving identity beyond a
15 reasonable doubt. You must be satisfied beyond a
16 reasonable doubt the accuracy of the identification of the
17 Defendant before you may convict the Defendant.
18 Identification testimony is an expression of belief or
19 impression by a witness. You must determine the accuracy
20 of the identification of the Defendant. You must consider
21 the believability of each identification witness in the
22 same way as any other witness. You may consider whether
23 the witness had the adequate opportunity to observe the
24 offender at the time of the offense. This will be
25 affected by things like how long or short of time was

1 available, how far or close the witness was, the lighting
2 conditions, et cetera,". I'm going to include that one as
3 well. Okay. Anything else with regard to the jury
4 charges or the verdict forms?

5 MS. SWANSON: Nothing else in regard to that. I
6 would like to just broach closing arguments.

7 THE COURT: Yes.

8 MS. SWANSON: I know different Judges do it
9 differently under the new rules. And so I have offered to
10 waive my initial closing. Mr. Plexico would rather me
11 close first and then he close and then me respond to
12 anything new. I don't know if you're of the school of
13 thought that I can waive that or if he can make me open.

14 THE COURT: My feeling is when the Defendant has put
15 up a defense that the State opens in full --

16 MS. SWANSON: Okay.

17 THE COURT: -- and your reply is merely to reply to
18 --

19 MS. SWANSON: Anything new.

20 THE COURT: -- new materials.

21 MS. SWANSON: Perfect. Okay. I just wanted to make
22 sure we were all on the same page.

23 THE COURT: All right. In other words, the State
24 can't pull out any, something brand new in your second
25 bite of the apple.

1 MS. SWANSON: Right. Only responding to anything
2 that I did not cover that he brought up.

3 THE COURT: Exactly.

4 MS. SWANSON: Okay.

5 THE COURT: Mr. Plexico, is that suitable, sir?

6 MR. PLEXICO: Yes. I think, I think that's the state
7 of the law now, Judge.

8 THE COURT: All right. Call the jury in.

9 (Whereupon, the jury came into open court at
10 approximately 2:00 p.m.)

11 THE COURT: Okay. The Defendant has rested. Does
12 the State have any witnesses in reply?

13 MS. SWANSON: One reply witness. The State recalls
14 Michael Thomas.

15 MICHAEL THOMAS, being
16 first duly sworn, testified as follows:

17 DIRECT EXAMINATION

18 By Ms. Swanson:

19 Q Investigator Thomas, you testified previously that
20 you were working as an investigator for Estill Police
21 Department back in 2015, right?

22 A Yes, ma'am.

23 Q And so, were you also there in April of 2015?

24 A Yes, ma'am.

25 Q And did you investigate an allegation of a shooting

1 involving Benjamin Blake and Jeantavienne Dobson?

2 A I attempted to. Yes, ma'am.

3 Q Okay. And who made the report?

4 A I don't quite remember who was the officer who took
5 the initial report.

6 Q No. That's not what I mean. Who made the
7 allegation? Who was the complainant?

8 A Mr. Benjamin Blake.

9 Q Okay. And he was saying what?

10 A That his car was shot at by Mr. Jeantavienne Dobson.

11 Q All right. And did that case end up going anywhere?

12 A No, ma'am. It did not.

13 Q Why not?

14 A It's what we call failure for the witness or victim
15 to want to pursue or go further.

16 Q All right. And did he make any statements to you
17 about that?

18 A Yes, ma'am. He did.

19 Q What did he say to you?

20 A Upon trying to investigate the case and get a
21 possible, another statement from the victim, Mr. Blake
22 stated to me that he didn't want to do anything, that he
23 would take care of it himself.

24 MS. SWANSON: All right. Thank you. That's all I
25 have.

1 THE COURT: Mr. Plexico?

2 MR. PLEXICO: I don't have any questions.

3 THE COURT: Thank you, sir. You can step down.

4 THE WITNESS: Thank you, Your Honor.

5 (Whereupon, the witness stepped down from the witness
6 stand.)

7 MS. SWANSON: The State has no further witnesses.

8 THE COURT: Okay. We are ready to move into closing
9 arguments. Ms. Swanson, whenever you're ready.

10 MS. SWANSON: Thank you, Your Honor. I'm just going
11 to take one second.

12 THE COURT: Sure.

13 MS. SWANSON: All right. I'm going to start by
14 breaking down what we're arguing about here. Clearly, the
15 shooting occurred. There's no question that there was one
16 gun out there that was shooting and it shot multiple
17 times, at least, six. All from the same firearm. One of
18 those shots hit Tiffany. Her baby and her life were in
19 danger and she was airlifted. These are not questions
20 that you guys even need to discuss. Really what we're
21 talking about is the identity of the shooter and his
22 intent. So let's talk about identity first. There was
23 one shooter out there that night. One shooter that Nate,
24 Jeantavienne and Tiffany recognized. They all lived,
25 well, Tiffany and Jeantavienne lived within blocks of

1 ██████ Street which is where Benjamin Blake's father lives.
2 And you heard he wanted to say in 2015 that he was living
3 at his mama's residence, even though that's just a couple
4 of miles away, he was still recording that residence on
5 forms for the police. Okay. And people saw him in that
6 area quite a bit. Even his mama said, oh yeah, well, he
7 would go over there and he would stay there sometimes.
8 All three of those people, Nate, Jeantavienne and Tiffany
9 spoke to police that night and provided statements to the
10 police, whether they be oral or written. Now, Nate
11 couldn't see anything because he was facing away from the
12 church and that makes sense because he testified that he
13 ducked down in his car. Okay. But he corroborates
14 Tiffany and Jeantavienne's testimony in that he sees him
15 walking towards the church, he grew up with the guy, says,
16 what's up. He was there. Benjamin Blake was there.
17 Now, let's talk about what Nate says. And, actually, I'm
18 going to grab the photo that Mr. Plexico had Tiffany mark
19 on because this is the version of events that you guys
20 need to pay attention to and ask yourselves, is this
21 believable, does this make sense, has her story changed.
22 All right. So just to get your bearings, this is a little
23 bit of a different view than the picture marked up. But
24 this is Tiffany's apartment right here, Canal Street
25 Bridge, mark the bridge, is up here. And Nate was parked

1 about right here. This is the church. The shell casing
2 was found in that area. And what Tiffany says is she sees
3 Benjamin Blake up by the bridge. Okay. And everyone
4 testified that this is a well lit area. She sees him
5 walking from the direction of his father's house towards
6 the church. And remember, this is one-tenth of a mile,
7 okay, towards the church with two females. They walk by
8 the car, Nate looks up, says, what's up, Benjamin speaks
9 to him and they continue walking. Tiffany sees someone
10 that she recognizes as a Dobson, a member of the Dobson
11 family. All right. She eventually realizes it's
12 Jeantavienne. She sees him up here a ways. And then, she
13 hears a ruckus over in this area and tells Nate to turn
14 down the radio because she's concerned about what's going
15 on. Because, you know what, she knew there was strafe
16 between the Dobsons and Benjamin Blake. She knew there
17 was beef between them. She can hear some insults being
18 yelled and then shots rang out and the shooting is coming
19 from this direction. And guess who is running in this
20 direction. Jeantavienne. And he runs straight to Tiffany
21 and scoops her up and sticks around for police to be
22 called and give a statement. Meanwhile, who knows where
23 Benjamin Blake is. He probably did go back to his mama's
24 house after he shot at Jeantavienne because he knew police
25 were going to be going to his daddy's house right around

1 the corner and that's exactly where they went when they
2 got the name of their suspect. Do their stories make
3 sense together. Yes, they do. Did they sound rehearsed.
4 No. And if you think I could get any of those witnesses
5 on the stand to say anything that I wanted them to say,
6 then you'd be crazy. Particularly, not Jeantavienne. We
7 have eyewitness testimony that Benjamin Blake was shooting
8 a gun. Both Tiffany saw him shooting at Jeantavienne and
9 Jeantavienne sees him pull the gun out and begin shooting
10 at him. Tiffany sees Jeantavienne zig-zagging down the
11 street. Now when Jeantavienne and Benjamin Blake are
12 arguing, he's certainly close enough to see him pull out a
13 gun and Blake is shooting him, basically, at close range
14 and he keeps shooting because he keeps missing. As soon
15 as he got on the stand, he said, he was shooting, he was
16 shooting at me, he was shooting like seven times, he was
17 shooting at me and he hit Tiffany. I mean, I barely got a
18 chance to ask him anything. Now, did he want to give me
19 any details. No. Because he doesn't want to be a snitch.
20 He doesn't want to testify against the man that tried to
21 kill him. He's scared. When you map it all out, the
22 details from their testimony make sense. And please
23 retain your common sense when you're talking about what
24 the truth is in this case. Our burden is to leave you
25 firmly convinced of Benjamin Blake's guilt. The Judge is

1 going to tell you and she's going to define reasonable
2 doubt for you and you follow the law that she gives you.
3 But nothing in life is certain, nothing in life is
4 one-hundred percent and the State is not held to that
5 standard. Your doubt must be reasonable. Use your common
6 sense. What makes sense, are you firmly convinced. If
7 you believe my witnesses, you are firmly convinced. And I
8 say my witnesses. They're not mine. They're the State's
9 witnesses and the witnesses that were there the night that
10 Benjamin Blake unloaded a gun in the projects. All right.
11 Let's not forget that Benjamin Blake had a motive for this
12 shooting. He believed that Chabby, Jeantavienne Dobson,
13 had shot at him in April of 2015, the same year, just, you
14 know, several months before. And Investigator Thomas just
15 told you that he said, no, you know what, don't worry
16 about it, I'm going to handle this situation myself.
17 Well, this is exactly how he handled it. Tiffany, Nate
18 and Jeantavienne did not get their stories straight.
19 Nobody testified to the exact same thing. They called
20 Benjamin Blake's name in 2015 and they called it in this
21 courtroom yesterday. They told police then, they came to
22 take the stand and face the man who was shooting at them.
23 Now, let's talk about the alibi. What can I say about
24 this alibi defense. Well, it's the first anyone's heard
25 of it and it's about three years late and a dollar short.

1 Not to mention all of the alibi witnesses having fights.
2 It's his mama, it's his girlfriend, it's the family friend
3 who won't admit she's a cousin even though his mama said,
4 yeah, she's a, she's a cousin of ours. They've had three
5 years to come up with this story and believe you me, they
6 have been talking to Benjamin Blake about this incident.
7 They've talked about it with each other. They've talked
8 about it with him. Now, let's consider the fact that they
9 might not be completely flat-out lying. These folks may
10 not want to believe that their son or their boyfriend or
11 their close family friend is capable of this evil,
12 reckless behavior. Benjamin Blake, like I said, probably
13 did flee to his mama's house after the shooting. They
14 could be an hour off on their time because they certainly
15 didn't remember any other details from the other things
16 that happened in 2015, much less earlier that day. But
17 somehow, they're very clear on the timeline of that night.
18 No, I know for a fact that he wasn't around the apartments
19 come 11:00 because he was here, conveniently, an hour
20 earlier, just one hour earlier. But right before then he
21 was over at his daddy's. And actually, he was hanging out
22 over on the Canal Street Bridge just like Tiffany told you
23 with two females that I'm sure his girlfriend, Monica,
24 didn't know anything about. There is no way that these
25 witnesses can tell you Benjamin's exact location on the

1 exact date on the exact time three years later. His mama
2 didn't even remember if he went to the hospital that day
3 and if he was that sick, he would have told his mommy
4 about that. He was so ill that he had to go straight to
5 his room, or was he hiding something. He even told you
6 when he was on the stand, in response to one of my
7 questions, I don't know, that was three years ago.
8 Exactly. And his witnesses don't know either. They're
9 either lying or they have a selective memory. Benjamin
10 and his lawyer tried to lead you to believe that he and
11 Jeantavienne's issues arose from a baby that didn't exist
12 until two years later. So who's stretching the truth,
13 who's not to be believed? He also didn't want to admit
14 that, well, I think I covered this, but that he did use
15 his dad's address. He wouldn't acknowledge that until I
16 showed him the paper he wrote it on just months before
17 this shooting occurred. You get to judge his credibility,
18 the bias of those witnesses and his lies. He very well
19 may have been hopped up on prescription pain kills when he
20 committed this shooting. When he went crazy because he
21 got thrown an insult by some young buck on the street.
22 Maybe he didn't lie about everything. All right. Moving
23 onto intent. So once you decide Benjamin Blake is the
24 shooter, let's talk about his intent. I told you that
25 this State bears the burden of proof. I have to prove

