

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

ORIGINAL

Appeal from Charleston County

Honorable R. Scott Sprouse, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

JAMAA ATO WASHINGTON, JR.

APPELLANT

RECEIVED

FEB 03 2020

SC Court of Appeals

APPELLATE CASE NO 2019-000859

RECORD ON APPEAL

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1 In the Court of General Sessions for the
2 State of South Carolina, County of Charleston

3
4 Case No.: 2017GS106450
5 2017GS106451

6 State of South Carolina,
7 Plaintiff(s),

8 vs. Transcript of Record

9 Jamaa Ato Washington, Jr.
10 Defendant(s).

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16 May 13, 2019

17 Charleston, South Carolina

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22 BEFORE:

23 The Honorable R. Scott Sprouse

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APPEARANCES

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REPRESENTING PLAINTIFF(S):

4

Richard Waring, Esquire

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Jason King, Esquire

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Ninth Circuit Solicitor's Office

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Charleston, SC

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REPRESENTING DEFENDANT(S):

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Robert L. Wehrman, Esquire

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Jason Heggelke, Esquire

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Ninth Circuit Public Defender's Office

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Charleston, SC

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THE COURT: Okay. I have enough jurors coming. I have each side's witness list and voir dire questions. Is there anything else we need to take up before we get our pool in?

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MR. WARING: Judge, there are -- there's maybe one pretrial matter. Other than that, I don't see any reason why we can't get the jury in. But if you want to handle that before that, that's up to you, Your Honor.

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THE COURT: Well, the jury has been here since 8:00 or 8:30. So let's go ahead and get the jury selected, and then we will see where we go.

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MR. WARING: Yes, sir.

MR. WEHRMAN: Judge, the only thing I can hear that might be useful before we bring the jury in, I think we have a disagreement on how many strikes would apply in this case.

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THE COURT: Okay. What's the disagreement?

MR. WEHRMAN: Well, I mean, my argument would be that the statute section, SC Code Section 1471110, that lists out the -- it enumerates certain offenses that would get ten strikes. My argument, Your Honor, is that that was last updated in 1987, which predates the

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1 statute in this case, attempted murder, by about 20
2 years. I believe the attempted murder statute was
3 adopted in 2010.

4 I would argue, Your Honor, that the attempted
5 murder statute just simply wasn't contemplated at that
6 time; and that had it been, it would have been
7 included. I mean, there are certainly other very
8 serious crimes included in the section that does allow
9 for ten strikes for the Defense, including murder,
10 which can carry the same sentences as attempted murder,
11 obviously. They go in different directions from there.

12 THE COURT: What's the State's position?

13 MR. WARING: I certainly understand the Defense's
14 position. The statute is specifically clear that
15 attempted murder is not one of these enumerated crimes
16 that has ten strikes for the Defense and five for the
17 State.

18 Since it's not mentioned, the statute specifically
19 says that it's five, five. So we would ask that the
20 Court follow the statute, Your Honor.

21 THE COURT: Let me read the wording in the
22 statute.

23 Well, I understand the State's argument that this
24 is an attempted murder case, and the underlying offense
25 is attempted murder, and that is the offense that's

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1 listed. So I'm going to grant the Defense ten strikes.

2 MR. WARING: Understood, Judge.

3 MR. WEHRMAN: Thank you, Your Honor.

4 THE COURT: All right. Let's get our jury pool.

5 While we are waiting, is there any objection as to
6 either side to the request to charge?

7 MR. WEHRMAN: None from us, Judge.

8 THE COURT: Some of them are covered in my
9 standard, and some of them aren't.

10 MR. WARING: No objection from the State, Your
11 Honor.

12 THE COURT: So I'm going to give each of you the
13 opportunity, if you have any issues after I finish to
14 supplement.

15 MR. WEHRMAN: Thank you.

16 MR. WARING: Thank you, Judge.

17 (The jury panel enters the courtroom.)

18 THE BAILIFF: All present, Your Honor.

19 THE COURT: Thank you.

20 All right. Good afternoon, ladies and gentlemen.

21 I'm Judge Sprouse. I understand you have been in
22 another courtroom, had a busy morning, but we are going
23 to draw a jury for the next case.

24 And will the Solicitor call the case.

25 MR. WARING: Thank you, Your Honor. The State

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1 calls Jamaa Washington.

2 THE COURT: All right. Ladies and gentlemen,
3 Mr. Washington is charged on three indictments -- with
4 attempted murder, possession of a weapon during the
5 commission of a violent crime --

6 MR. WARING: Your Honor, may we approach?

7 THE COURT: Yes.

8 (Off-the-record discussion held.)

9 THE COURT: All right. Ladies and gentlemen,
10 correction, two indictments. Two indictments,
11 attempted murder and possession of a weapon during the
12 commission of a violent crime.

13 Ladies and gentlemen, indictments are not
14 evidence. They are not used as evidence, they're
15 simply the formal documents that bring charges to
16 court.

17 The Defendant has pled not guilty to these
18 charges. Therefore, the State has the burden of
19 proving the charges beyond a reasonable doubt. And it
20 will be your job, if you are called to serve on this
21 jury, to determine whether or not the State has met its
22 burden.

23 Now, we are going to ask you some more questions.
24 I realize you have been asked a bunch of questions this
25 morning, but unfortunately, we have to ask you some

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1 more. We are in a different courtroom, so Mr. Clerk,
2 would you put the jury under oath again, please?

3 THE CLERK: One second, Judge.

4 THE COURT: All right.

5 THE CLERK: If you could all please stand. And
6 after I'm done, if you accept the oath, please be
7 seated.

8 Do you swear or affirm that you will so answer
9 truthfully all questions asked of you by the Court, so
10 help you God?

11 (Jury indicates.)

12 THE CLERK: Be seated.

13 THE COURT: All right. Again, ladies and
14 gentlemen, there are some questions I want to ask you.
15 This is not to pry into your private lives, but to be
16 sure that both the State and the Defendant receive a
17 fair and impartial jury to hear this case.

18 The first order of business, I'd like each
19 attorney to introduce themselves, any persons that may
20 be assisting with any of the prosecution of the defense
21 of the case, and also introduce the Defendant.

22 So, State?

23 MR. WARING: Good afternoon, everybody. I'm
24 Richard Waring. I'm Assistant Solicitor for the State
25 of South Carolina, and this is my co-counsel, Jason

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1 Heggelke. He's also an Assistant Solicitor. Thank
2 you.

3 MR. WEHRMAN: Good afternoon, everyone. My name
4 is Robert Wehrman. I am representing Jamaa Washington.
5 And this is Jason King, he is my co-counsel in this
6 case.

7 THE COURT: Is any member of the jury panel
8 related by blood or marriage or has a close personal or
9 social relationship with one of these attorneys or
10 parties to this case? If so, please stand.

11 (No response.)

12 THE COURT: There are none.

13 Has any member of the jury panel ever been
14 represented by one of these attorneys or a law firm
15 that they may have been a member of or had one of these
16 attorneys represent somebody against you in court? If
17 so, please stand.

18 (No response.)

19 THE COURT: There are none.

20 Now, ladies and gentlemen, I'm going to read the
21 list of potential witnesses in the case. Listen very
22 carefully to these names that have been submitted by
23 the parties.

24 Officer Jose Torres, North Charleston Police
25 Department. Tonia Mallette, Consolidated Dispatch.

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1 Officer Charity Steinbrenner, North Charleston Police
2 Department.

3 Timothy Haynes. Oliver Rainey. Antwan Williams.
4 Diane Alvarez, Charleston County EMS.

5 Jacqueline Ong. Lisa Bloodworth, Charleston
6 County Detention Center.

7 Tanisha Powell. Detective Sean Bernard, North
8 Charleston Police Department. Officer Lawrence
9 Frazier, North Charleston Police Department.

10 Marvin Jenkins. James Wilson. Sergeant Lucas
11 Cummings, North Charleston Police Department.

12 Major Scott Perry, North Charleston Police
13 Department. Officer Joshua Quick, North Charleston
14 Police Department. Keyanna Young. Captain Joyce
15 Smith, North Charleston Police Department.

16 Detective Paul Schoolfield, North Charleston
17 Police Department. Detective Tiffany Crider, North
18 Charleston Police Department.

19 Juanita Mitchell, Charleston County EMS.
20 Investigator Jennifer Hall, Ninth Circuit Solicitor's
21 Office.

22 Melissa Bryant, South Carolina Department of Motor
23 Vehicles. Art Degiovene, Charleston County Public
24 Defender's Office.

25 Harry Long, Charleston County Public Defender's

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1 Office. Desiree Powell. Erin Zalenski, South Carolina
2 State Law Enforcement Division. Simon Andrews, North
3 Charleston Police Department.

4 S. Middleton, North Charleston Police Department.
5 Sergeant Clinton Ivey, North Charleston Police
6 Department. And B. Van Ausdal, North Charleston Police
7 Department.

8 Is any member of the jury panel related by blood
9 or marriage or has a close personal or social
10 relationship with any of those potential witnesses? If
11 so, please stand.

12 (No response.)

13 THE COURT: There are none.

14 Have you or any member of your family ever had any
15 criminal charges adjudicated by or currently pending
16 with the Charleston County Solicitor's Office? If so,
17 please stand.

18 Your number.

19 THE JUROR: Number 337.

20 THE COURT: Number 337. Okay. Would you come
21 forward to the Bench, please, sir.

22 THE COURT: Okay. You are Mr. Taylor.

23 THE JUROR: Yes, sir.

24 THE COURT: What was your situation?

25 THE JUROR: I had some charges for -- they are

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1 pending right now.

2 THE COURT: They are pending right now?

3 THE JUROR: Yes, sir. With Berkeley County.

4 THE COURT: Okay. That is the Ninth Circuit
5 Solicitor's Office. Okay. Mr. Taylor, I'll excuse you
6 from this case. Okay. Thank you, sir.

7 THE JUROR: All right.

8 THE COURT: Any further?

9 (No response.)

10 THE COURT: Okay. Would any member of the jury
11 panel have any problem following the law as the Judge
12 cites it to you, even if you believe that it is
13 inappropriate or unfair?

14 (No response.)

15 THE COURT: There are none.

16 Has any of the jury panel had experience with law
17 enforcement, the legal system, or the penal system that
18 would render that person incapable of being fair and
19 impartial? If so, please stand.

20 (No response.)

21 THE COURT: There are none.

22 Does any member of the jury panel have any
23 personal, political, or religious beliefs or
24 convictions that would make it difficult for you to sit
25 in judgment of another person? If so, please stand.

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1 (No response.)

2 THE COURT: There are none.

3 Is any member of the jury pool currently employed
4 with or has a member of your family or close personal
5 friend employed with law enforcement or The Department
6 of Corrections, or the Ninth Circuit Solicitor's
7 Office? If so, please stand.

8 Yes, sir. Your number.

9 THE JUROR: 130.

10 THE COURT: Number 130. Okay. Mr. Gugle.

11 THE JUROR: That's correct.

12 THE COURT: Who's employed?

13 THE JUROR: My brother-in-law is an ex-detective,
14 state of New Jersey.

15 THE COURT: And with that knowledge, do you
16 believe you could be fair and impartial if called to
17 serve?

18 THE JUROR: Yes, sir.

19 THE COURT: All right. Thank you, sir. You may
20 be seated.

21 All right. Yes, ma'am. Your number.

22 THE JUROR: 182.

23 THE COURT: 182, Ms. Kirkland. What is your
24 status?

25 THE JUROR: My son is a police officer in

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1 Stockton, California.

2 THE COURT: And with that knowledge, do you
3 believe you could be fair and impartial if called to
4 serve?

5 THE JUROR: Yes.

6 THE COURT: All right. Thank you, ma'am. You may
7 be seated.

8 All right. Any further?

9 (No response.)

10 THE COURT: Okay. Have you, your spouse, any
11 family members or close personal friends ever been a
12 victim of a crime? If so, please stand.

13 Okay. And if you would like to speak to me in
14 private on this, just come forward. If you just stand
15 there, otherwise, I'll assume you don't have any
16 problem standing in an open court.

17 All right. What's your number, ma'am?

18 THE JUROR: 13.

19 THE COURT: And was that you or a family member?
20 Who was the victim?

21 THE JUROR: Both.

22 THE COURT: Okay. And how long ago was that?

23 THE JUROR: For me personally, within the last
24 five years. For family member, the past ten years.

25 THE COURT: Okay. With that knowledge, do you

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1 feel that you could be fair and impartial if called to
2 serve?

3 THE JUROR: No.

4 THE COURT: All right. Thank you. I'm going to
5 have you be seated. I'm going to excuse you from this
6 case.

7 All right. Yes, ma'am. Your number?

8 THE JUROR: 84.

9 THE COURT: Ms. Crisp?

10 THE JUROR: Yes.

11 THE COURT: Was it you or a family member?

12 THE JUROR: Both.

13 THE COURT: And how long ago?

14 THE JUROR: For me, five years; my mom, longer.

15 THE COURT: And do you feel you could be fair and
16 impartial?

17 THE JUROR: No.

18 THE COURT: Okay. And just take a seat then.

19 Thank you.

20 All right. Yes, sir. Your number?

21 THE JUROR: I believe it's 39.

22 THE COURT: Okay.

23 THE COURT: Okay. Mr. Bobo.

24 THE JUROR: Yes. Yes, sir.

25 About four years ago, me and my family had our

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1 house burglarized.

2 THE COURT: All right. Do you feel you could be
3 fair and impartial?

4 THE JUROR: Yes, sir.

5 THE COURT: All right. Thank you, sir. You can
6 be seated.

7 THE COURT: All right. Yes, ma'am. Your number?

8 THE JUROR: 282.

9 THE COURT: Okay. Ms. Rephan.

10 THE JUROR: Rephan.

11 THE COURT: Yes, ma'am.

12 THE JUROR: Both. It's been over 20 years, but I
13 don't feel like I would be able to be partial.

14 THE COURT: Okay. Thank you, ma'am. You can be
15 seated.

16 Any further?

17 (No response.)

18 THE COURT: All right. Is there any member of the
19 jury panel who has any particular opinion or feeling
20 about the crime of attempted murder, possession of a
21 weapon during the commission of a violent crime, which
22 would make it difficult to serve on a jury where the
23 Defendant is charged with that crime?

24 (No response.)

25 THE COURT: There are none.

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1 Is any member of the jury panel or member of your
2 immediate family a member of any victim's rights
3 organization or organizations that promote law
4 enforcement, such as Citizens Against Violent Crime,
5 Citizens Advocating Decency Referring to Ethics,
6 Persons in Power to Save Teens, Darkness to Light, or
7 any other neighborhood watch program or like
8 organization? If so, please stand.

9 (No response.)

10 THE COURT: There are none -- oh, yes, ma'am.
11 What is your number?

12 THE JUROR: I serve in Darkness to Light.

13 THE COURT: Hold on. What's your number?

14 THE JUROR: 244.

15 THE COURT: Okay. Ms. Moorman?

16 THE JUROR: Yes.

17 THE COURT: And which organization?

18 THE JUROR: Darkness to Light.

19 THE COURT: And are you a member or a donor?

20 THE JUROR: No. I have just been trained in --

21 THE COURT: Okay. Okay. And do you feel you
22 could be fair and impartial if called?

23 THE JUROR: Yes.

24 THE COURT: All right. Thank you, ma'am.

25 THE COURT: Any further?

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1 (No response.)

2 THE COURT: Okay. Does any member of the jury
3 pool have any particular opinions, experiences, or
4 feelings about firearms which would make it impossible
5 for you to be fair and impartial if called to serve?

6 (No response.)

7 THE COURT: There are none.

8 Is there any member of the jury pool or a member
9 of your immediate family affiliated with any
10 organization or organizations which promote or oppose
11 either gun rights, gun control, or gun education? If
12 so, please stand.

13 Okay. Yes, sir, Mr.--

14 THE JUROR: Gogle.

15 THE COURT: Yes, sir. Which one?

16 THE JUROR: Gun Owners of America and NRA.

17 THE COURT: And I'm going to ask you the same
18 question I asked you before. Do you feel you could be
19 fair and impartial?

20 THE JUROR: Yes, Your Honor.

21 THE COURT: All right. Thank you, sir. You can
22 be seated.

23 Yes, ma'am. Your number?

24 THE JUROR: 285.

25 THE COURT: Which organization?

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1 THE JUROR: My husband is NRA.

2 THE COURT: And do you feel you could be fair and
3 impartial?

4 THE JUROR: Yes, sir.

5 THE COURT: All right. Thank you. Thank you,
6 ma'am.

7 Yes, ma'am.

8 THE JUROR: Number 27, Kelly Beam.

9 THE COURT: Which organization?

10 THE JUROR: NRA.

11 THE COURT: And do you feel you can be fair and
12 impartial?

13 THE JUROR: Yes.

14 THE COURT: Thank you, ma'am.

15 Yes, sir.

16 THE JUROR: 177, Ken Kempinski, NRA.

17 THE COURT: And do you feel you could be fair and
18 impartial?

19 THE JUROR: Yes, sir.

20 THE COURT: Thank you, sir. You can be seated.

21 Yes, sir.

22 THE JUROR: 144, last name Hewitt. I'm a member
23 of NRA.

24 THE COURT: And do you feel you can be fair and
25 impartial?

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1 THE JUROR: Yes, sir.

2 THE COURT: All right. Thank you, sir. You can
3 be seated.

4 All right. Any further?

5 Ladies and gentlemen, this offense is alleged to
6 have occurred on June 27th, 2017 in Charleston County.
7 Does any member of the jury panel have any knowledge
8 from any source about the facts of this case? If so,
9 please stand.

10 (No response.)

11 THE COURT: There are none.

12 And finally, does any member of the jury panel
13 know of any other reason why he or she could not be
14 fair and impartial if called to serve as a juror in
15 this case? If so, please stand.

16 Yes, sir.

17 THE JUROR: Back to the original question, I don't
18 know if it -- I'm juror -- potential juror 56.

19 THE COURT: Yes, sir.

20 THE JUROR: My mother-in-law's brother is, I
21 believe, retired SLED.

22 THE COURT: Okay. And do you feel you could --
23 with that knowledge, do you feel you could be fair and
24 impartial?

25 THE JUROR: Yes, sir.

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1 THE COURT: All right. Thank you, sir. You can
2 be seated.