1 that we have got the right guy, that we have and we can
2 prove what we have indicted him for. To find Benjamin
3 Blake guilty of attempted murder you must determine that
4 he attempted to kill another person with a specific intent
5 to do so. Now, we can't crawl into a defendant's mind and
6 know exactly what he was thinking. So you'll look at
7 everything. All right. We know that he said he was going
8 to take care of it himself, we know that there was
9 animosity between the parties, okay, between he and
10 Jeantavienne. We know there was a verbal altercation that
11 turned violent when Benjamin Blake whipped out his gun and
12 shot at least six times at a human being. There is no
13 other reason you shoot a gun at someone six times unless
14 you want to kill them. He is a poor shot. He kept
15 missing. Maybe he didn't wear his glasses on the street
16 that day. I don't know. How did the attack go down.
17 Well, he went crazy when he was insulted by the
18 18-year-old whose sister he dates. He was going to teach
19 this kid a lesson that he would never forget. But Tiffany
20 got caught in the cross fire, which brings me to my next
21 point. His intent to kill Jeantavienne is transferred to
22 Tiffany when she is hit with that bullet because he didn't
23 care what lay beyond his target. He doesn't get off the
24 hook because he's a bad shot. He is responsible for
25 shooting Tiffany and her baby. Now, don't get me wrong,

1 Jeantavienne shouldn't have poked the bear. Okay. I
2 mean, there was this on-going, you know, beef, beef, beef,
3 but he certainly didn't almost deserve to die for it. And
4 I told you, if you don't like Jeantavienne, that's one
5 thing, but you must follow the law and don't take it out
6 on Tiffany or her baby. She was just trying to satisfy
7 that pregnancy craving for Chinese food and she was
8 standing out there, her kids inside, and everyone's lives
9 were at risk in those apartments. You remember the 911
10 phone calls from everyone that called in after hearing
11 gunshots. I mean, this community deserves better. They
12 don't deserve to be calling 911 because bullets are flying
13 through the apartments at 11:00 o'clock on a Saturday
14 night. I also want to remind you not to let the Defense
15 confuse you because this is not that complicated of a case
16 and it's has been a short one and we have moved through
17 quickly. But I know you guys have been paying great
18 attention. Keep your common sense about you. It is time
19 for you to determine the truth and administer justice.
20 I'm going to get a brief chance to talk to you again after
21 Mr. Plexico's arguments, but I'm only going to be able to
22 talk about anything that he brings up that I haven't
23 already touched on. So I'm going to leave you with that
24 and I'll speak to you again in a few minutes.

25 MR. PLEXICO: Your Honor, Mr. Foreman and Madame

1 Solicitor, if we can move that. All the evidence is in.
2 Remember, this is my client's only day in court. All
3 right. He has some extremely serious charges. Think
4 about burns, first degree, that's a serious burn.

5 THE COURT: Mr. Plexico, let me just remind you to
6 speak up just a little bit for us, please.

7 MR. PLEXICO: I'm trying to stand beside the Court
8 Reporter, Judge.

9 THE COURT: Thank you.

10 MR. PLEXICO: Okay.

11 THE COURT: Just a little louder.

12 MR. PLEXICO: All right. Now, think about burns,
13 first degree is something that's serious. Now, when you
14 have choices to make and you're looking at all of the
15 evidence, the evidence is what's important. Now, I have a
16 lot of problems with what's going on here and the evidence
17 that we have. What is so confusing and I think I
18 understand what I believe happened. Now, remember the
19 callers. The callers called up and said, and they don't
20 have anything to do with this and we don't know who they
21 are. They said there were three or four shots. Okay.
22 What did Nathan say, Nathan Williams, who was in the car.
23 Pow, pow, checked Tiffany, pow, pow. The shots were fired
24 in such rapid fashion. Okay. It confused people as to
25 how many shots there were. When you convince, that's the

1 only explanation for the witnesses the State brought in
2 and the independent witnesses who just called in who don't
3 have a, you know, a clue. They're just reporting what
4 they heard and they ought to have no reason to misreport
5 that. That gives great credibility to what they're
6 saying. So they have no interest. So when you look at
7 the timeframe for the popping off of those shots, I mean,
8 I don't know how many people here, we do have the Second
9 Amendment and a lot of people own guns and a lot of people
10 are out target practicing. Generally, people know what a
11 semi-automatic is. Boom, boom, boom, boom, boom. As
12 quick as you can that finger, off a shell pops out. Now,
13 a bullet goes out and a shell pops out. All right.
14 That's a brief period of time and what's confused me most
15 about this, if Tiffany's looking towards the bridge and
16 here's the road over here, and she's leaning in the car
17 and there's boom, boom, boom, boom, boom. All right. In
18 a couple of seconds, she's supposed to lean up and see
19 somebody running back and forth. You can't, it can't
20 happen in that time span. So when you're injured and
21 you're hurt, how do you form a memory. Think about what's
22 going, you're looking for an explanation of why you're
23 hurt. The man said she was confused about her injury to
24 start with. Now, what's happening. This is the crux of
25 the case, I think. Jeantavienne Dobson runs up to her.

1 He's the one that pollutes the memory process. Is he
2 talking about my client. Now, if that's where they're
3 basing that memory on, that's very troubling. Why? You
4 heard his testimony and his testimony, if you can't
5 believe part of it should you believe the rest of it.
6 Now, if you can't believe his testimony that means you
7 don't get great credibility, you don't give credit. What
8 does that leave as far as the identification of the
9 shooter in this case. Boom, boom, boom, boom, boom.
10 Seconds, two seconds, three seconds and somebody's
11 supposed to get up and look around and all of this and
12 there is somebody running down there. Now, I don't how
13 many people who love football in here. I'm embarrassed to
14 say my big sister was a better football player than I ever
15 was. All right. She's a big, big, Irish girl. Okay.
16 All right. But anyway, I think we all know about
17 football. You know, male and female. All right. If
18 you're looking at one-hundred yards down that field when
19 you're starting off and you want to get it down there.
20 You want to get that ball down there and make that score.
21 Okay. Now, what's a tenth of a mile, what's a mile,
22 common sense, 5,280 feet, 5,280 feet. Now, what's a tenth
23 of a mile, 528 feet. What's a football field, one-hundred
24 yards and a yard is three feet. That's 300 feet. So that
25 300 feet, one and three quarters of a football field.

1 Now, that's the, now this car, has nothing to do with it.
2 The car here, look at what's in evidence. All right.
3 Now, you have a light up here, okay. If someone's
4 standing over here and here's a tree. A person standing
5 here couldn't see him. If the light's over there it's
6 going to cast a shadow this way but it's going to block
7 the light. Why is that. Common sense. That's the nature
8 of shadows. Okay. You can't see because the light is
9 blocked. Now, this is not daytime. So if you're looking
10 one and three quarters football fields away at night and
11 you're supposedly, the tree's here and remember, she's
12 talking about the light is on, tree, tree, tree. She's
13 looking this way. So if you're standing there and you are
14 looking down here and you have different levels of light
15 here, here because of the trees here and here and you are
16 trying to focus down there those different levels of light
17 is going to prevent you from focusing that, use your
18 common sense, that quickly, boom, boom, boom, boom, boom,
19 boom. In seconds, you're supposed to lean up, get
20 oriented and look around, the opportunity has passed.
21 It's not credible. There is a real possibility that this
22 lady simply didn't see what she thinks she saw. But she
23 is certain my client shot at them because of an
24 untrustworthy witness has testified to and told her that
25 night. What in the world is Dobson up to, Jeantavienne or

1 however you pronounce his name. What was he really up to.
2 And a man like that, how many enemies does he have. And,
3 of course, he told you he's never handled a weapon. All
4 right. Is anything believable, did he shoot and
5 accidentally shoot his sister. And what's this about my
6 client and two women. Now, you're on foot over at the
7 apartments in Estill. Estill is not New York City. You
8 don't walk in Estill if you don't live in Estill. You
9 have a car. If you're walking around Estill, you are a
10 part of the community, I would submit, common sense. And
11 jurors, that's what you use. That means it would have
12 been two local girls, nobody knows. And here's what's
13 important about the girls. If Ms. Lakes attentive, okay,
14 where did they go, they disappeared. Did you all notice
15 that, they disappeared. So there are other people who are
16 down there who are not seen. Did they have a gun, did
17 they have a problem with Mr. Dobson, the Dobson brother, I
18 don't know. Where did they go, were they even there. Did
19 they see somebody walking and they assumed that was him
20 and they put the pieces together. Whatever problems he's
21 had before, he is running around with the girl making
22 babies and that might get little brother upset. Things
23 like that happen. I mean, you are not going to be dating
24 a girl that is--

25 THE COURT: I'm having trouble hearing you.

1 MR. PLEXICO: That's simply not going to work. All
2 right. That's not practical. All right. So when you put
3 it together, what's the opportunity of observation. You
4 have to have an identity that you trust and an eye witness
5 that's identifying my client as the shooter. Okay. First
6 of all, if that comes, you've failed in your duties
7 obviously. Because he came in here and said two lines
8 because I was smart enough to retain and I'm just being
9 honest because you had an opportunity to observe him too.
10 Okay. And then he completely faked out about it and then
11 he changed his story. After he got done with the reverse
12 part that he was supposed to come in here and blurt out
13 and get out. Because he couldn't hold the lie together
14 and what does he say. He didn't see my client with a gun,
15 he didn't see my client shoot him. What's he hiding. I
16 mean, what's really going on with him, I don't know. But
17 you can only convict with credible evidence and he's not
18 credible. So if you take him out and you know he's not
19 telling the truth about something so how can you trust
20 anything. You can't take away a man's freedom based on
21 that. So what's left. Somebody who says they observed my
22 client, they were in the dark in varying light at night.
23 One and three quarters football fields away and couldn't
24 recognize her own brother who was even closer, her own
25 brother. So how did that come about. She may feel that

1 way, but she feels that way based on what the brother
2 said. Not on the truthfulness, but what the brother said,
3 what the brother said. If she didn't see anybody else
4 then she didn't see that. You know, I have great sympathy
5 for the lady and I'm glad she's here with us and the baby
6 is fine. You know, it's a sad event but there is just no
7 way that they are going to be pointed this way and focused
8 this way and quickly turn around or reorient and see
9 what's going on. This isn't like daylight, this is
10 entirely different, it's entirely different. That's just
11 not, it's not credible. And remember, the State has to
12 prove every element beyond a reasonable doubt. Now, the
13 State seemed to make light of sickle cell anemia, a lot of
14 people, you know, a lot of people, they don't understand.
15 Those are very painful, painful. There is no true cure
16 for that. That is a debilitating disease and to be
17 treated for it and to be mocked in the courtroom for your
18 treatment, okay, I don't think is a very nice thing to do.
19 You know, this is a serious disease. It takes the punch
20 out of your life. You want to go lay down. Are you going
21 to go hanging out at the bridge when you had a sickle cell
22 attack, okay, does that make any sense. No. You're going
23 to go lay down. So when you look at what my client was
24 saying when everybody backed up and there's no reason not
25 to believe him, there's no reason not to believe him. But

1 those ladies got up here and said, they even mocked the
2 grandmother, okay, the grandmother, Rita Mae Dobson for
3 being such an honest woman that she was not going to lie
4 to you and say her son had been at the hospital earlier
5 because she wasn't there with him. She may have believed
6 it, but because of her obvious degree of honesty when she
7 was on that stand, she wasn't going to come anywhere and
8 tell you a lie but she got mocked for it. Trustworthy,
9 trustworthy. It's what you need to rely on and if you
10 look at the credibility of the people who testified in my
11 client's defense, which puts him completely out of that
12 area at the time of the crime and when you look at the
13 credibility of the State's witnesses, and they are only
14 relying on two witnesses to say that he's shooting, two
15 witnesses. And I don't quite get, I just don't see how he
16 can put it together. And, you know, something else, is
17 how close attention were they paying. That would be Ms.
18 Tiffany Lakes and Nathan Williams, when they were saying
19 that they heard, pow, pow, pow. It was that fast. Pow,
20 pow, not pow, pow, pow, pow. Okay. It was that fast of
21 an incident and all of this was supposed to happen in that
22 point of time. But Nathan Williams said something really
23 interesting. If you're hearing gunfire nearby, what do
24 you do, you get out. That's a human reaction, you are
25 getting out. And to believe that Tiffany hopped up and

1 she was looking around. No. She hears pow, pow and she
2 has got pain and she is going down. That's where the
3 focus is, what just hit me. Think about it. She is not
4 getting up on her own, that is not natural human behavior
5 and if it doesn't have credibility, it doesn't have
6 credibility. And like I'm saying, if there's no credible
7 witness saying my client fired the shots, even Ms. Lakes,
8 she talked about in her statement the other suspect and we
9 know they were the two girls. All right. Dobson claims
10 to have been down there. So we don't know who else was
11 there and we don't know who was shooting. We don't know
12 if Dobson was shooting. We know he can carry a gun, but
13 we don't know if he was shooting even though he denies it,
14 which is another reason not to believe his testimony. And
15 remember, there's apparently still a lot of gun crime in
16 Estill, because my client took quite a while to get out,
17 get out on bond and we all know what is going on in
18 Estill, we have newspapers and we listen to the radio.
19 You know, we get crime reports, we talk to our neighbors.
20 Okay. There is still a lot of gun crime in Estill. That
21 is just common knowledge that everybody in this community
22 knows. It is well known in that area. Use your common
23 sense. You know, just thank you for your patience here.
24 I have actually a lot to talk about. You know, you look
25 at that distance and you look at, if she could see my

1 client, why she didn't see anybody else over there. And
2 that just tells you there were problems with the lights
3 and the lights got improved afterwards. Unfortunately,
4 apparently after some more problems but we aren't here for
5 that. Something they can't blame my client on, he was in
6 jail and he didn't get bonded until May. I am not proud
7 of that, I am sorry about that. There's a lot of
8 discussions about changing the bond system, but that's not
9 anything that we're concerned about today. Now, I talked
10 about Estill being a small town. You know, the girls just
11 dissipate, that's so odd that somebody's walking and
12 nobody knows who they are if they saw them. Then, if they
13 saw three people, did they make a mistake, is that
14 possible. Now, remember, Ms. Tiffany is having sex with
15 the guy and he is bringing over free food for her and her
16 kids. Okay. They have got a hot thing going on. He
17 can't take her to a Chinese restaurant because that is
18 local over there--

19 THE COURT: Mr. Plexico, there's no way in the world
20 she can take down --

21 MR. PLEXICO: Okay. All right.

22 THE COURT: If you can slow down a little bit. There
23 you go.

24 MR. PLEXICO: Let's look at Ms. Tiffany. She's
25 having sex with Mr. Nathan and she's paying attention to

1 him and he's bringing her Chinese food, he can't take her
2 out to the Chinese restaurant and he can't be seen in
3 public because he has got a wife or a girlfriend. Okay.
4 Now, she's focused on him because he has done a lot for
5 her and he is focused on her. So if you look at where the
6 focus is that night and her point of attention is, it's on
7 that man. If you look around there, it's not big, it
8 doesn't look like there's a lot of traffic and I don't
9 think anybody lives over by the canal. You know, the
10 opportunity for observation and you have to have
11 credibility and accuracy when you're identifying somebody.
12 Nathan never testified that there was, he had his car
13 lights on, okay, that is going to enlarge or decrease the
14 size of your, your filtering light when you look into
15 lights so it is smaller. And when you look into the
16 darkness, it has to have time to adjust and open up. And
17 you can't do that in a second and a half or a second.
18 Just think about your and just think about your normal
19 body function. Now, look at the police work. There's no
20 DNA, there is no fingerprints, there's no DNA to report,
21 there's really no nothing. There's no gun. I mean, they
22 have to prove more than that Ms. Tiffany was shot. And I
23 have talked about the alibi, they have to disprove the
24 alibi. And I don't quite see how that can be done
25 because, you know, the credible witnesses come in here and

1 tell you a very believable story where there aren't any
2 questions about it. You know, they want to blame my
3 client for not bringing his medical records. Sickle cell,
4 you know, when you have sickle cell everybody knows it.
5 That is a sad thing, people know when you are suffering.
6 But, you know, is what she is saying that he didn't have
7 it. I am kind of confused about that. Now, you know,
8 like I said, when you look at the evidence, you know, it
9 is, you know, she couldn't recognize her own brother in
10 that light. It took her a while for her to recognize her
11 brother. When you look at that, there's no way she could
12 have recognized anybody else reliably. When you look at
13 that distance and you look at the tiny timeframe that the
14 opportunity for observation is what they are calling it.
15 Somebody flickers by and you're not looking at them for an
16 hour, that is entirely different. There's also no proof
17 my client ever owned a gun, that he ever carried a gun or
18 he ever had a gun, there's no proof, there's nothing,
19 absolutely nothing. And remember, I told you at the start
20 with, this is about facts, fairness and presumption
21 fantasies and those are important concepts that we have.
22 I'm going to talk to you a little bit more before I
23 address the law. And remember, you have Bryan Thorpe, the
24 officer, he drove by. He was right there. He didn't see
25 any girls. He didn't see any girls going there or

1 anywhere else. This is a high crime area. I think I've
2 pretty much addressed that and that's what the officer
3 testified to. That means there's a lot of people doing a
4 lot of shady things. That's just a bad area. Sad, but
5 it's just what officers experience has told you. And I
6 still don't get quite the idea of, I mean, Mr. Dobson
7 didn't even know where my client was living at the time.
8 I mean, we didn't really get too much out of him when he
9 testified. But, I mean, who is going to go spend the ten
10 bucks to get their license changed. You are not ashamed
11 of it, you are not embarrassed about it. And what is this
12 thing about not hanging out with your family and your
13 friends. I mean, who in the world are you supposed to
14 hang out with. And this idea of, well, Tanisha or
15 Ta'Masia. I'm sorry, Ms. Robins, if I didn't get your
16 name right, okay, who is my cousin. That's how the logic
17 tests is here to see what we have learned on the family
18 tree. That would be dad's brother's child is my cousin.
19 Okay. Grandmama's niece is not my cousin. Grandmama's
20 sister's niece is not my cousin. That's not the way
21 cousins work. My dad's sister's child is my cousin. All
22 right. My mom's sister's child is my cousin. My mom's
23 grandma's sister's niece is not my cousin. All right.
24 That's not the way, that's how family trees work.
25 Grandma, ma, pa, grandma, grandad, you've got aunt, uncle,

1 then you have cousins. Okay. This is how the family tree
2 works. Okay. So to try to discredit when it's obvious
3 because that's what you are, you are freinds, you don't
4 give them free babysitting and hair services and you don't
5 go cut their grass for free. You might do that for your
6 niece or nephew, you might do that for your aunt, uncle,
7 grandma or grandpa. But you don't do that for, you know,
8 there is a line drawn. So it is not a family
9 relationship. That was an idea to discredit her
10 especially somebody who is concerned about disease and
11 wants to improve it. You know, wants to get an education
12 and teach kids. There is nothing wrong with that. You
13 can't discredit that. That's something that you ought to
14 be proud of in our community. Now, how do you
15 cross-examine somebody who says they can't remember what
16 they say. And remember, my client has, you know, a great
17 tool in criminal justice. In a trial, it's your client's
18 right to cross-examine his accusers. It's enshrined in
19 the State and Federal Constitution. Okay. It wasn't fair
20 to my client. It's not fair to, it wasn't to my client if
21 he can't cross-examine him and ask him questions about it.
22 I don't remember, I just remember he's a bad guy. That
23 doesn't make sense, you can't fix that, I can't fix it,
24 the lawyer can't fix it, the system allows it.

25 MS. SWANSON: Your Honor, I'm going to object. The

1 Defense just has the right for cross-examination, not
2 meaningful. And so, that's just quite a misstatement of
3 the law but he obviously did get his chance.

4 MR. PLEXICO: I think, I object to that. That's just
5 absurd.

6 THE COURT: You can continue.

7 MR. PLEXICO: Okay. Well, your rights aren't
8 meaningful to the State's prosecutor's office. You've got
9 a right but it doesn't have to be meaningful. Your rights
10 don't have to mean anything. We have got it, but it can
11 be pointless.

12 THE COURT: Mr. Plexico, move on please, with your
13 closing.

14 MR. PLEXICO: Well, remember, you keep those pictures
15 in mind. And we're talking about a lady who concentrated
16 on the opposite side of the road paying attention to her
17 boyfriend and hears shots in a very brief, brief period of
18 time. Remember, she says could hear arguing, but she
19 couldn't hear what was, she didn't, couldn't hear who it
20 was, didn't know who it was and couldn't recognize her own
21 brother. A few concepts here. I think the Defendant's
22 entitled to any benefit of any reasonable doubt that you
23 have. If you have a reasonable doubt, and he's got
24 several charges, but if you do decide what you all were, I
25 don't think it's proper, but if you did decide he was

1 guilty of something then what is he guilty of. You have
2 choices from, to murder, which they have to show expressed
3 malice. Expressed malice, if you intend to do that.

4 That's intent, that's specific intent on the part of the
5 Defendant. Now, assault and battery first is when you
6 could cause an injury that is a serious injury. So if
7 there's no intent, then what type of assault is it. If
8 there's no injury and there's no intent, then it's not a
9 crime at all. The other choices you'll have is assault
10 and battery first and assault and battery first is an
11 assault and battery or an attempt to cause an assault and
12 battery where the results could be more serious. So all
13 the crimes alleged would meet that definition. So the
14 State, I assume, would want you to agree with attempted
15 murder and assault and battery of a high and aggravated
16 nature. The reasonable choice would be called, they are
17 the same thing. Listen to the charge of the Judge.

18 Assault and battery first, you can have a serious bodily
19 injury and that would fit the crime, if the results of the
20 actions did or could have had serious bodily injury. Then
21 that fits the crime that is accused. And he would be
22 entitled to that, not just some greater charge. When the
23 facts lead you to that conclusion, if you've found him
24 guilty of anything, which I just, I just don't see the
25 credible evidence to do that. Remember, the Judge is

1 going to tell you that the State has the burden to prove
2 the Defendant guilty beyond a reasonable doubt. That's
3 the State's burden. We don't have anything to prove. We
4 have offered an alibi defense which is completely
5 reasonable, which is completely believable, witnesses that
6 you could not shake their credibility. Okay. Now, she
7 put up two fact witnesses to say my client was shooting.
8 One was Jeantavienne Dobson, and nobody would trust
9 anything that they said. You wouldn't put your stake in a
10 certain event in your life on his credibility and the
11 answer should be no. No. My decisions and my life are
12 too important. You can't base his life on Jeantavienne,
13 Jeantavienne Dobson's credibility. It wouldn't be fair if
14 you wouldn't do it to yourself or somebody else or you
15 would say someone else shouldn't do it. Based on what you
16 have heard but I wouldn't believe half of what he said.
17 The Solicitor will ask you to pick and choose. Only pick
18 the parts to believe that convict the Defendant, that is a
19 bit unfair. Okay. So in other words, credible or not,
20 y'all engage that. You can believe some, you can believe
21 a lot, you can believe a little or you can believe none.
22 That is y'all's rights as jurors. If somebody is that off
23 the wall, you can't, I submit to you that you can't
24 reasonably believe anything he says. And remember, the
25 gunshots were fired so fast, everybody in the community

1 thought it was a couple of shots and not six. That tells
2 you how quickly the response time was that she had. She
3 didn't have time to go see all of this stuff that she
4 said. It's just not there. That was created in her mind
5 to explain what happened to her, and who did that,
6 Jeantavienne. What he was saying goes to her and then out
7 to you. It looks like two witnesses but that is the lie,
8 it is only one. Because you can't see a quarter, one and
9 three quarter of a football field at night, obstructed
10 with lights, obstructed by trees. And this isn't a
11 football field lighting situation. You drive by the high
12 school, okay, wow, you know. You can see what's going on
13 because they've got how many lights up there. Just think
14 about it when you go to the games. In other words, if
15 they didn't have all of those lights up there that field
16 would not be lit up. That's what good lighting is. This
17 is poor lighting. This is nighttime. This isn't God's
18 lighting. Okay, this isn't daytime. I think I've covered
19 about everything. Now, this is you all's decision. I'm
20 asking you to weigh everything out. When you go back
21 there and you decide, your duty is to, did the State prove
22 he's guilty beyond a reasonable doubt. They want me to
23 rely on this piece of evidence. Is this credible, can I
24 trust this. You know, we're talking about taking a man's
25 freedom here. This is some serious stuff. All right.