3 THE COURT: All right. Again, anyone else have
4 any other reason why he or she could not be fair and
5 impartial?

6 (No response.)

7 THE COURT: All right. There are none.

8 Any further submissions from the State?

9 MR. WARING: None from the State, Your Honor.

10 THE COURT: Any further submissions from the
11 Defense?

12 MR. WEHRMAN: None, Your Honor.

13 THE COURT: Okay. Now, so excused from the pool
14 will be Number 337, Number 13, and Number 84, and
15 Number 282.

16 THE CLERK: Ladies and gentlemen, when your name
17 is called, please come forward to the podium, facing
18 the attorneys. Please bring all your belongings with
19 you. Thank you.

20 Juror number 109, Maurice Fleming. What says the
21 State?

22 MR. WARING: Please present this juror.

23 THE CLERK: What states the Defendant?

24 MR. WEHRMAN: Please excuse this juror.

25 THE CLERK: You may have a seat back in the pool.

5-13-2019 PROCEEDINGS

1 Juror Number 136, Teresa Hart. What says the
2 State?

3 MR. WARING: Please present this juror.

4 THE CLERK: What says the Defendant?

5 MR. WEHRMAN: Please seat the juror.

6 THE CLERK: Ma'am, you may have a seat in the jury
7 box.

8 THE CLERK: Juror Number 2, Benzina Alleyne. What
9 says the State?

10 MR. WARING: Please present this juror.

11 THE CLERK: What says the Defendant?

12 MR. WEHRMAN: Please seat this juror.

13 THE CLERK: Ma'am, you may have a seat in the jury
14 box.

15 Juror Number 137, Josh Hartley. What says the
16 State?

17 MR. WARING: Please present this juror.

18 THE CLERK: What says the Defendant?

19 MR. WEHRMAN: Please seat this juror.

20 THE CLERK: Sir, you may have a seat in the jury
21 box.

22 Juror Number 340, Eric Thompson. What says the
23 State?

24 MR. WARING: Please present this juror.

25 THE CLERK: What says the Defendant?

5-13-2019 PROCEEDINGS

1 MR. WEHRMAN: Please seat this juror.

2 THE CLERK: Have a seat in the jury box.

3 Juror Number 130, Donald Gugle. What says the
4 State?

5 MR. WARING: Please present this juror.

6 THE CLERK: What says the Defendant?

7 MR. WEHRMAN: Please excuse the juror.

8 THE CLERK: Sir, you may have a seat back in the
9 panel.

10 Juror Number 39, Robert Bobo. What says the
11 State?

12 MR. WARING: The Court's indulgence.

13 Please present this juror.

14 THE CLERK: What says the Defendant?

15 MR. WEHRMAN: Please excuse the juror.

16 THE CLERK: Sir, you may have a seat.

17 Juror Number 177, Kenneth Kempinski. What says
18 the State?

19 MR. WARING: Please present this juror.

20 THE CLERK: What says the Defendant?

21 MR. WEHRMAN: Please excuse this juror.

22 THE CLERK: Have a seat in the panel.

23 Juror Number 385, Teresa Winful. What says the
24 State?

25 MR. WARING: Please present this juror.

5-13-2019 PROCEEDINGS

1 THE CLERK: What says the Defendant?

2 MR. WEHRMAN: The Court's indulgence.

3 Sorry, I didn't get the juror number, Your Honor.

4 THE CLERK: 385.

5 MR. WEHRMAN: Please seat the juror.

6 THE CLERK: Have a seat in the jury box.

7 Juror Number 107, Bryan Fabian. What says the
8 State?

9 MR. WARING: Please present this juror.

10 THE CLERK: What says the Defendant?

11 MR. WEHRMAN: Please seat this juror.

12 THE CLERK: Have a seat in the jury box.

13 Juror Number 182, Audrey Kirkland. What says the
14 State?

15 MR. WARING: Please present this juror.

16 THE CLERK: What says the Defendant?

17 MR. WEHRMAN: Please excuse this juror.

18 Ma'am, have a seat in the panel.

19 The Defendant has used five of their ten strikes.

20 Juror Number 122, Amanda Graves. What says the
21 State?

22 MR. WARING: Please present this juror.

23 THE CLERK: What says the Defendant?

24 MR. WEHRMAN: Please seat this juror.

25 THE CLERK: Ma'am, you may have a seat in the jury

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1 box.

2 Juror Number 244, Helen Moorman. What says the
3 State?

4 MR. WARING: Please excuse this juror.

5 THE CLERK: Ma'am, you may have a seat with the
6 panel.

7 Number 285, Susan Risher.

8 MR. WEHRMAN: Oops. Back up.

9 THE CLERK: What says the State?

10 MR. WARING: Please present this juror.

11 THE CLERK: What says the Defendant?

12 MR. WEHRMAN: Please excuse this juror.

13 THE CLERK: Ma'am, you may have a seat back with
14 the panel.

15 Juror Number 169, Janette Johnson. What says the
16 State?

17 MR. WARING: Please present this juror.

18 THE CLERK: What says the Defendant?

19 MR. WEHRMAN: Please seat this juror.

20 THE CLERK: Ma'am, you may have a seat in the jury
21 box.

22 Number 79, Winifred Corbin. What says the State?

23 MR. WARING: Please present this juror.

24 THE CLERK: What says the Defendant?

25 MR. WEHRMAN: Sir, could you read the juror number

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1 again? I apologize.

2 THE CLERK: 79.

3 MR. WEHRMAN: 79. Please seat this juror.

4 THE CLERK: You may have a seat in the jury box.

5 Juror Number 56, Peter Burrous. What says the

6 State?

7 MR. WARING: Please present this juror.

8 THE CLERK: What says the Defendant?

9 MR. WEHRMAN: Please seat this juror.

10 THE CLERK: Sir, you may have a seat in the jury

11 box.

12 Juror Number 97, Joshua Drake. What says the

13 State?

14 MR. WARING: Please excuse this juror.

15 THE CLERK: Sir, please have a seat back in the

16 panel.

17 THE CLERK: Juror Number 185, Payton Ladson. What

18 says the State?

19 MR. WARING: Please present this juror.

20 THE CLERK: What says the Defendant?

21 MR. WEHRMAN: Please seat this juror.

22 THE CLERK: Juror Number 284, Cynthia Richardson.

23 What says the State?

24 MR. WARING: Please excuse this juror.

25 THE CLERK: Ma'am, have a seat back in the panel.

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1 The State has used three of their five strikes.

2 Juror Number 298, David Samms. What says the
3 State?

4 MR. WARING: Please excuse this juror.

5 THE CLERK: Juror Number 279, Joseph Rafalowski.
6 What says the State?

7 MR. WARING: Please present this juror.

8 THE CLERK: What says the Defendant?

9 MR. WEHRMAN: Please seat this juror.

10 THE COURT: Gentlemen, do you want one or two
11 alternates?

12 MR. WARING: Your Honor, two would be good.

13 THE COURT: All right. Let's do two. One and
14 one.

15 THE CLERK: Juror Number 173, William Jones. What
16 says the State?

17 MR. WARING: Please present this juror.

18 THE CLERK: What says the Defendant?

19 MR. WEHRMAN: Please excuse this juror.

20 THE CLERK: Juror Number 144, Daniel Hewitt. What
21 says the State?

22 MR. WARING: Please present this juror.

23 THE CLERK: What says the Defendant?

24 MR. WEHRMAN: Please excuse this juror.

25 THE CLERK: I thought that it was supposed to be

5-13-2019 PROCEEDINGS

1 one and one.

2 MR. WEHRMAN: You are right, sir.

3 THE CLERK: Sir, you may have a seat in the jury
4 box.

5 Juror Number 326, Elaine Stevenson. What says the
6 State?

7 MR. WARING: Please present this juror.

8 THE CLERK: What says the Defendant?

9 MR. WEHRMAN: Please seat this juror.

10 THE COURT: All right. Are there any motions or
11 exceptions to the selection of the jury from the State?

12 MR. WARING: No, Your Honor.

13 THE COURT: Are there any motions or exceptions to
14 the selection of the jury from the Defense?

15 MR. WEHRMAN: None, Your Honor.

16 THE COURT: All right. Counsel approach.

17 (Off-the-record discussion held.)

18 THE COURT: All right. Mr. Clerk, would you swear
19 our jury.

20 (Whereupon, the jury is sworn.)

21 THE COURT: The remainder of you in the jury
22 panel, ladies and gentlemen, thank you for your
23 patience this morning. I know you have been before
24 multiple judges. Call the number that's been given to
25 you after 6:00 tonight, and they will give you further

5-13-2019 PROCEEDINGS

1 instructions.

2 Mr. Clerk, that is on the sheet that was sent to
3 them.

4 THE CLERK: Yes. It is on the business card that
5 they have.

6 THE COURT: Anybody that doesn't have that number,
7 see one of the bailiffs in the Clerk's office now to
8 make sure you got the number, and just call that after
9 6:00. The rest of you are now dismissed.

10 (The non-selected jury panel exits the courtroom
11 at 1:25 p.m.)

12 THE COURT: Okay. Ladies and gentlemen, it is
13 about 25 minutes after 1:00, and I realize you have
14 been sitting in the courthouse for a long time today.
15 So we are going to break for lunch. I would like you
16 back in the jury room at 2:45.