1 Now, there is no problem with yes. She was hit. No issue
2 with that. But not just anybody needs to be punished. So
3 this idea about we're here for the community or anything
4 like that, no. You're here to decide if the State in this
5 one case has proven what they've done. Don't let anybody
6 appeal to your emotions in a subtle way. Okay. Because
7 this is about logic and fact and what's real. Okay. And
8 if you can't go in there and do that, examine your souls
9 and find the strength to do that. If you go in there and
10 think about this, you all talk about it and think about
11 his alibi defense and you go, there's a real possibility
12 that that's true and that he didn't do it, you've got to
13 set him free. If you go in there and you say, he was
14 there, but I don't believe anything that Dobson says and I
15 don't think she had the opportunity to make an observation
16 that I can take away a man's freedom and say she could
17 identify somebody one and three quarters football fields
18 away at night. I can't do that to somebody. I mean, it
19 would be difficult in these circumstances to find Mr.
20 Blake guilty. I'm troubled by the whole presentation and
21 this is years later. And, you know, they've mocked him
22 for, this is years later. Don't blame us for being human.
23 That's what God made us. I'm sure that there's a lot more
24 I could say, but I've probably talked to you too long.
25 I'm just asking you to examine your conscience and do

1 what's right here. When the evidence is weak, bring back
2 a verdict of not guilty. And remember, it's about
3 fairness, it's about the facts, it's about presumption of
4 innocence. And that's the majority of your Senator Glenn
5 McConnell, he is a retired Judge, he's a former Judge.
6 Thank you.

7 THE COURT: Ms. Swanson.

8 MS. SWANSON: Thank you, Your Honor. All right. I
9 mean, I'm having a little trouble responding to a lot of
10 what Mr. Plexico said because it was a little confusing to
11 me and you should be confused by it as well. But I want
12 to remind you that your verdict has to be based on the
13 evidence in the record, not just things or ideas or, that
14 Mr. Plexico brought up in his closing. It has to be based
15 on witness testimony. And if you are confused about
16 anything that witness has said, don't take our word for
17 it. This is a court of record, you can re-hear testimony,
18 if your collective minds don't agree on what was said.
19 Okay. There is absolutely no evidence in the record that
20 Tiffany's memory is based on some made up story by
21 Jeantavienne. There is no evidence in the record of bias
22 by Tiffany, Nate or Jeantavienne. No evidence that
23 Tiffany would lie for any reason, nor Nate, nor
24 Jeantavienne. Jeantavienne, yes. He told you at first,
25 he told you at the beginning of the trial, problem witness

1 for me, because he didn't want to be here. He was scared
2 that night and he was scared here on the stand. You heard
3 him in that 911 call, running up, call my brother, call my
4 brother. When Nate called the police, you can hear him in
5 the background. Mr. Plexico wanted to spend a lot of time
6 talking about the tenth of a mile. But really, when you
7 look at the maps and you look at the aerials, it's about
8 two blocks and we're talking about a wide street. There
9 are not a bunch of trees covering and what Mr. Plexico is
10 neglecting to acknowledge is that Nate and Tiffany watched
11 him from the bridge by Canal Street walk all the way,
12 passed directly beside the car and passed to the church.
13 They watched him and they knew who he was. By the way, I
14 thought he wasn't there. I thought he was at his mama's
15 house. There's simply no corroborating evidence that
16 Benjamin Blake was at the hospital. I'm not trying to
17 mock the guy. But you know what, that's called
18 impeachment and loitering. That's poking holes in the
19 shoddy alibi that the Defense presented. Mr. Plexico told
20 you that sickle cell takes the punch out of your life.
21 Well, maybe that's why Benjamin Blake needed a gun. A
22 .380 auto. He spent a lot of time talking about gun
23 violence in Estill and that this is a high crime area.
24 Fairwood Apartments, always something going down there.
25 All right. Well, does that what, does that make what

1 happened to Tiffany okay. No. I mean, if anything, it
2 means that we need to hold the people accountable for this
3 gun violence.

4 MR. PLEXICO: Your Honor, I believe that's an
5 improper argument that is appealing to the conscience and
6 emotions. And the only reason we're here today is for the
7 State to carry their burden of my client.

8 THE COURT: That's sustained.

9 MS. SWANSON: Your Honor, it is directly in response
10 to his closing.

11 THE COURT: Just not an appeal to the community at
12 large. Thank you.

13 MS. SWANSON: Okay. Benjamin Blake was a player in
14 that gun violence and he needs to be held accountable for
15 what he did the night of November 7th of 2015 and I'm
16 asking you to find him guilty on all three counts of
17 attempted murder and possession of a weapon during a
18 violent crime. Thank you.

19 THE COURT: Thank you. Okay. Ladies and gentlemen,
20 you have heard all of the testimony and the evidence in
21 this case. I want to thank you for your punctuality and
22 for your attention during the course of the trial. It's
23 now my duty to instruct you on the law that applies. The
24 Defendant is charged with possession of a weapon during
25 the commission of a violent crime and with three counts of

1 attempted murder. I remind you that the fact that the
2 Defendant was arrested, charged and indicted in this case,
3 in this case is not evidence and cannot be considered by
4 you as evidence of guilt in this case, nor does it create
5 any presumption of guilt. The Defendant has plead not
6 guilty to this indictment and that plea puts the burden on
7 the State to prove the Defendant guilty. A person charged
8 with committing a criminal offense in South Carolina is
9 never required to prove himself innocent. It is an
10 important rule of the law that the Defendant in a criminal
11 trial, no matter what the seriousness of the charge may
12 be, is always presumed to be innocent of the crime for
13 which the indictment was issued unless guilt has been
14 proven by evidence satisfying you of that guilt beyond a
15 reasonable doubt. This presumption of innocence does not
16 end when you begin your deliberations. It accompanies the
17 Defendant throughout the trial until and unless you reach
18 a verdict of guilt based on the evidence satisfying you of
19 that guilt beyond a reasonable doubt. The presumption of
20 innocence is not just a legal theory or a legal phrase
21 that we throw around. It is a substantial right to which
22 every defendant is entitled.

23 Now, what do we mean when we use the phrase,
24 reasonable doubt. Reasonable doubt is the kind of doubt
25 for which you can give a reason. It's also described as

1 the kind of doubt that would cause a reasonable person to
2 hesitate to act. Proof beyond a reasonable doubt is proof
3 that leaves you firmly convinced of the Defendant's guilt.
4 But there are very few things in this world that we can
5 know with absolute certainty. And in criminal cases the
6 law does not require proof that overcomes every possible
7 doubt. If based on your consideration of the evidence,
8 you are firmly convinced that the Defendant is guilty of
9 the crime charged then you must find him guilty. If, on
10 the other hand, you think there is a real possibility that
11 the Defendant is not guilty you must give the Defendant
12 the benefit of the doubt and find him not guilty.

13 I remind you that during this trial you and I have
14 certain duties to perform. As the trial Judge it's my
15 duty to preside over the trial and I have the duty to rule
16 on the admissibility of the evidence that's offered. You
17 are to consider only the competent evidence before you.
18 You are to consider only the testimony which has been
19 presented from this witness stand and any exhibits which
20 have been made a part of the record in this case. I have
21 the additional duty to charge you the law applicable to
22 this case. As the presiding Judge, I am the sole Judge of
23 the law of this case and it's your duty as jurors to
24 accept and apply the law as I now state it to you. If you
25 already had any ideas to what the law is or what the law

1 should be and it does not agree with what I now tell you,
2 you must abandon this previous idea because you're sworn
3 to accept the law and apply the law exactly as I state it
4 to you. In every case tried in this court before a jury,
5 the jury becomes the sole and exclusive judges of the
6 facts. A trial Judge cannot state, comment on or give you
7 any indication that I have any opinion about the facts
8 since you, the jury, are the sole judges of the facts in
9 this case. And you're not to infer from anything that
10 I've said during the progress of this trial in ruling upon
11 the admissibility of evidence or anything that I'm saying
12 now during the course of this instruction to you that I
13 have any opinion about the facts. The law does not allow
14 me to have an opinion about the facts in this case. This
15 is a matter solely for you, the jury, to determine. As
16 jurors, it's also your responsibility to determine the
17 effect, value, weight and truth of the evidence presented
18 during the trial.

19 There are two types of evidence, generally, during
20 the course of a trial, direct evidence and circumstantial
21 evidence. Direct evidence is the testimony of a person
22 who claims to have actual knowledge of a fact, such as an
23 eyewitness. Circumstantial evidence is proof of a chain
24 of facts and circumstances indicating the existence of a
25 fact. And the law makes absolutely no distinction between

1 the weight or value to be given to either direct or
2 circumstantial evidence. A greater degree of certainty is
3 not required in circumstantial evidence. You should weigh
4 all of the evidence in the case and after weighing all of
5 the evidence, if you are not convinced of the guilt of the
6 Defendant beyond a reasonable doubt, you must find the
7 Defendant not guilty.

8 Necessarily, you must determine the credibility of
9 the witnesses who have testified in this case and
10 credibility simply means believability. It becomes your
11 duty as jurors to analyze and evaluate the evidence and
12 determine which evidence convinces you of it's truth. In
13 determining the believability of the witnesses who have
14 testified, you may believe one witness over several or
15 several witnesses over one. You may believe a part of the
16 testimony of a witness and reject the remaining testimony
17 of the same witness. You may believe the testimony of a
18 witness in it's entirety or you may reject the testimony
19 of a witness in it's entirety. You can consider whether
20 any witness has exhibited to you any motive, any bias, and
21 prejudice, any interest in the case. You can also
22 consider the appearance and manner or demeanor of the
23 witness while they were on the witness stand.

24 The rules of evidence ordinarily do not permit
25 witnesses to testify to opinions or conclusions. But an

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

20 There has been evidence presented that witnesses may
21 have made prior statements which are not consistent with
22 the witness' present testimony. You may use this evidence
23 to decide whether to believe the witness. You may also
24 use evidence of the earlier contradictory statements to
25 determine the truth of those statements. It is up to you

1 to decide whether to believe the earlier statements or the
2 testimony given at trial. If a witness is shown to have
3 knowingly testified untruthfully considering, concerning
4 any material matter, you may consider this in determining
5 whether to trust the witness' testimony as to other
6 matters. You may reject all testimony of that witness or
7 give all or part of the testimony the weight you think it
8 deserves.