17 Now, you have got one order of business before we
18 start the case. What I want you to do is elect a
19 foreperson.

20 This will be the presiding juror over your
21 deliberations at the end. This will be the juror that
22 communicates with the Court if there are any problems
23 or issues that I need to know about. That would need
24 to be in the form of a written note signed by the
25 foreperson. So I'm going to send you to lunch right

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1 now, be back in your room at 2:45. I hope everyone has
2 a good lunch.

3 (The jury exits the courtroom at 1:27 p.m.)

4 THE COURT: Does anybody have anything further
5 before we go into recess?

6 MR. WARING: No, Your Honor. Just, I guess, there
7 was one quick motion and one other matter. I didn't
8 know if you wanted to handle that now or at 2:45.

9 THE COURT: Let's do that at 2:45. If they are in
10 writing, you can go ahead and submit them so I can look
11 at them.

12 MR. WARING: Understood, Judge. Thank you.

13 THE COURT: All right. We will be in recess.

14 (Lunch recess.)

15 THE COURT: Let's go on the record.

16 The jury, I'm informed, is in the room and they
17 are electing a foreperson. Is there anything we need
18 to take up?

19 Mr. Waring, I guess you had a pretrial motion that
20 you need to make?

21 MR. WARING: Your Honor, this is a brief motion,
22 and then there were a couple stipulations that I
23 figured we could take care of pretrial.

24 The first is the State's only Motion to Suppress,
25 and the only motion in general. At this time, we

PRE-TRIAL MOTIONS

1 think, or at least have an inkling that the Defense at
2 some point during the trial is going to try to bring up
3 evidence of prior shootings that were potentially
4 linked to the shell casings and the gun in this case.
5 The gun was never found, but the shell casings were on
6 the scene, and those were sent off to IBIS to be tested
7 for ballistics and came back that there was a high
8 correlation of confidence that they were linked to some
9 other shootings.

10 Many of those are unsolved. I know that maybe one
11 or two of them, there is a suspect to my knowledge.
12 All those cases are still unsolved, unless I have them
13 wrong, but at the last I checked, those were unsolved.

14 I think they are going to try to say that those
15 shootings were conducted by a different person other
16 than the Defendant, and, therefore, that that person
17 conducted this current shooting. The issue is that
18 there's a, in my opinion, a multitude of evidence that
19 nobody other than the Defendant committed the current
20 shooting.

21 I think the standard is clear with our courts
22 that -- and to move forward, Your Honor, I think the
23 test is State V Gregory, 16 SE2d 532, it's a 1941 case,
24 which subsequent cases have cited to and quoted.

25 To quote that case, "Evidence offered by accused

PRE-TRIAL MOTIONS

1 as to the commission of the crime by another person,
2 must be limited to such facts as are inconsistent with
3 his own guilt and to such facts as raise reasonable
4 inference or presumption as to his own innocence,
5 evidence which had no other effect and casted mere
6 suspicion on another, which will raise a conjectural
7 inference as the commission of the crime by another is
8 not admissible."

9 And the key sentence, in my opinion, is "Before
10 such testimony can be received, there must be such
11 proof of connection or the subsequent train of facts
12 and circumstances as tends to clearly point out such
13 other person as the guilty party."

14 Rogue acts, disconnected and outside the crime
15 itself, cannot be separately approved for such purpose,
16 and orderly unbiased traditional inquiry as to the
17 guilt or innocence of the Defendant on trial does not
18 contemplate such Defendant be committed by way of
19 defense to indulge in conjectural inferences that some
20 other person might have committed the offense for which
21 he is on trial or by fanciful analogy to say to the
22 jury that someone other than he is more probably
23 guilty.

24 I think there is just too much evidence in this
25 case that points to the Defendant that any third-party

PRE-TRIAL MOTIONS

1 guilt in these prior shootings would do nothing other
2 than cast a mere suspicion on somebody else doing the
3 shooting as opposed to the Defendant.

4 We've got the mother, who said the Defendant did
5 it; we've got the victim, who said the Defendant did
6 it. The Defendant himself, on multiple video
7 visitation videos, indicates that he did it.

8 And, Your Honor, there is other evidence as well.
9 He gave a fake name when he was captured two and a half
10 weeks later. There is plenty of evidence, in my
11 opinion, that he did the shooting and nobody else.

12 So we would ask that under the standard, since in
13 my opinion the Defense can't do anything other than
14 cast mere suspicion on someone else as opposed to the
15 Defendant, I think any third-party evidence of guilt
16 should be inadmissible, Your Honor.

17 THE COURT: Okay. Mr. Wehrman.

18 MR. WEHRMAN: Thank you, Your Honor.

19 You know, first of all, I think we could maybe
20 clear this up by we don't plan on specifying any
21 particular, you know, theory as to how this happened.

22 We would frame what we're trying to do by saying
23 that the State has had leads that they have not pursued
24 that -- you know, that do not lead to my client.

25 Whether they lead to another person, I don't have

PRE-TRIAL MOTIONS

1 any plan to put before the jury a theory that this
2 person did it, or this person did it, or anything like
3 that.

4 But also note, Your Honor, that, you know, the
5 rationale the State is outlining here, that they have
6 such strong evidence that we could have him precluded
7 from third-party guilt is -- the rationale that's
8 explicitly shot down at Holmes V South Carolina by the
9 U.S. Supreme Court. The only time this issue has gone
10 to the U.S. Supreme Court, as far as I can tell, in a
11 South Carolina case, the one time it did, they said you
12 can have a rule that deals with third-party guilt, but
13 you cannot shut down third-party guilt just because the
14 State has a strong case.

15 So certainly, I've had that as a ground. But,
16 again, Your Honor, I don't think this even falls under
17 the third-party guilt umbrella.

18 What I do plan on getting into is investigative
19 steps that they took, that produced what I would think
20 would be leads that they could have followed up on,
21 that they did not do.

22 That is sort of the general thrust of the
23 argument, I believe. And I don't think that that goes
24 to third-party guilt. I think that goes to them
25 meeting their burden of proof, Your Honor.

PRE-TRIAL MOTIONS

1 So that would be -- we would respectfully request
2 that the Court deny State's motion.

3 THE COURT: Well, at this time, Mr. Waring, I
4 think your motion is premature. I haven't heard the
5 evidence, and certainly, you can make objections if the
6 question is asked, and I'll rule on the objections at
7 the time, and the same goes to you, Mr. Wehrman. I'm
8 not going to rule on this motion at this time. I'm
9 going to reserve it until the actual foundation for the
10 evidence is laid and the question is asked.

11 MR. WARING: Your Honor, does that mean that -- I
12 just want to make sure that the Defense didn't mention
13 that kind of thing in opening.

14 THE COURT: Don't talk about it in the opening
15 statement until you have -- now, certainly, Mr. Wehrman
16 is correct in that the Defense has a right to question
17 the adequacy of the investigation by law enforcement,
18 and the Defense is saying law enforcement did not
19 pursue leads. That is not third-party guilt.

20 But -- and I will allow Mr. Wehrman to make that,
21 what you just told me what you were going to do. But
22 don't get into third-party guilt in your opening
23 statement.

24 So what I'm going to -- if I'm understanding,
25 Mr. Waring, your point, you don't even know who the

PRE-TRIAL MOTIONS

1 third party was.

2 MR. WARING: Your Honor, well, some of these,
3 there was a possible suspect. There's a nomenclature
4 that was used, but to my knowledge, a lot of these are
5 open cases, and from what I understand, talking to some
6 individuals in the Charleston PD is that the Defendant
7 could be considered the prime suspect on a lot of
8 these.

9 THE COURT: So we don't have a have third party to
10 point to. This is an unknown case.

11 MR. WARING: To my knowledge, yes.

12 THE COURT: Do you agree with that?

13 MR. WEHRMAN: I'm aware of the suspect he's
14 referring to. I do not plan on pointing to that
15 suspect as the third party.

16 THE COURT: Yeah. Don't get in -- I mean, I'll
17 allow you to question the adequacy of the
18 investigation. Like you said, I'll allow you to get
19 into that, but don't get into third-party guilt at this
20 time.

21 MR. WARING: Your Honor, I just want to make sure
22 I understand, because the line of questioning that he,
23 I think, would like to go into does not pertain to this
24 actual case, from what I understand. It's just for
25 those other cases that are unsolved.

PRE-TRIAL MOTIONS

1 THE COURT: Again, I'll have to hear the question,
2 and it may be a situation where he can proffer some
3 evidence, and then we'll take it up at that time.

4 MR. WARING: Understood, Judge.

5 MR. WEHRMAN: Thank you, Judge.

6 MR. WARING: Thank you, Judge.

7 The only other matter, if I may, Judge, is we have
8 come to an agreement on a few pieces of evidence that
9 we are stipulating to. And I was hoping to just go
10 ahead and move those into evidence, if that is all
11 right with Your Honor.

12 THE COURT: The State -- what are those pieces of
13 evidence, or what number?

14 MR. WARING: Let's see. State's Exhibits 1
15 through 18, which are all photos, and State's Exhibits
16 21 through 26, which are also photos, Your Honor. And
17 then lastly, 40 and 41, which are two TMV reports.

18 THE COURT: Okay. Is that right, Mr. Wehrman?

19 MR. WEHRMAN: That's correct, Your Honor. No
20 objection to those being moved into evidence.

21 THE COURT: So State's 1 through 18, 21 through
22 26, 40 and 41 are entered as stipulated.

23 MR. WARING: Thank you, Judge.

24 MR. WEHRMAN: Your Honor, I would -- I don't think
25 this requires much time, but I would move that we

PRE-TRIAL MOTIONS

1 sequester the State's witnesses, as just an abundance
2 of caution.

3 THE COURT: All right. I do that as a matter of
4 course.

5 And, Mr. Waring, you can have the chief
6 prosecutorial officer at the table.

7 MR. WARING: Understood, Your Honor. We don't
8 have any objection.

9 THE COURT: Okay. All right.

10 Has the jury elected a foreperson?

11 THE BAILIFF: I'm sure they have.

12 THE COURT: Okay. If you will go get them and
13 have the foreperson sit in the appropriate seat.

14 MR. WEHRMAN: Your Honor, just a moment. Is it
15 all right if we have our lead investigator in the
16 courtroom as well?

17 THE COURT: Is he listed as a witness?

18 MR. WEHRMAN: He is listed as a witness.

19 THE COURT: If he is a witness, he can stay after
20 he testifies. But if he is a witness, he needs to
21 leave.

22 MR. WEHRMAN: We certainly don't intend on calling
23 him, but he is listed for potential impeachment
24 purposes.

25 THE COURT: You can have him in the courtroom, but

PRE-TRIAL MOTIONS

1 you -- absent consent by the State, you give up your
2 right to call him as a witness unless some new matter
3 comes up that's not anticipated.

4 MR. WARING: Judge, I don't have a problem if he's
5 the lead investigator on this case, sitting in the
6 courtroom.

7 THE COURT: Okay. All right. That solves that
8 issue.

9 MR. WEHRMAN: Thank you.

10 THE COURT: Juror Number 2, Ms. Allen, has been
11 elected the forelady.

12 (The jury enters courtroom.)

13 THE BAILIFF: The jury is all present, Your Honor.

14 THE COURT: Thank you, Mr. Bailiff.

15 Madam Forelady, you will always sit where you are
16 sitting right now, and then the two alternates will
17 always sit back there. The rest of you can move about
18 in your seats.

19 Ladies and gentlemen, I hope you had a good lunch.
20 We are ready to proceed. Before we start, let me
21 explain our roles in this trial.

22 I am the judge of the law; you are the judge of
23 the facts. You will apply the law as I give it to you,
24 to the facts that are presented from the evidence.

25 What is evidence? Evidence is the sworn testimony

OPENING COMMENTS BY THE COURT

1 from the witness stand and any exhibits that are
2 entered into evidence. Each attorney will have the
3 opportunity to talk to you in opening statement, and
4 also in closing arguments. But keep in mind what the
5 attorneys say is not evidence. These statements to you
6 are merely tools they use to help you understand their
7 respective positions.

8 The State has the burden of proof in this trial.
9 The State must prove beyond a reasonable doubt that the
10 Defendant is guilty of the offense as charged. If the
11 State fails to meet that burden, then you must find the
12 Defendant not guilty.

13 On the other hand, if the State does meet its
14 burden, then you must find the Defendant guilty.

15 The Defendant is presumed innocent and has no
16 burden of proof in this trial. Now, ladies and
17 gentlemen, you are going to hear more about this term,
18 and I'm going to talk to you at great length at the end
19 of my instructions. But just a preliminary definition,
20 a reasonable doubt is a doubt that is defined as a
21 doubt that would cause a reasonable person to hesitate
22 to act.

23 Now, a few more things before we get started.

24 This is not, as you saw from the witness list that I
25 read to you -- it doesn't mean that all those witnesses

OPENING COMMENTS BY THE COURT

1 will be called, but those are potential witnesses. So
2 this is not going to be a quick trial, this is going to
3 be a fairly lengthy trial, but it's not an endurance
4 contest. If you get in distress and need to take a
5 break, you let your bailiffs know, and we will do our
6 absolute best to accommodate your needs.

7 Now, when you're outside of this courtroom, there
8 are three things that you are absolutely prohibited
9 from doing. The first thing is the independent
10 investigation. In this era of Internet access and
11 smart phones, it's very easy for someone to try to
12 research either the law or the facts of the case. You
13 are strictly prohibited from doing that.

14 The second thing that you can't do is talk to
15 third parties about the case. That's why you have
16 these jurors badges that you have. If you go outside,
17 these attorneys aren't going to speak to you. They are
18 not trying to be rude, they just know they can't talk
19 to you right now.

20 So if someone comes up to you trying to talk to
21 you about this case, you let your bailiffs know,
22 they'll let me know, and we will attend to that. But
23 you can't talk to third parties.

24 And the last thing that you can't do is deliberate
25 amongst yourself about this case. Deliberation means

OPENING COMMENTS BY THE COURT

1 that you are discussing this case when you are in the
2 jury room.

3 I will instruct you at the end when you may begin
4 your deliberations. When you are back there, when
5 you're at lunch, or when you go home, if you see each
6 other, you can talk about anything you want to except
7 this case.

8 And so those instructions, the last thing I want
9 to point out to you, there may come times when we have
10 to leave the courtroom, we have to take up a matter of
11 law. It's not trying to hide things from you, it's
12 just to ensure that each side receives a fair trial.
13 In that vein, one lawyer may object to a question or a
14 piece of evidence, I have to make a ruling on that.
15 That should not be interpreted as me favoring one side
16 or the other. My job is to ensure that both the State
17 and the Defendant receive a fair trial in accordance
18 with the law.

19 So with that said, and these preliminary
20 instructions, we are going to proceed to the first
21 stage of the trial, and that is opening statements by
22 the attorneys.

23 Mr. Waring.

24 OPENING STATEMENT BY THE STATE

25 MR. WARING: Thank you, Your Honor.

OPENING STATEMENT BY THE STATE

1 Good afternoon everybody.

2 (Jury indicates.)

3 MR. WARING: Choices, consequences, and
4 accountability. That's what this case is about.

5 This Defendant over there made a choice to shoot
6 the victim multiple times. With that choice comes
7 consequences. Today, this week, it's time to hold him
8 accountable.

9 Now, leading up to the incident on June 27th,
10 2017, a victim, his name is Timothy Haynes, was dating
11 the Defendant's mother, her name is Tanisha Powell, and
12 those two had taken away, confiscated, an assault rifle
13 from this Defendant. They took that weapon and they
14 hid it. They didn't want him to have it.

15 So fast forward to the morning of the incident,
16 June 27th, 2017, early in the morning, around 8:45 in
17 the morning, the Defendant was asking adamantly for
18 that weapon, for the return of that weapon to himself.
19 He was getting angry, and he was progressively getting
20 angrier and angrier -- so angry that his mother,
21 Tanisha Powell, felt the need to call 911 on her own
22 son.

23 You are going to hear that call. Make sure you
24 listen carefully, pay attention to what is going on in
25 that call. You can hear in the background, the

OPENING STATEMENT BY THE STATE

1 Defendant is asking, "Ma, where is the gun? Where is
2 the gun?"

3 She wants him out of the house. She can't take
4 it.

5 Now, meanwhile, the victim, Timothy Haynes, the
6 boyfriend of the Defendant's mother, had walked across
7 the street to another neighbor's house, to that area.
8 It's a stone's throw distance. He calls 911 because
9 he's had enough as well.

10 And you can hear on that call, he details how the
11 Defendant not only threatened to kill him, but
12 threatened to kill his own mother. He hangs up the
13 phone.

14 Meanwhile, officers from North Charleston Police
15 Department started arriving on the scene because they
16 had gotten these disturbance calls. That's how this
17 thing started, as a disturbance.

18 So the first responding officer was Officer Torres
19 from North Charleston PD. He arrives on scene, and he
20 pulls up and he sees three individuals in front of his
21 mother's house at [REDACTED] 8 Cambridge Avenue. He saw the
22 Defendant, he saw the Defendant's mother, Tanisha
23 Powell, and he saw the Defendant's seven-year-old
24 sister, all in front of the house. They were talking.

25 Now, also Officer Torres noticed that, again, a

OPENING STATEMENT BY THE STATE

1 stone's throw distance from Tanisha Powell's house,
2 that is where the victim was. He was over there,
3 across the street.

4 Now, Officer Torres gets out of his police vehicle
5 and starts walking up towards the Defendant, the
6 Defendant's mother, and the seven-year-old juvenile.
7 As that's going on, the Defendant walks around to the
8 side of his mother's house, and that's when -- boom --
9 he hears approximately six gunshots. Six gunshots.

10 Well, the victim got hit multiple times. And the
11 next thing that Officer Torres noticed was he saw the
12 Defendant running away from the scene.

13 Other officers arrived. EMS arrived. They
14 determined that the victim had been shot at least three
15 times. Now, this is all the way across the street. We
16 are talking a distance of probably, at least, 30 yards,
17 30 to 40 yards.

18 EMS determined he had been shot multiple times.
19 The crime scene technicians from North Charleston PD
20 showed up, and they found some interesting things on
21 the scene.

22 They saw six .40 caliber shell casings around the
23 side of the house in a similar area from where the
24 Defendant had gone.