9 An issue in this case is the identification of the
10 Defendant as a person who committed the crime charged. The
11 State has the burden of proving identity beyond a
12 reasonable doubt. You must be satisfied beyond a
13 reasonable doubt that the accuracy of the identification
14 of the Defendant before you may convict the Defendant.
15 Identification testimony is an expression of belief or
16 impression by a witness. You must determine the accuracy
17 of the identification of the Defendant. You must consider
18 the believability of each identification witness in the
19 same way as any other witness. You may consider whether
20 the witness had an adequate opportunity to observe the
21 offender at the time of the offense. This will be
22 affected by things like how long or short of time was
23 available, how far or close the witness was, the lighting
24 conditions and whether the witness had the chance to see
25 or know the person in the past. Once again, I instruct

1 you the burden of proof on the State extends to every
2 element of the crime charged and this specifically
3 includes the burden of proving beyond a reasonable doubt
4 the identity of the Defendant as the person who committed
5 the crime. If, after examining the testimony, you have a
6 reasonable doubt as to the accuracy of the identification
7 you must find the Defendant not guilty.

8 The Defendant is charged with attempted murder. In
9 order to prove this crime the State must prove that the
10 Defendant, with the intent to kill, attempted to kill
11 another person with malice aforethought. Malice is
12 hatred, ill will or hostility towards another person.
13 It's the intentional doing of a wrongful act without just
14 cause or excuse and with an intent to injure another and
15 it indicates a wicked or depraved spirit intent on doing
16 wrong. Malice aforethought does not require that malice
17 exist for any particular time before the act is committed.
18 Malice must exist in the mind of the Defendant at the same
19 time as the act and cannot develop after the act occurred.
20 Therefore, there must be a combination of the previous
21 evil intent and the act.

22 Attempted murder can be committed only when the
23 Defendant, the Defendant's act or acts are accompanied by
24 expressed malice or malice-in-fact. Expressed malice is
25 the deliberate and specific intent of the Defendant to

1 unlawfully kill another with hatred, ill will or hostility
2 without just cause or excuse. It is the performance of an
3 act or acts which tend, but fail to kill a human being.

4 Specific intent means that the Defendant consciously
5 intended the completion of the killing of another but
6 failed to do so. In order to find the Defendant guilty of
7 the attempted murder of Jeantavienne Dobson you must find
8 beyond a reasonable doubt that the Defendant had the
9 specific intent to kill him but failed to do so.

10 As to the charges of attempted murder regarding the
11 victims, Tiffany Lakes and her then unborn child, you may
12 also consider the doctrine of transferred intent. Under
13 certain circumstances a Defendant's specific intent to
14 kill can be transferred from an intended victim to an
15 unintentional one. If the Defendant, with the specific
16 intent to kill, attempts to kill another person with
17 malice aforethought, but by a mistake, injures an
18 unintended person the Defendant's specific intent to kill
19 can be transferred to the unintended victim or victims.

20 If you, the jury, find that the State has proven beyond a
21 reasonable doubt that it was the Defendant's specific
22 intent to kill his intended target with expressed malice
23 but he injured an unintended victim instead then you must
24 find the Defendant guilty of attempted murder.

25 If you find that the State has failed to prove that

1 the Defendant is guilty of attempted murder, then as to
2 the victims, Tiffany Lakes and her unborn child, you must
3 then decide whether the State has proven that the
4 Defendant is guilty of the lesser included offense of
5 assault and battery of a high and aggravated nature. A
6 person commits the offense of assault and battery of a
7 high and aggravated nature if the person unlawfully
8 injures another person and great bodily injury to another
9 person results or the act is accomplished by means likely
10 to produce death or great bodily injury. Great bodily
11 injury means bodily injury which causes a substantial risk
12 of death or which causes serious permanent disfigurement
13 or contracted loss or impairment of the function of a
14 bodily member or organ.

15 If you find that the State has failed to prove that
16 the Defendant is guilty of assault and battery of a high
17 and aggravated nature you must then decide whether the
18 State has proved that the Defendant is guilty of the
19 lesser included offense of assault and battery first
20 degree. A person commits the offense of assault and
21 battery in the first degree if the person unlawfully
22 offers or attempts to injure another person with the
23 present ability to do so and the act is accomplished by
24 means likely to produce death or great bodily injury. And
25 again, great bodily injury means bodily injury which

1 causes a substantial risk of death or which causes serious
2 permanent disfigurement or protracted loss or impairment
3 of the function of a bodily member or organ.

4 Now, as to Jeantavienne Robin, Jeantavienne Dobson.
5 If you find that the State has failed to prove that the
6 Defendant is guilty of the attempted murder of
7 Jeantavienne Dobson then you must decide whether the State
8 has proved that the Defendant is guilty of the lesser
9 included offense of assault and battery in the first
10 degree.

11 Now, the Defendant is also charged with possession of
12 a weapon during the commission or attempt to commit a
13 violent crime. The State must prove beyond a reasonable
14 doubt that the Defendant was in possession of a firearm or
15 visibly displayed what appeared to be a firearm during the
16 commission of a violent crime. A firearm means any
17 machine gun, automatic rifle, revolver, pistol or any, any
18 weapon which will, is designed to or may be readily
19 converted to expel a projectile. In order to find the
20 Defendant guilty of possession of a weapon during the
21 commission of a violent crime, you must first find the
22 Defendant guilty of either committing a violent crime or
23 attempting to commit a violent crime. Attempted murder is
24 a violent crime as is assault and battery of a high and
25 aggravated nature and assault and battery in the first

1 degree. The State must prove beyond a reasonable doubt
2 that the weapon furthered, advanced or helped in the
3 commission of the crime.

4 The Defendant has raised the defense of an alibi. In
5 order to establish an alibi it must be shown that the
6 Defendant was at another specified place at the time the
7 crime was committed and that it was therefore impossible
8 for the Defendant to have been at the scene of the crime.
9 Mere denial of the presence at the scene of a crime does
10 not constitute an alibi. There is no burden on the
11 Defendant to prove an alibi. The burden is on the State
12 to prove beyond a reasonable doubt that the Defendant was
13 actually present at the scene of the crime, actually
14 participated in it and was not somewhere else. In other
15 words, the State has the burden of disproving the
16 Defendant's alibi defense.

17 Now, I'm going to send you back into the jury room
18 with all of the exhibits which have come into evidence and
19 with the verdict form, forms, I should say. You have four
20 verdict forms before you, because there are four charges
21 or four indictments against the Defendant. So let me go
22 through those with you and if you will just follow along
23 with the way they are set up they should be fairly
24 self-explanatory. The first charge is attempted murder
25 regarding the victim, Jeantavienne Dobson. And it states,

1 "As to the charge of attempted murder regarding the
2 victim, Jeantavienne Dobson, we, the jury, unanimously
3 find the Defendant," and there's a space for guilty or not
4 guilty. If you find the Defendant guilty then you would
5 stop your deliberations and there is a note here that
6 tells you to stop deliberations. If you find the
7 Defendant not guilty then you'll continue to question two.

8 Question two states, "As to the lesser offense of
9 assault and battery in the first degree, we, the jury,
10 unanimously find the Defendant," and you'll choose either
11 guilty or not guilty. There's no magic to which order we
12 have the guilty or not guilty. One's got to come first
13 and one's got to come second. And then, you'll sign, sir,
14 as the Foreperson once the jury has reached a unanimous
15 verdict.

16 As to the attempted murder of Tiffany Lakes. Again,
17 you've got, "As to the charge of attempted murder
18 regarding the victim, Tiffany Lakes, we, the jury, find
19 the Defendant," and you'll choose guilty or not guilty.
20 If you choose guilty, you will stop deliberating. If you
21 choose not guilty, you'll go to question two, which asks
22 you whether the, as to the lesser offense of assault and
23 battery of a high and aggravated nature, whether you find
24 the Defendant unanimously guilty or not guilty. If you
25 find guilty, you'll stop your deliberations. If you find

1 not guilty, you'll go to question three, which asks you
2 about assault and battery in the first degree. This exact
3 same verdict form is for the then unborn child of Tiffany
4 Lakes. You'll first deliberate as to the charge of
5 attempted murder. If you find the Defendant guilty of
6 attempted murder you'll stop your deliberations. If you
7 find him not guilty, you'll go to question two, which asks
8 you about assault and battery of a high and aggravated
9 nature. If you find him guilty, you will stop your
10 deliberations. If you find him not guilty, you'll
11 continue to the lesser charge of assault and battery in
12 the first degree and you'll make a decision of guilty or
13 not guilty.

14 If you have found the Defendant guilty of one of
15 these violent crimes then you will go onto whether or not
16 he was guilty of the offense of possession of a weapon
17 during the commission of a violent crime and you'll find
18 him either guilty or not guilty. Any additions or
19 exceptions before I dismiss the jury?

20 MS. SWANSON: None from the State, Your Honor.

21 MR. PLEXICO: None from the Defense, Your Honor.

22 THE COURT: Okay. Ladies and gentlemen, we're going
23 to excuse you back to the jury room. We have two
24 alternates. Any objection to my dismissing the alternate
25 jurors?

1 MS. SWANSON: None from the State.

2 THE COURT: Okay. I'm going to ask the two
3 alternates to please stay in the courtroom. The other
4 twelve, you can go on back to the jury room. We're going
5 to collect the exhibits. As soon as you have the exhibits
6 back in the jury room you can begin your deliberations.

7 (Whereupon, the jury was excused from open court at
8 approximately 3:29 p.m.)

9 THE COURT: Gentlemen who have served as alternate
10 jurors, let me first of all express my thanks to you for
11 your presence, your participation, your close attention to
12 the testimony. You are free to go. So I'm not going to
13 keep talking to you any longer. Thank you.

14 (Whereupon, the alternates were excused from the
15 trial of the case at approximately 3:30 p.m.)

16 THE COURT: If I can get you all to approach and go
17 over the exhibits.

18 (Whereupon, the Court Reporter and attorneys go over
19 the exhibits in the case.)

20 (Whereupon, the jury started deliberations at
21 approximately 3:31 p.m.)

22 THE COURT: We have a verdict. Go ahead and bring
23 the jury in.

24 (Whereupon, the jury came into open court at
25 approximately 5:00 p.m. with the verdict.)

1 THE COURT: Mr. Foreman, I understand you have a
2 verdict?

3 THE FOREMAN: Yes, Your Honor, we have a verdict.

4 THE COURT: If you will hand it to the bailiff.
5 Okay, ladies and gentlemen, we do have a verdict. As to
6 the charge of attempted murder regarding the victim,
7 Jeantavienne Dobson, states we, the jury, unanimously find
8 the Defendant guilty.

9 As to the charge of attempted murder with regard to
10 the victim, Tiffany Lakes, we, the jury, unanimously find
11 the Defendant not guilty.

12 As to the lesser offense of assault and battery of a
13 high and aggravated nature, we, the jury, unanimously find
14 the Defendant guilty.

15 As to the charge of attempted murder regarding to the
16 victim's unborn child, we, the jury, unanimously find the
17 Defendant not guilty.

18 As to the lesser offense of assault and battery of a
19 high and aggravated nature, we, the jury, unanimously find
20 the Defendant guilty.

21 As to the charge of possession of a weapon during the
22 commission of a violent crime, we, the jury, unanimously
23 find the Defendant guilty.

24 Ladies and gentleman of the jury, let me get you to
25 confirm by a show of hands that this is your verdict. If

1 you will raise your hand if this is your verdict.

2 (Whereupon, the members of the jury raised their
3 hands).

4 THE COURT: Thank you. Anything further from the
5 State or the Defense before we dismiss the jury?

6 MS. SWANSON: Nothing further from the State.

7 MR. PLEXICO: I would ask, request that the jurors be
8 polled, Your Honor.

9 THE COURT: And, Madam Clerk, can you do that for me?

10 MADAM CLERK: Yes. When I call your name, please
11 stand up. There's a series of questions I'm going to ask
12 you. Is this your verdict, and is it still your verdict
13 and you'll need to answer both questions. Number 12,
14 Tanoa Betton. Is this your verdict?