25 They also found and collected an assault rifle

OPENING STATEMENT BY THE STATE

1 that the mother and the victim had been arguing about
2 with him earlier.

3 Now, the Defendant proceeded to go on the run for
4 approximately a little over two weeks. And an
5 interesting thing happened when he was finally caught.
6 What did he do? He gave a fake name. Fake name.

7 Due to his actions, he was charged with two
8 crimes, attempted murder and possession of a weapon
9 during the commission of a violent crime.

10 Now, the Judge mentioned beyond a reasonable
11 doubt, and that is our burden of proof. And
12 essentially it means that we have to leave you firmly
13 convinced of his guilt, or it's something that would
14 cause a person to hesitate to act.

15 Now, I'm going to tell you right now that
16 attempted murder, in order to prove that crime, we have
17 to prove that he attempted to kill the victim with
18 malice aforethought. Now, these are all kind of
19 strange terminologies.

20 Malice aforethought. Malice means essentially
21 hatred. Hell bent on mischief. Intent to injure
22 without just legal provocation. And it's got to be
23 aforethought. So it has to exist just prior to and at
24 the moment of shooting.

25 Now, in order to prove the gun charge, possession

OPENING STATEMENT BY THE STATE

1 of a weapon during the commission of a violent crime,
2 we have got to prove that the Defendant possessed a
3 deadly weapon, such as a gun, during the commission of
4 a violent crime, such as attempted murder.

5 Now, I'm going to be candid with you right now.
6 The victim does not want us to prosecute this case. He
7 does not want us to go forward. He does not want to be
8 here. He does not want us to do anything, but that
9 does not relieve this man from his criminal
10 responsibility from shooting the victim. The victim
11 was dating the Defendant's mother at that time, and is
12 still dating her now. He does not want us to go
13 forward.

14 Your duty, as the Judge mentioned, to follow the
15 law, is one of the most important things in this trial.
16 If the evidence presented, which I think it's going to
17 be, it proves the Defendant guilty beyond a reasonable
18 doubt, you must find him guilty.

19 Don't let personal opinions and feelings about
20 whether we should even be here today, or this week,
21 cloud your judgment.

22 Don't let that get in the way of you focusing on
23 what is most important, and that is the evidence. What
24 comes out while people are sitting in that chair, what
25 evidence, what testimony comes out, that is what you

OPENING STATEMENT BY THE STATE

1 need to focus on.

2 I think if you do that you will determine that we
3 have carried our burden in finding this man guilty.
4 Because remember, he made that choice. He made that
5 choice to shoot the victim. There's consequences.
6 Let's hold him accountable.

7 THE COURT: All right. Mr. Wehrman.

8 OPENING STATEMENT BY THE DEFENSE

9 MR. WEHRMAN: Thank you, Your Honor.

10 Ladies and gentlemen, this case against Jamaa
11 Washington is built on assumptions. The State is
12 assuming that Jamaa was so angry with his mother's
13 boyfriend, Timothy Haynes, for not giving him back
14 this, this rifle, that he made a decision to go and
15 kill Timothy Haynes.

16 The first mistake is assuming that just because
17 Jamaa was there, just because they had this argument,
18 he must have been the shooter. If we think about the
19 scene that the State is describing, we can think about
20 what evidence we might expect to see. There's multiple
21 people outside, according to the State, when the
22 shooting occurs. So you would think someone would have
23 seen Jamaa do the shooting. But you are not going to
24 hear that at this trial.

25 There are officers on the scene when the shooting

OPENING STATEMENT BY THE DEFENSE

1 occurs. The State went into some detail about what
2 that officer and other officers might have actually
3 seen when it happened. You would think we might get
4 some body camera video of what happened at that point.
5 You're not going to see that video in this trial.

6 Shell casings were found at the scene of the
7 crime, so you would think we might get some sort of
8 evidence linking my client to those shell casings. But
9 you're not going to find any of that in this trial.

10 Not to mention the fact that you're not going to
11 find the gun that's used in this trial. The State is
12 not going to present any of that. They are hoping that
13 you will assume, in a way, for them.

14 It's easier. There's a second assumption here.
15 All this assuming kind of makes a little less sense
16 when you think about the -- the motive in this case.
17 The State tells us the motive was to get this rifle
18 back.

19 Remember, this is an attempted murder case, as the
20 State said. So they have to prove beyond a reasonable
21 doubt specific intent to kill. They are asking you to
22 believe that Jamaa would have wanted to kill Timothy
23 over this rifle, and really would. And they're asking
24 you to believe that not only did he want to kill him,
25 that he made the decision to do so, and that he acted

OPENING STATEMENT BY THE DEFENSE

1 on it -- a bit of an odd assumption to begin with, when
2 you find out that the location of the shots was to the
3 legs.

4 I'm not sure I know a lot of murderers who would
5 try and shoot someone in the legs. But even if we set
6 that to the side, this is Jamaa's family we are talking
7 about. The State describes this as his mother's
8 boyfriend. I think you'll find that there was a lot
9 more of family dynamic than that.

10 You are not going to hear about a history of
11 altercation and violence between Timothy and Jamaa.
12 You're going to hear the opposite. You're going to
13 hear that they had a good relationship.

14 So we have to think, does it make sense that Jamaa
15 would throw all that away, destroy his family
16 basically, over this first time that have had some sort
17 of a disagreement.

18 Now, the State could try and clear some of this
19 up, and explain why this rifle is so important. But
20 you're not going to hear a lot about that either.
21 They're just going to ask you to assume away that
22 problem.

23 The assumption is really going to go the other way
24 in criminal court. The right to be presumed innocent
25 until proven guilty beyond a reasonable doubt. It is

OPENING STATEMENT BY THE DEFENSE

1 one of the most important rights that we have as
2 Americans. It's part of having a just society. It's
3 making sure that the government can't just throw people
4 in prison without powerful evidence of guilt.

5 If we start throwing people into prison based on
6 assumptions, then we're failing to uphold those
7 principals that we have valued as a community for so
8 long.

9 We picked you all because we believe that you can
10 set aside personal feelings and assumptions. We
11 believe you can judge this case based on the facts
12 presented to you.

13 How each and every one of you decides this case
14 and interprets those facts is important. It's very
15 important. Attempted murder is a very serious crime,
16 and this is beyond -- beyond any question, the most
17 important week of Jamaa's young life. So each and
18 every one of you has his fate in your hands and,
19 therefore, each and every one of you has an opinion
20 that matters. And as you sit there today, Jamaa is an
21 innocent man.

22 As the Judge has instructed you, he remains
23 innocent throughout this trial until you hear evidence
24 that leaves you firmly convinced, without any
25 hesitation, that he shot Timothy Haynes with the

OPENING STATEMENT BY THE DEFENSE

1 specific intention to kill him.

2 You are not going to hear that evidence in this
3 case. Not today, not tomorrow, not ever, because Jamaa
4 did not try to kill Timothy Haynes. Thank you.

5 THE COURT: Mr. Waring, call your first witness.

6 MR. WARING: Thank you, Your Honor. State calls
7 Officer Torres.

8 *(Whereupon, State's Exhibit No(s). 1-18 marked for*
9 *identification and received in evidence.)*

10 *(Whereupon, State's Exhibit No(s). 21-26 marked*
11 *for identification and received in evidence.)*

12 *(Whereupon, State's Exhibit No(s). 40-41 marked*
13 *for identification and received in evidence.)*

14 MR. WARING: Your Honor, may we approach?

15 THE COURT: Yes.

16 (Off-the-record discussion held.)

17 Thereupon,

18 JOSE TORRES

19 was called as a witness, having been first duly sworn,
20 was examined and testified as follows:

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

23 THE WITNESS: My name is Jose Torres. Spelling of
24 the last name is T-O-R-R-E-S.

25 DIRECT EXAMINATION

DIRECT EXAMINATION OF JOSE TORRES BY MR. WARING

1 BY MR. WARING:

2 Q Good afternoon, Officer Torres.

3 A Good afternoon.

4 Q Can you tell the jury where you work?

5 A For the City of North Charleston.

6 Q All right. And how long have you worked with
7 North Charleston PD?

8 A Over nine years.

9 Q What has your role been there?

10 A Patrol officer.

11 Q All right. Can you tell the jury a little bit
12 about what you do, as far as your duties and
13 responsibilities as a patrolman?

14 A Yes, sir. Answer day to day dispatch calls,
15 conduct traffic stops, business checks, things of that sort.

16 Q Okay. Now, were you involved with this case, the
17 Jamaa Washington case, on June 27, 2017?

18 A I was.

19 Q Initially, how did you get brought into this case?

20 A I was dispatched to the call.

21 Q All right. And do you recall what the call was
22 for?

23 A It was over a verbal disturbance between mother
24 and son.

25 Q Okay. And, Officer Torres, if you don't mind just

DIRECT EXAMINATION OF JOSE TORRES BY MR. WARING

1 speaking a little closer to the microphone, I would
2 appreciate it.

3 Now, did you respond to the scene?

4 A I did.

5 Q Do you recall what that location was?

6 A The address was [REDACTED] 8 Cambridge Avenue.

7 Q All right. And is that in Charleston County?

8 A It is, sir.

9 Q Now, once you got on scene, can you tell the jury
10 what you saw?

11 A As I'm approaching the house, I'm driving up so my
12 passenger side door is closest to the residence. I could
13 see Mom, the Defendant, and a younger sibling walking to the
14 front of the house. I could see that it appeared that Mom
15 was trying to calm the Defendant down.

16 Q All right. I'm going to put up on the overhead a
17 couple of photos for you. Starting off, these exhibits have
18 already been admitted. This is going to be Exhibit 1,
19 State's Exhibit 1.

20 All righty. Officer Torres, can you tell us what
21 we are looking at here?

22 A We are looking down Cambridge Avenue toward
23 Accabee Road.

24 Q All right. And you can actually touch on there, I
25 believe, where you responded to? Can you point out which

DIRECT EXAMINATION OF JOSE TORRES BY MR. WARING

1 house it was?

2 A It is going to be on this side over here, sir. On
3 the passenger's side. It is going to be on the left-hand
4 side up near the telephone pole, sir. Right by these trees
5 here.

6 Q Okay. Do you mind standing up and just pointing
7 out to the jury?

8 A Sure. Okay. Just let me get my bearings on this.
9 It is going to be this residence right --
10 right in here.

11 Q Okay. So as you pulled up, I'm showing you
12 State's Exhibit 3, already been admitted. When you pulled
13 up on scene, can you tell us where you parked?

14 A I parked just beyond the white truck, so it would
15 be off screen. So, again, my passenger door would be to the
16 -- facing these houses here.

17 Q Okay. Now, is that white house right there, is
18 that ■■■ 8 Cambridge?

19 A Yes, sir.

20 Q All right. Now, you said you saw the Defendant,
21 the Defendant's mom, and the juvenile, right?

22 A Yes, sir.

23 Q Did you see anybody else on scene?

24 A No, sir, not -- not in front of that residence.

25 Q What about in front of a different residence?

DIRECT EXAMINATION OF JOSE TORRES BY MR. WARING

1 A I did.

2 Q Okay. Who did you see?

3 A The victim.

4 Q And do you recall approximately where you saw him?

5 A Pretty much across the street from the -- the
6 front of his house. There was a yellow house across the
7 street.

8 Q All right. I'm going to put up another photo for
9 you. This has been admitted as State's Exhibit 5. Is that
10 the house you are referring to?

11 A Yes, sir.

12 Q All right. And do you recall at that time what
13 the victim was doing?

14 A The victim was standing near the front, closer to
15 the road, not deep into the yard when I exited my vehicle,
16 yelling that he wanted the Defendant out of the house.

17 Q Now, at that time, when you pulled up, how good of
18 a look did you get of the Defendant?

19 A Pretty good, sir.

20 Q Was it raining that day?

21 A No, sir.

22 Q All right. Approximately what time do you recall
23 this taking place?

24 A It was in the early morning hours, closer to 9:00
25 a.m.

DIRECT EXAMINATION OF JOSE TORRES BY MR. WARING

1 Q Was it light out?

2 A Yes, sir.

3 Q Okay. And were you able to see his face clearly?

4 A Yes, sir.

5 Q Was anything obstructing your view of his face?

6 A Nothing, sir.

7 Q All right. Do you recall, or can you tell us, at
8 that time, what you would describe the Defendant's physical
9 description as?

10 A A black male. At that time, he was wearing an all
11 black shirt and pants.

12 Q Okay. And what about haircut?

13 A It was a little shorter on the side and a little
14 longer on the top.

15 Q All right. Now, so, you see everybody out front,
16 and you see the victim across the street, what happened
17 next?

18 A I exited my patrol vehicle. Again, with my victim
19 being on the right, as I'm approaching the yard, the
20 Defendant keeps walking to the right side of the house, if
21 you are facing the house. Mom and juvenile are walking more
22 towards me to make contact.

23 Q All right. So you said the Defendant is walking
24 towards to the right of the house. Are you talking about
25 over here?

DIRECT EXAMINATION OF JOSE TORRES BY MR. WARING

1 A Where the stairway is, yes, sir.

2 Q Okay. And what happens next?

3 A I hear shots go out. I immediately unholster my
4 firearm. Myself, Mom, and juvenile go take cover close to
5 this white truck that you will see on the left-hand side of
6 the screen, sir.

7 Q Okay. Do you recall about how many shots you
8 heard?

9 A I heard approximately five to six, sir.

10 Q Did you actually see the shooting take place?

11 A I did not.

12 Q Now, you didn't see the shooting. Did you see
13 anything suspicious?

14 A As far as?

15 Q After the shots were fired.

16 A When I -- the only thing that I can say that I saw
17 is when, again, taking cover over by the white truck, I did
18 see the Defendant run through the back yard of the
19 residence, running to the next street behind this.

20 Q Okay. Now, is that the same person that you had
21 seen out front just moments before?

22 A Yes, sir.

23 Q Do you recall anybody yell out or anybody
24 delirious, anything of that nature happen?

25 A Mother, as, again, when we were taking cover,

DIRECT EXAMINATION OF JOSE TORRES BY MR. WARING

1 makes a comment to me not to shoot him.

2 Q What did you do at that time?

3 A Again, just kind of maintained cover and let
4 dispatch know that we had shots fired. And, again, asking
5 for more assistance via other officers.

6 Q Did the individual who ran, the Defendant, same
7 individual that you saw walking around the side of the
8 house, did that person stick around on scene?

9 A No, sir.

10 Q Were you able to locate him at all?

11 A No, sir.

12 Q Now, what about the victim? At some point, did
13 you discover that he had been shot?

14 A Yes, sir.

15 Q Okay. Can you tell us about that.

16 A Pretty much after we got back to near the truck
17 and let dispatch know, my assisting officer arrived on
18 scene, and we started going over to the driveway next to the
19 yellow house where the victim had -- had some visible wounds
20 to his leg.

21 Q All righty. So I'm going to put State's Exhibit 5
22 back up.

23 Is this the house you are referring to?

24 A It was actually the driveway where the van is. So
25 it was right next to it.

DIRECT EXAMINATION OF JOSE TORRES BY MR. WARING

1 Q Okay. Did you actually see the victim?

2 A Yes, sir.

3 Q Did he appear to have any wounds?

4 A Yes, sir.

5 Q Was he bleeding?

6 A Yes, sir.

7 Q Now, earlier you kind of talked about how the

8 Defendant went around the side of the house and how you had

9 seen the victim cross the street near this yellow house.

10 What would you estimate the distance is between those two

11 locations?

12 A Approximately 30 to 40 yards, 40 being on the top

13 end.

14 Q Now, did other officers respond?

15 A Yes, sir.

16 Q Okay. And did y'all look around for evidence?

17 A Yes, sir.

18 Q Did you find anything?

19 A We found shell casings, sir.

20 Q All right. And where did you see those?

21 A If we can refer back to the previous picture, the

22 side stairway on the house at [REDACTED] 8 Cambridge Avenue, they

23 were on the stairwell and on the ground.

24 Q Are you talking about over here?

25 A Yes, sir.

DIRECT EXAMINATION OF JOSE TORRES BY MR. WARING

1 Q So I'm putting up State's Exhibit 7, already
2 admitted. Is that the same staircase?

3 A Yes, sir.

4 Q And how about that?

5 A That would be -- it looks like on the ground near
6 those steps, sir.

7 Q Okay. Near that same staircase and --

8 A Yes.

9 THE COURT: What number is that?

10 MR. WARING: I apologize, Your Honor. That's
11 State's Exhibit 11, already admitted.

12 BY MR. WARING:

13 Q I'll show you State's Exhibit 13, which has
14 already been admitted as well. What do you see in that
15 photo?

16 A Are you talking about -- there is a car to the
17 left. Shell casing right at the fence. The same stairwell.

18 Q I'll show you one that's a little closer,
19 Exhibit 14, already admitted.

20 What do you see in that photo?

21 A A shell casing with a crime scene marker.

22 Q And I'm putting it back on Exhibit 3.

23 Now, are those shell casings, from what you
24 recall, near where the Defendant had walked over to?

25 A Yes, sir.

DIRECT EXAMINATION OF JOSE TORRES BY MR. WARING

1 Q Did you touch them or move them in any way?

2 A I did not, sir.

3 Q What was the mom doing during all this?

4 A Being uncooperative, semi uncooperative. Walking
5 back and forth, pacing, just real almost in an excited
6 state.

7 Q Okay. Did EMS ultimately arrive?

8 A Yes, sir.

9 Q And did they take the victim?

10 A Treated and took the victim, yes, sir.

11 Q Now, there was a -- there was some mention about
12 body cams. Were you wearing a body cam at that time?

13 A I was, sir.

14 Q Is your body cam available today?

15 A It is not, sir.

16 Q All right. Can you tell the jury what your
17 explanation is for that?

18 A Around the time of these events, we were
19 transitioning to a -- almost a new system, and from what our
20 understanding is, is the videos that were there somehow
21 didn't come over to the new system, and they had a time
22 where a lot of videos were lost due to that transition.

23 Q Did you purposely erase this video?

24 A I could never sir, no.

25 Q Are you trying to hide anything?

DIRECT EXAMINATION OF JOSE TORRES BY MR. WARING

1 A No, sir.

2 Q Now, earlier in your testimony, you mentioned that
3 you got, or you saw the Defendant, clearly saw his face as
4 you pulled up; is that right?