15 THE JUROR: Yes.

16 MADAM CLERK: And is it still your verdict?

17 THE JUROR: Yes.

18 MADAM CLERK: Trina Williams. Is this your verdict?

19 THE JUROR: Yes.

20 MADAM CLERK: And is it still your verdict?

21 THE JUROR: Yes.

22 MADAM CLERK: Edward Early. Is this your verdict?

23 THE JUROR: Yes.

24 MADAM CLERK: And is it still your verdict?

25 THE JUROR: Yes.

1 MADAM CLERK: Kathy Mosley. Is this your verdict?
2 THE JUROR: Yes.
3 MADAM CLERK: And is it still your verdict?
4 THE JUROR: Yes.
5 MADAM CLERK: Pamala Ginn. Is this your verdict?
6 THE JUROR: Yes, ma'am.
7 MADAM CLERK: Is it still your verdict?
8 THE JUROR: Yes, ma'am.
9 MADAM CLERK: Eugene Hutto. Is this your verdict?
10 THE JUROR: Yes.
11 MADAM CLERK: Is it still your verdict?
12 THE JUROR: Yes.
13 MADAM CLERK: Tammy Lane. Is this your verdict?
14 THE JUROR: Yes.
15 MADAM CLERK: Is it still your verdict?
16 THE JUROR: Yes.
17 MADAM CLERK: Larry Capers. Is this your verdict?
18 THE JUROR: Yes.
19 MADAM CLERK: And it's still your verdict?
20 THE JUROR: Yes.
21 MADAM CLERK: Lonnie Griffin. Is this your verdict?
22 THE JUROR: Yes.
23 MADAM CLERK: And is it still your verdict?
24 THE JUROR: Yes.
25 MADAM CLERK: Shawona Carter. Is this your verdict?

1 THE JUROR: Yes.

2 MADAM CLERK: Is it still your verdict?

3 THE JUROR: Yes.

4 MADAM CLERK: William Mole. Is this your verdict?

5 THE JUROR: Yes.

6 MADAM CLERK: And is it still your verdict?

7 THE JUROR: Yes.

8 MADAM CLERK: And Teresa Smith. Is this your

9 verdict?

10 THE JUROR: Yes.

11 MADAM CLERK: And is it still your verdict?

12 THE JUROR: Yes.

13 THE COURT: Okay. Ladies and gentlemen, I want to
14 thank you very much for your time, for your punctuality,
15 for your attention to this case. We very much appreciate
16 your be willing to serve as jurors and you are now free to
17 go.

18 (Whereupon, the jury was excused from open court at
19 approximately 5:02 p.m.)

20 THE COURT: Okay. I'm glad to hear from the State on
21 sentencing and then, of course, I'll be glad to hear from
22 you, as well, Mr. Plexico.

23 MR. PLEXICO: Thank you, Your Honor.

24 MS. SWANSON: Yes, Your Honor. I am just finishing
25 up this sentencing paperwork right now. And I'm just

1 going to confirm, that was, that was a guilty on attempted
2 murder for indictment number 2015-380 for Jeantavienne?

3 THE COURT: It was as to Jeantavienne and, yes.

4 MS. SWANSON: And ABHAN on the other two victims.

5 THE COURT: So as to indictment 380 was guilty for
6 attempted murder. As to indictments 382 and 381 with
7 regard to Tiffany Lakes and her unborn child, those were
8 guilty as to ABHAN.

9 MS. SWANSON: Thank you, Your Honor.

10 THE COURT: Mr. Plexico, would you like to take a
11 look at the verdict forms?

12 MR. PLEXICO: Yes, yes.

13 (Whereupon, Mr. Plexico looks at the verdict forms.)

14 MR. PLEXICO: Yes, I believe they are proper, Your
15 Honor.

16 THE COURT: Thank you.

17 MS. SWANSON: Your Honor, I am just going to hand the
18 sentencing sheets for the Defense to look over before
19 handing them up to Your Honor. As far as the State's
20 position on sentencing goes, Judge, while I realize that
21 Mr. Blake does not have much of a prior record, we
22 discussed before his only conviction is for public
23 disorderly conduct. His conduct in November of 2015 was
24 reckless, evil and put a lot of people in danger. You've
25 heard a lot in this trial about the violence in Estill and

1 the gun violence, and this is something in a case that the
2 State takes very seriously because this is exactly why it
3 cannot be tolerated. And so the State feels that a
4 sentence of 30 years would be appropriate. Ms. Lakes does
5 not wish to address the Court.

6 MR. PLEXICO: May we stay here or would you like us
7 to approach?

8 THE COURT: You can approach, that's fine.

9 MR. PLEXICO: Here are the, may I come around, Judge?

10 THE COURT: Sure or you can stay there. Wherever
11 you're comfortable, that's fine.

12 MR. PLEXICO: That's the sentencing sheets. My
13 client signed it and I have.

14 THE COURT: Thank you.

15 MR. PLEXICO: I would like for you to hear from his
16 dad if his dad would like to speak. This is Frank Blake,
17 Sr., Judge. This is my client's dad. My client, come on
18 up. My client is 30-years-old, Judge. You know, he does
19 have a child. He's staying with, was staying with Monica
20 Cylear. And he's on full disability because of his
21 disease. So I'd ask you to take that into consideration,
22 Judge. I know what the verdict is with the jurors, the
23 verdict they found. We understand that these are
24 eighty-five percent, in any sentence that you give, he
25 must serve at least, as a base, eighty-five percent. ABHAN

1 carries up to 20 years, attempted murder carries up to 30
2 years and it's five years for the possession of a weapon
3 during the commission of a violent crime which is actually
4 a one percent sentence. Those can be, that can be ran
5 concurrent, if Your Honor so chooses. Dad, would you like
6 to, I know you are upset.

7 MR. BLAKE, SR.: But I need to say it to someone and
8 I don't know what happened that night. But I'm real sorry
9 for what happened to Tiffany and that child. But this
10 thing would have never got this far if the officers, if
11 they handled it right. They won't do nothing.

12 MR. PLEXICO: He's lost a lot of sleep over this and
13 he's been very stressed out and it's been--

14 MR. BLAKE, SR.: I just lost my mom, that is what got
15 me messed up.

16 MR. PLEXICO: And he certainly didn't want to lose
17 his son over this. I know he's going to prison, Judge. I
18 believe that somebody with a, he's 30-years-old with a
19 dominiums record such as this. Is there anybody else who
20 wants to say anything. You can come up so we can hear
21 you. Would you give your name for Her Honor and for the
22 Court Reporter.

23 MS. BIBBS: Dolores Bibbs.

24 THE COURT: I'm sorry. What did you --

25 MS. BIBBS: Dolores Bibbs.

1 THE COURT: What's, tell me your last name, again.

2 MS. BIBBS: Bibbs. B, as in Barbara, I-B-B-S.

3 THE COURT: Yes, ma'am.

4 MS. BIBBS: I just want to say, oh, God. It's hard
5 to put it in words. But he is turning, he's turning his
6 life around. He's joined the church and he's supposed to
7 be baptized as soon as the weather permits and he's asking
8 you to give him the chance to turn his life around. We
9 all make mistakes and we all do things. I'm just asking
10 you for leniency of the Court.

11 MR. PLEXICO: Your Honor, this did happen years ago.
12 There has been no previous behavior such as this. There
13 has been no post behavior. We're asking you to be as
14 merciful as possible and we would ask for a sentence of 10
15 years in regards to this on everything and ask that it run
16 concurrent. I think that's fair. He has a life ahead of
17 him. No one has died here. This will be a very, very
18 harsh lesson for him. Everybody seems to have recovered
19 fine. This is a harsh penalty in and of itself, Judge.
20 And remember this is, you know, the baseline is
21 eighty-five percent. This isn't a, you know, this isn't a
22 minimal sentence at all. It's a very harsh sentence for
23 somebody who hasn't been to prison before. He's
24 30-years-old and he's mostly lead a law abiding, obviously
25 by the record, lead a law abiding life. He does have this

1 conviction, Judge. We have to get past this, but there's
2 a lot of good left in him and a lot he can give to
3 society. We're asking for a chance to be able to do that,
4 Judge. In view of his health too, I just don't think they
5 are equipped to take very good care of him. Thank you,
6 Judge.

7 THE COURT: Anything that you want to say, Mr. Blake?

8 THE DEFENDANT: Yes, ma'am. I'm sorry about the
9 incident that happened. But I feel that I can make a
10 change. People make mistakes and sometimes the wrong
11 people get punished. And I'm sorry to her family and my
12 family both. Her, for sustaining injuries and early
13 delivery to the baby and to my family for all the money
14 and the trauma and punished by.

15 MR. PLEXICO: Your Honor, could I have, Monica, would
16 you like to come up. She is, we are done, Your Honor.

17 THE COURT: Okay. The sentence of the Court with
18 respect to the charge of attempted murder, that you're
19 sentenced to the State Department of Corrections for a
20 determinate period of fifteen years. That term will be
21 concurrent, giving you credit for whatever time has
22 previously been served.

23 As to the charge of assault and battery of a high and
24 aggravated nature, this is indictment 381, the sentence of
25 the Court is fifteen years, concurrent. Again, giving you

1 credit for the time previously served.

2 As to the second count of assault and battery of a
3 high and aggravated nature, indictment 382, the sentence
4 of the Court is a determinate term of fifteen years,
5 concurrent, giving you credit for time previously served.

6 And as to the offense of possession of a weapon
7 during a violent crime, the sentence of the Court is five
8 years, concurrent, and giving you credit for time
9 previously served. Good luck to you, sir.

10 MR. PLEXICO: Thank you, Your Honor.

11 MS. SWANSON: Thank you, Your Honor. One thing,
12 wondering if Mr. Plexico is going to have any post-trial
13 motions.

14 THE COURT: Thank you. Of course, sir, you've got
15 ten days to file any post-trial motions.

16 MR. PLEXICO: Yes, Your Honor, and thank you.

17 THE COURT: And, of course, thirty days to file any
18 appeal. And if you'll make him aware of the thirty days
19 to appeal.

20 MR. PLEXICO: Yes, Your Honor. You have to file your
21 notice in ten days, as a matter of fact, and --

22 THE COURT: I'm sorry. Ten days.

23 MR. PLEXICO: Yes. And I've already, I've already
24 told him that. I'm talking with him, as a matter of fact,
25 right now.

1 MS. SWANSON: Okay. That's okay. I just wasn't
2 planning on being in Hampton tomorrow if I was not needed.

3 MR. PLEXICO: I have no anticipation.

4 MS. SWANSON: Thank you. All right.

5 THE COURT: I will be here tomorrow. All right,
6 thank you.

7 MS. SWANSON: Thank you, Your Honor.

8 *** END OF REQUESTED TRANSCRIPT OF RECORD ***
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1 CERTIFICATE OF REPORTER
2
34 State of South Carolina)
5 County of Newberry)
6
78 I, Joy E. Holston, Official Court Reporter for the
9 Eighth Judicial Circuit of the State of South Carolina, do
10 hereby certify that the foregoing is a true, accurate and
11 complete transcript of record of the proceedings had and
12 evidence introduced in the trial of the captioned case,
13 relative to appeal, in the County of Hampton, South
14 Carolina on the days of October 16th through October 17th,
15 2018.16 I do further certify that I am neither of kin,
17 counsel nor interest to any party hereto.
18
19

20 February 24, 2019

21 *Joy Holston*
22

23 Joy E. Holston, Court Reporter

24 My Commission expires: May 2, 2026
25

Hampton County Clerk of Court RANDOM STRIKE SHEET

JUDGE NAME:

TRIAL TYPE:

PANEL ID: 10/15/18

COURTROOM CTRM

DESCRIPTION: 10/15/18

Sorted by: Random Nbr

Appearance

				5		5		CRT	REMARKS
NAME	JUROR NBR	RACE	SEX	ST/PLTFF	DEF				
1 Kinard, Tammy B	107	W	F	()	(1)	()			
2 Betton, Tanoa S	12	B	F	()	()	()			
3 Williams, Trina R	172	B	F	()	()	()			
4 Ashby, Lisa S	5	W	F	()	(2)	()			
5 Early, Edward R	53	B	M	()	()	()			
6 Brantley, Shane D	18	B	M	(1)	()	()			
7 Mosley, Kathy S	122	W	F	()	()	()			
8 Ginn, Pamala A	65	W	F	()	()	()			
9 Hutto, Eugene M	93	W	M	()	()	()			
10 Lane, Tammy G	110	W	F	()	()	()			
11 Capers, Larry D	Joe person	B	M	()	()	()			
12 Griffin, Lonnie Jr.	75	B	M	()	()	()			
13 Sampson, Cedric O	140	B	M	()	(3)	()			
14 Green, Audrienna T	73	B	F	(2)	()	()			
15 Steve, Angel N	152	B	F	()	(4)	()			
16 Stanley, Jesse J Jr.	150	W	M	()	(5)	()			
17 Pinckney, Alternazer D	130	B	F	(3)	()	()			
18 Carter, Shawona L	36	B	F	()	()	()			
19 Mole, William W	120	W	M	()	()	()			
20 Warren, Verna M	164	B	F	(4)	()	()			
21 Smith, Teresa S	147	W	F	()	()	()			
22 Sanders, Marion	Alt #1 142	B	M	()	()	()			
23 Garman, Donald W	Alt #2 60	W	M	()	()	()			
24 Hughes, Mary J	92	W	F	()	()	()			

Hampton County Clerk of Court RANDOM STRIKE SHEET

281

JUDGE NAME :
TRIAL TYPE :
PANEL ID : 10/15/18
COURTROOM CTRM

DESCRIPTION : 10/15/18

Sorted by: Random Nbr
Appearance

NAME	JUROR NBR	RACE	SEX	ST/PLTFF	DEF	CRT	REMARKS
25 Cook, Christine C	41	W	F	()	()	()	
26 Reid, Patrick	132	B	M	()	()	()	
27 Strong, Harry L	153	B	M	()	()	()	
28 Colyn, Regina M	40	W	F	()	()	()	
29 Cooler, Ramona G	43	W	F	()	()	()	
30 Brunson, Casie D	26	W	F	()	()	()	
31 Hasselback, Zachary J	82	W	M	()	()	()	
32 Dittman, Nicole L	49	W	F	()	()	()	
33 Musser, Joey D	123	W	M	()	()	()	
34 Bowers, Patsy J	17	B	F	()	()	()	
35 Housey, James Jr.	90	B	M	()	()	()	
36 Preacher, Morrell Tonya L	131	B	F	()	()	()	
37 Braxton, Kathryn S	19	W	F	()	()	()	
38 Sparks, Crystal M	148	W	F	()	()	()	
39 Hipp, John T	89	W	M	()	()	()	

Total Number of Jurors: 39

** END OF REPORT **

WITNESSES

DOCKET NO. 2015GS2500380

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

EPD

The State of South Carolina

County of Hampton

COURT OF GENERAL SESSIONS

December Term 2015

Defendant

I
hereby appear in my own proper person and plead guilty to the within indictment or to

ARREST WARRANT NUMBER

2015A2520200105

THE STATE

vs.

Benjamin Jerome Blake

Indictment For
Attempted Murder

SC Code: 16-3-29

CDR Code: 3410

TRUE BILL

Foreperson of Grand Jury

Date:

DEC 9 2015

VERDICT

Defendant

Witness:

Foreperson of Petit Jury

Date:

INDICT

C.C.C. PLS. and G.S.

STATE OF SOUTH CAROLINA

INDICTMENT

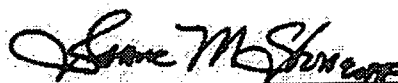
COUNTY OF HAMPTON

At a Court of General Sessions, convened on December 9, 2015, the Grand Jurors of Hampton County present upon their oath:

Attempted Murder

That in Hampton County, South Carolina, on or about November 7, 2015, the Defendant, Benjamin Jerome Blake, did, with intent to kill and with malice aforethought, attempt to willfully kill Jeantaviene Dobson, to wit: shooting at him, all in violation of Section 16-3-29, et al. of the Codes of Law of South Carolina.

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



Solicitor

TRUE BILL

WITNESSES

DOCKET NO. 2015GS2500381

After being fully advised as to my
legal rights, I hereby waive
presentment to the Grand Jury.

The State of South Carolina

County of Hampton

COURT OF GENERAL SESSIONS

December Term 2015

THE STATE

vs.

Benjamin Jerome Blake

Defendant

hereby appear in my own proper
person and plead guilty to the within
indictment or to

ARREST WARRANT NUMBER

2015A2520200106

Indictment For
Attempted Murder

SC Code: 16-3-29

CDR Code: 3410

TRUE BILL

Foreperson of Grand Jury

Date:

DEC 9 2015

Defendant

VERDICT

Witness:

Foreperson of Petit Jury

Date:

INDICT

C.C.C. PLS. and G.S.

STATE OF SOUTH CAROLINA)

INDICTMENT

COUNTY OF HAMPTON)

At a Court of General Sessions, convened on December 9, 2015, the Grand Jurors of Hampton County present upon their oath:

Attempted Murder

11/7/15 (U/M)
That in Hampton County, South Carolina, on or about November 9, 2015, the Defendant, Benjamin Jerome Blake, did, with intent to kill and with malice aforethought, attempt to willfully kill Tiffany Lakes, to wit: Shooting at her, all in violation of Section 16-3-29, et al. of the Codes of Law of South Carolina.

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



Solicitor

TRUE

WITNESSES

DOCKET NO. 2015GS2500382

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

The State of South Carolina

County of Hampton

COURT OF GENERAL SESSIONS

December Term 2015

THE STATE

vs.

Benjamin Jerome Blake

ARREST WARRANT NUMBER

2015A2520200107

Indictment For
Attempted Murder

SC Code: 16-3-29

CDR Code: 3410

TRUE BILL

Foreperson of Grand Jury
Date: DEC 9 2015

VERDICT

Foreperson of Petit Jury
Date:

INDICT

Defendant

hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. and G.S.

STATE OF SOUTH CAROLINA

INDICTMENT

COUNTY OF HAMPTON

At a Court of General Sessions, convened on December 9, 2015, the Grand Jurors of Hampton County present upon their oath:

Attempted Murder

That in Hampton County, South Carolina, on or about November 7, 2015, the Defendant, Benjamin Jerome Blake, did, with intent to kill and with malice aforethought, attempt to willfully kill unborn child, to wit: shooting at the unborn child, all in violation of Section 16-3-29, et al. of the Codes of Law of South Carolina.

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



Solicitor

TRUE BILL

WITNESSES

DOCKET NO. 2015GS2500383

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

The State of South Carolina
County of Hampton

COURT OF GENERAL SESSIONS

December Term 2015

Defendant

I
hereby appear in my own proper person and plead guilty to the within indictment or to

ARREST WARRANT NUMBER

2015A2520200108

THE STATE

vs.

Benjamin Jerome Blake

Indictment For

Possession of Weapon During
Violent Crime

SC Code: 16-23-490

CDR Code: 0549

TRUE BILL

Foreperson of Grand Jury

Date:

DEC 9 2015

Defendant

Witness:

C.C.C. PLS. and G.S.

VERDICT

Foreperson of Petit Jury

Date:

INDICT

STATE OF SOUTH CAROLINA

INDICTMENT

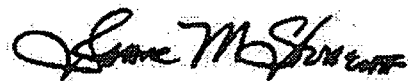
COUNTY OF HAMPTON

At a Court of General Sessions, convened on December 9, 2015, the Grand Jurors of Hampton County present upon their oath:

Possession of Weapon During Violent Crime

That in Hampton County, South Carolina, on or about November 7, 2015, the Defendant, Benjamin Jerome Blake, did possess a firearm, visibly displayed what appeared to be a firearm, or visibly displayed a knife during the commission of a violent crime, to wit: shooting at three victims and Benjamin Jerome Blake was convicted of committing or attempting to commit a violent crime as defined in Section 16-1-60, to wit: Attempted Murder, all in violation of Section 16-23-490, et al. of the Codes of Law of South Carolina.

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



Solicitor
L. M. STURTEVANT

STATE OF SOUTH CAROLINA)

IN THE COURT OF GENERAL SESSIONS

COUNTY OF HAMPTON)

Indictment no. 2015GS2500380

THE STATE OF SOUTH CAROLINA,)

VERDICT FORM

FILED
5:00 AM
MOY
OCT 17 2018

vs.)

Benjamin Blake,)

MYLINDA D NETTLES
CLERK OF COURT
HAMPTON COUNTY, SC

Defendant.)

1. As to the charge of ATTEMPTED MURDER regarding the victim JEANTAVIENE DOBSON, we, the jury, unanimously find the Defendant

✓ Guilty (Stop Deliberations)

 Not Guilty (Go to Question 2)

2.

- As to the lesser offense of ASSAULT AND BATTERY IN THE FIRST DEGREE, we, the jury, unanimously find the Defendant

 Guilty

 Not Guilty

Larry A. Capen
Jury Foreperson

10/17/18
Date

STATE OF SOUTH CAROLINA)

IN THE COURT OF GENERAL SESSIONS)

COUNTY OF HAMPTON)

Indictment no: 2015GS2500381)

THE STATE OF SOUTH CAROLINA,)

VERDICT FORM)

vs.)

Benjamin Blake,)

Defendant.)

FILED
5:00 AM PM
mow
OCT 17 2018

MYLINDA D NETTLES
CLERK OF COURT
HAMPTON COUNTY, SC

1. As to the charge of ATTEMPTED MURDER regarding the victim TIFFANY LAKES, we, the jury, unanimously find the Defendant

_____ Guilty (Stop Deliberations)

_____ ☒ Not Guilty (Go to Question 2)

2. As to the lesser offense of ASSAULT AND BATTERY OF A HIGH AND AGGRAVATED NATURE, we, the jury, unanimously find the Defendant

_____ ☒ Guilty (Stop Deliberations)

_____ Not Guilty (Go to Question 3)

3. As to the lesser offense of ASSAULT AND BATTERY IN THE FIRST DEGREE, we, the jury, unanimously find the Defendant

_____ Guilty (Stop Deliberations)

_____ Not Guilty

Larry A. Capen
Jury Foreperson

10/17/18
Date

STATE OF SOUTH CAROLINA)

IN THE COURT OF GENERAL SESSIONS)

COUNTY OF HAMPTON)

Indictment no: 2015GS2500382)

THE STATE OF SOUTH CAROLINA,)

VERDICT FORM)

vs.)

Benjamin Blake,)

Defendant.)

FILED
5:00 AM/PM
MJDW
OCT 17 2018MYLINDA D NETTLES
CLERK OF COURT
HAMPTON COUNTY, SC

1. As to the charge of ATTEMPTED MURDER regarding the victim UNBORN CHILD, we, the jury, unanimously find the Defendant

_____ Guilty (Stop Deliberations)

☒ Not Guilty (Go to Question 2)

2. As to the lesser offense of ASSAULT AND BATTERY OF A HIGH AND AGGRAVATED NATURE, we, the jury, unanimously find the Defendant

☒ Guilty (Stop Deliberations)

_____ Not Guilty (Go to Question 3)

3. As to the lesser offense of ASSAULT AND BATTERY IN THE FIRST DEGREE, we, the jury, unanimously find the Defendant

_____ Guilty (Stop Deliberations)

_____ Not Guilty

Larry D. Capen
Jury Foreperson

10/17/18
Date

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF HAMPTON

Indictment no: 2015GS2500383

THE STATE OF SOUTH CAROLINA,

VERDICT FORM

vs.

Benjamin Blake,

Defendant.

FILED
5:00 AM/PM
MOY
OCT 17 2018MYLINDA D NETTLES
CLERK OF COURT
HAMPTON COUNTY, SC

1. As to the charge of POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME, we, the jury, unanimously find the Defendant

☒ Guilty (Stop Deliberations)

☐ Not Guilty

Larry A. Capen
Jury Foreperson

10/17/18

Date

Up to 30

STATE OF SOUTH CAROLINA

COUNTY OF

Hampton

STATE

Benjamin J. Blake

AKA:

Race:

B

Sex:

M

Age:

30

DOB:

SS#:

Address:

St

City, State, Zip: FISH, SC 29918

DL# SC

SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO:

Attempted Murder

In violation of §

16-3-29

of the S.C. Code of Laws, bearing CDR Code #

3410

☐ NON-VIOLENT☒ VIOLENT☐ SERIOUS☒ MOST SERIOUS☐ Mandatory GPS☐ §17-25-45(CSC w/minor 1st or CSC w/minor 3rd)

The charge is:

☒ As indicted,☐ Lesser Included Offense,☐ Defendant Waives Presentment to Grand Jury.

(def.'s initials)

The plea is:

☐ Without Negotiations or Recommendation,☐ Negotiated Sentence,☐ Recommendation by the State.

Solicitor

SC Bar #

Defendant

Attorney for Defendant

SC Bar #

WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections ☐ County Detention Center, for a determinate term of 15 days/months/years or ☐ under the Youthful Offender Act not to exceed years and/or to pay a fine of \$ provided that upon the service of days/months/years and or payment of \$ plus costs and assessments as applicable; the balance is suspended with probation for months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOP.☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

PTUP

Total: \$ plus 20% fee: \$

days/hours Public Service Employment

Payment Terms:

☐ Set by SCDPPPSObtain GED ☐

Attend Voc. Rehab. Or Job Corp:

Recipient:

May serve W/E beginning

Substance Abuse Counseling ☐

*Fine:

\$14-1-206 (Assessments 107.5%)	\$	
\$14-1-211 (A)(1)(Conv. Surcharge)	\$100	\$ 100.00
\$14-1-211 (A)(2)(DUI Surcharge)	\$100	\$
\$56-5-2995 (DUI Assessment)	\$12	\$
\$56-1-286 (DUI Breath Test)	\$25	\$
Proviso (Public Def/Probation)	\$500	\$
\$14-1-212 (Law Enforce. Funding)	\$25	\$ 25.00
\$14-1-213 (Drug Court Surcharge)	\$150	\$
\$50-21-114 (BUI Breath Test Fee)	\$50	\$
\$56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$ 3.75
3% to County (if paid in installments)	\$	\$ 128.75

TOTAL

Clerk of Court/Deputy Clerk
Court Reporter:

SCCA/217 (04/2018)

☐ Appointed PD or appointed other counsel, Proviso: requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

Presiding Judge:

Judge Code:

Sentence Date:

Kristi Gault
2162
16-17-18

Up to 20yrs

STATE OF SOUTH CAROLINA

COUNTY OF

Hampton

STATE

Benjamin J. Blake

AKA:

Race:

DOB:

Address:

City, State, Zip:

DL#

SC

In disposition of the said indictment comes now the Defendant who was

TO:

In violation of S.C. Code of Laws, bearing CDR Code #

NON-VIOLENT

VIOLENT

SERIOUS

MOST SERIOUS

Mandatory GPS

§17-25-45

The charge is:

As indicted

Without Negotiations or Recommendation

Lesser Included Offense

Defendant Waives Presentment to Grand Jury

Negotiated Sentence

Recommendation by the State

Solicitor

SC Bar #

Defendant

Attorney for Defendant

SC Bar #

WHEREFORE, the Defendant is committed to the

State Department of Corrections

County Detention Center

for a determinate term of

15 days/months/years or

under the Youthful Offender Act not to exceed

years

and/or to pay a fine of \$

plus costs and assessments as applicable; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are

incorporated by reference.

CONCURRENT or

CONSECUTIVE to sentence on:

The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOP.

The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic

Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION:

Deferred

Def. Waives Hearing

Ordered

Total: \$

plus 20% fee: \$

Payment Terms:

Set by SCDPPPS

Recipient:

*Fine:

§14-1-206 (Assessments 107.5%)

§14-1-211 (A)(1)(Conv. Surcharge)

§14-1-211 (A)(2)(DUI Surcharge)

§56-5-2995 (DUI Assessment)

§56-1-286 (DUI Breath Test)

Proviso (Public Def/Probation)

§14-1-212 (Law Enforce. Funding)

§14-1-213 (Drug Court Surcharge)

§50-21-114 (BUI Breath Test Fee)

§56-5-2942(J) (Vehicle Assessment)

3% to County (if paid in installments)

TOTAL

Clerk of Court/Deputy Clerk

Court Reporter:

SCCA/217 (04/2018)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2015-GS-25-0381

AW#: 2015A2520200106

Date of Offense: 11/7/2015

S.C. Code §: 16-3-29

CDR Code #: 3410

SENTENCE SHEET

X

CONVICTED OF or

PLEADS

In violation of S.C. Code of Laws, bearing CDR Code #

NON-VIOLENT

VIOLENT

SERIOUS

MOST SERIOUS

Mandatory GPS

§17-25-45

The charge is:

As indicted

Without Negotiations or Recommendation

Lesser Included Offense

Defendant Waives Presentment to Grand Jury

Negotiated Sentence

Recommendation by the State

Solicitor

SC Bar #

Defendant

Attorney for Defendant

SC Bar #

WHEREFORE, the Defendant is committed to the

State Department of Corrections

County Detention Center

for a determinate term of

15 days/months/years or

under the Youthful Offender Act not to exceed

years

and/or to pay a fine of \$

plus costs and assessments as applicable; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are

incorporated by reference.

CONCURRENT or

CONSECUTIVE to sentence on:

The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOP.

The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic

Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION:

Deferred

Def. Waives Hearing

Ordered

Total: \$

plus 20% fee: \$

Payment Terms:

Set by SCDPPPS

Recipient:

*Fine:

§14-1-206 (Assessments 107.5%)

§14-1-211 (A)(1)(Conv. Surcharge)

§14-1-211 (A)(2)(DUI Surcharge)

§56-5-2995 (DUI Assessment)

§56-1-286 (DUI Breath Test)

Proviso (Public Def/Probation)

§14-1-212 (Law Enforce. Funding)

§14-1-213 (Drug Court Surcharge)

§50-21-114 (BUI Breath Test Fee)

§56-5-2942(J) (Vehicle Assessment)

3% to County (if paid in installments)

TOTAL

Clerk of Court/Deputy Clerk

Court Reporter:

SCCA/217 (04/2018)

PTUP

days/hours Public Service Employment

Obtain GED

Attend Voc. Rehab. Or Job Corp.

May serve W/E beginning

Substance Abuse Counseling

Random Drug/Alcohol Testing

Fine may be pd. in equal consecutive weekly/monthly

pmts. of \$

\$

Beginning

Paid to Public Defender Fund

Other:

Appointed PD or appointed other counsel

Proviso requires \$500 be paid to Clerk

during probation and shall be collected before

any other fees.

Presiding Judge

Judge Code:

Sentence Date

Up to 20 yrs

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF

Hampton

STATE

Benjamin J. Blake

INDICTMENT/CASE#: 2015 GS 25 - 00382

AW#: 2015A2520200107

Date of Offense: 11/7/2015

S.C. Code §: 16-3-29

CDR Code #: 3410

AKA:

Race: B

Sex: M

Age: 30

DOB:

SS#:

Address:

St

City, State, Zip: Eshel, SC 29918

DL# SC

SID#

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was

☒ CONVICTED OF or ☐ PLEADS

TO:

ARHAN

In violation of § 16-3-600(B) of the S.C. Code of Laws, bearing CDR Code # 3411

☐ NON-VIOLENT ☒ VIOLENT ☒ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ \$17-25-45(CSC w/minor 1st or CSC w/minor 3rd)The charge is: ☐ As Indicted, ☒ Lesser Included Offense,☐ Defendant Waives Presentment to Grand Jury (def.'s initials)The plea is: ☐ Without Negotiations or Recommendation,☐ Negotiated Sentence, ☐ Recommendation by the State.

ARREST

SC Bar # 72934

Defendant

As Capt. T. Plevins

012014

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center, for a determinate term of 15 days/months/years or ☐ under the Youthful Offender Act not to exceed years and/or to pay a fine of \$; provided that upon the service of days/months/years and or payment of \$ plus costs and assessments as applicable; the balance is suspended with probation for months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☐ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOC.☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

PTUP

Total: \$ plus 20% fee: \$

days/hours Public Service Employment

Payment Terms:

☐ Set by SCDPPPSObtain GED ☐

Attend Voc. Rehab. Or Job Corp.

Recipient:

May serve W/E beginning

Substance Abuse Counseling ☐

*Fine:

\$14-1-206 (Assessments 107.5%)

\$

\$14-1-211 (A)(1)(Conv. Surcharge)

\$100

\$ 100.00

\$14-1-211 (A)(2)(DUI Surcharge)

\$100

\$

\$56-5-2995 (DUI Assessment)

\$12

\$

\$56-1-286 (DUI Breath Test)

\$25

\$

Proviso (Public Def/Probation)

\$500

\$

\$14-1-212 (Law Enforce. Funding)

\$25

\$ 25.00

\$14-1-213 (Drug Court Surcharge)

\$150

\$

\$50-21-114 (BUI Breath Test Fee)

\$50

\$

\$56-5-2942(J) (Vehicle Assessment)

\$40/ea

\$

3% to County (if paid in installments)

\$ 3.75

TOTAL

\$ 128.75

Clerk of Court/Deputy Clerk

Court Reporter: Jay E. Holston

SCCA/217 (04/2018)

Presiding Judge

Judge Code:

Sentence Date

Kisha C. Coker

2762

10-17-18

STATE OF SOUTH CAROLINA

COUNTY OF

Hampton

STATE

Benjamin J. Blake

AKA:

Race: B Sex: M Age: 30DOB: [REDACTED] SS#: [REDACTED]Address: [REDACTED] St.City, State, Zip: Esch, SC 29918DL# 66 SID# [REDACTED]*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO:

In violation of § 16-23-490 of the S.C. Code of Laws, bearing CDR Code # 0549☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45(CSC w/minor 1st or CSC w/minor 3rd)The charges: ☒ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury (def.'s initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

[Signature] 12934 [Signature] Stephen T. Plewco 012014

Solicitor SC Bar # Defendant Attorney for Defendant SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center, for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed years and/or to pay a fine of \$; provided that upon the service of days/months/years and or payment of \$; plus costs and assessments as applicable; the balance is suspended with probation for months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOP.☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ OrderedPTUP Total: \$ plus 20% fee: \$ days/hours Public Service Employment

Payment Terms:

☐ Set by SCDPPPSObtain GED ☐Attend Voc. Rehab. Or Job Corp. Recipient:

May serve W/E beginning

Substance Abuse Counseling ☐Random Drug/Alcohol Testing ☐

Fine may be pd. in equal consecutive weekly/monthly

pmts. of \$ Beginning \$ Paid to Public Defender FundOther:

*Fine:	\$	
\$14-1-206 (Assessments 107.5%)	\$	
\$14-1-211 (A)(1)(Conv. Surcharge)	\$100	\$ <u>100.00</u>
\$14-1-211 (A)(2)(DUI Surcharge)	\$100	\$
\$56-5-2995 (DUI Assessment)	\$12	\$
\$56-1-286 (DUI Breath Test)	\$25	\$
Proviso (Public Def/Probation)	\$500	\$
\$14-1-212 (Law Enforce. Funding)	\$25	\$ <u>25.00</u>
\$14-1-213 (Drug Court Surcharge)	\$150	\$
\$50-21-114 (BUI Breath Test Fee)	\$50	\$
\$56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)	\$	\$ <u>3.75</u>

TOTAL \$ 128.75

Clerk of Court/Deputy Clerk

Court Reporter: [Signature]

SCCA/217 (04/2018)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2015-GS-25-0383AW#: 2015A2520200108Date of Offense: 11/7/2015S.C. Code §: 16-23-490CDR Code #: 0549

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

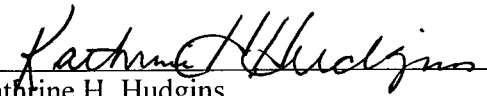
☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

Presiding Judge: Krishna ChatterJudge Code: 2762Sentence Date: 10-17-18

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,


Kathrine H. Hudgins
Appellate Defender

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

ATTORNEY FOR APPELLANT

This 7th day of January, 2020.

RECEIVED
JAN 07 2020
SC Court of Appeals