5 A Yes, sir.

6 Q All right. Have you seen that person since the
7 shooting back then?

8 A I have not.

9 Q All right. But you testified that you got a good
10 look at him; is that right?

11 A Yes.

12 Q Do you see anybody that looks similar in the
13 courtroom?

14 MR. WHRMAN: Objection, Your Honor. Your Honor, I
15 think this is trying to tie the old observations as a
16 sort of out-of-court identification.

17 MR. WARING: May we approach, Your Honor?

18 THE COURT: Yes, approach.

19 (Off-the-record discussion held.)

20 BY MR. WARING:

21 Q All right. Officer Torres, do you see anybody --
22 you said you got a good look at him, do you see anybody in
23 the courtroom that looks similar to that person?

24 A Yes, sir.

25 Q Okay. And can you point him out for the jury,

DIRECT EXAMINATION OF JOSE TORRES BY MR. WARING

1 please.

2 A He's wearing a gray suit, sitting at the other
3 table.

4 MR. WARING: Your Honor, let the record reflect
5 that the witness has identified the Defendant.

6 THE COURT: So noted.

7 MR. WARING: The Court's indulgence.

8 (Pause.)

9 MR. WARING: Please answer any questions the
10 Defense has.

11 MR. WEHRMAN: Thank you, Your Honor.

12 CROSS EXAMINATION

13 BY MR. WEHRMAN:

14 Q Good afternoon, Officer Torres.

15 A Good afternoon.

16 Q Okay. So, again, you arrived on scene before any
17 shots were fired?

18 A Correct.

19 Q You said you were equipped with a body-worn camera
20 at that time?

21 A Yes, sir.

22 Q Maybe just to clarify in case there is any
23 question. Body-worn camera is about what it sounds like.
24 It's a little camera that would be attached to the front of
25 your uniform?

CROSS EXAMINATION OF JOSE TORRES BY MR. WEHRMAN

1 A Correct, sir.

2 Q And you would have the ability to turn it on,
3 record video, record audio?

4 A Yes, sir.

5 Q Okay. That is important for a lot of reasons. It
6 protects society by making it easy to know exactly what
7 happened; would you agree?

8 A Yes, sir.

9 Q It's better than a written report in a lot of ways
10 because a camera can't lie, correct?

11 A Yes.

12 Q It doesn't depend on your memory, your
13 truthfulness doesn't come into account. It's just purely,
14 purely evidence. Video, correct?

15 A Yes, sir.

16 Q Okay. And your department has policies in place
17 to make sure that you use body-worn cameras, correct?

18 A Yes, sir.

19 Q And that policy requires officers to activate
20 their body-worn camera during all calls for service,
21 correct?

22 A Yes, sir.

23 Q That would include interviews, interrogations, and
24 witness contacts, correct?

25 A Correct.

CROSS EXAMINATION OF JOSE TORRES BY MR. WEHRMAN

1 Q And you received training on how to operate these
2 body-worn cameras?

3 A Yes, sir.

4 Q Okay. If you fail to comply with the department
5 policy, an officer can be subject to disciplinary action,
6 correct?

7 A Correct.

8 Q So body-worn cameras are important.

9 Now, you had the body-worn camera when you
10 responded that day. Did you activate the body-worn camera
11 that day?

12 A Yes, I did.

13 Q We have discussed that footage is not available.

14 A Yes.

15 Q And your explanation for that is that in
16 transitioning to a new system, the videos somehow didn't
17 come over, correct?

18 A Correct.

19 Q Are you saying it was in a file format and the
20 file did not convert?

21 A I'm not sure what format it is in, sir. I just
22 know that there was a lot of videos lost due to the
23 transition of switching systems.

24 Q But that's a computer system you're using?

25 A Correct, sir.

CROSS EXAMINATION OF JOSE TORRES BY MR. WEHRMAN

1 Q Now, the department has policies prevent the loss
2 of body camera footage as well, correct?

3 A Yes, sir.

4 Q One of those policies requires that you download
5 your body cam footage after the end of each shift?

6 A Yes.

7 Q Another policy requires that when footage might be
8 relevant in a case, that footage would be transferred to a
9 DVD?

10 A Yes, sir.

11 Q And that wasn't done in this case?

12 A No, sir.

13 Q So we don't have any body cam footage?

14 A No.

15 Q And we are relying on your memory and what you
16 have to say today to know what happened?

17 A Yes, sir.

18 Q Okay. So remembering back, when you arrived on
19 the scene, you are saying you parked in front of ■■■8
20 Cambridge?

21 A Just beyond it, sir.

22 Q To the left side?

23 A If you are looking at the picture, yes, sir.

24 Q I'm sorry. Looking at it from my perspective, to
25 the left side?

CROSS EXAMINATION OF JOSE TORRES BY MR. WEHRMAN

1 A Yes, sir.

2 Q Okay. And you stated that Mrs. Powell, Tanisha
3 Powell, the complainant, she, a younger sibling, and a black
4 male were walking around the house?

5 A No, sir. If you are facing the house, they were
6 walking from the vehicles going towards to the right-hand
7 side. So they were walking towards me, and I'm pulling up
8 with my vehicle.

9 Q Okay. So they were coming from that side of the
10 house where the vehicles are?

11 A Yes, sir.

12 Q Okay. They were not coming out of the front door?

13 A No, sir.

14 Q And so they were coming towards you?

15 A Yes, sir.

16 Q So they would have seen you?

17 A Yes, sir.

18 Q You are in a marked police car?

19 A Yes, sir.

20 Q You have your police uniform on?

21 A Yes, sir.

22 Q So everyone would have known there's a police
23 officer on scene at that point?

24 A Yes, sir.

25 Q Now, again, you didn't see the shots?

CROSS EXAMINATION OF JOSE TORRES BY MR. WEHRMAN

1 A No, sir.

2 Q You heard the shots?

3 A Yes, sir. Correct.

4 Q Okay. So you didn't actually see the shooting or
5 the shooter?

6 A I did not see the shooting, correct.

7 Q So you don't have any idea how the shots were
8 fired?

9 A No, sir.

10 Q By that, I mean, you don't know whether the
11 shooter lined up the shot, you don't know whether he used a
12 two-handed grip, you don't know whether he use a one-handed
13 grip?

14 A No.

15 Q You wouldn't know whether he was moving when he
16 fired the shots, or whether he was standing still when he
17 fired the shots?

18 A No, sir.

19 Q I think you stated when you heard the shots you
20 looked for cover, correct?

21 A Correct. To make sure that the mom, myself, and
22 the juvenile took cover.

23 Q Okay. And you took cover in the area where the
24 white truck is in the driveway?

25 A Yes, sir.

CROSS EXAMINATION OF JOSE TORRES BY MR. WEHRMAN

1 Q So that's away from the side of the house that you
2 stated the shots were fired from?

3 A Correct, sir.

4 Q Okay. And so from that vantage point, you can't
5 see anything on that far right side of the house?

6 A Correct.

7 Q You can't see large sections of the back yard?

8 A Correct.

9 Q Oh, so there's large swaths of the property that
10 you just don't have any visual site of?

11 A Correct.

12 Q So if someone had been in one of those areas, you
13 wouldn't have known if they were there?

14 A Correct.

15 Q If someone had approached the scene from an angle
16 that led into those areas, you wouldn't have known they were
17 there?

18 A Correct.

19 Q If someone exited the scene from one of those
20 areas, you wouldn't have known that?

21 A Correct.

22 Q Now, you did see Timothy when the shots were
23 fired, correct?

24 A The victim?

25 Q The victim, yes.

CROSS EXAMINATION OF JOSE TORRES BY MR. WEHRMAN

1 A Yes, sir.

2 Q Okay. And when you looked in his direction, you
3 were also able to see some dust kicked up?

4 A Well, as you could see here in the front of the
5 house, if we are referring to the picture, from my vantage
6 point, I'm already kind of near this sidewalk area. And I
7 could see dirt kicked up right near the road.

8 So if you are looking at the picture, the red
9 sticker, up -- up in that area. So along the roadway.

10 Q Again, this is State's Exhibit 3 we are looking
11 at, and you are saying that near the area where the exhibit
12 marker is, there was some dust being kicked up?

13 A More in the dirt area, sir. Not on the road.

14 Q Okay. In the dirt area, and that would be the
15 dirt area along the Cambridge -- I'm sorry, on the ■■■8 side
16 of the street?

17 A Yes, sir.

18 Q Okay. And to be clear, the victim was on the
19 other side of that road?

20 A On the other side of the road.

21 Q Now, you also found some areas where rounds had
22 struck a house, I believe?

23 A The house across the street, yes, sir.

24 Q Okay. You determined that those strikes were
25 caused by ricochets, correct?

CROSS EXAMINATION OF JOSE TORRES BY MR. WEHRMAN

1 A Yes, sir.

2 Q So that would mean that at least some of the
3 rounds were fired low enough to strike the ground?

4 A Yes, sir.

5 Q And then they would bounce back up and hit the
6 building?

7 A Yes, sir.

8 Q That is consistent with seeing some dust kicked up
9 on the road?

10 A Yes, sir.

11 Q Now, I believe you said after the shooting that
12 you saw that the victim had moved back into that driveway of
13 the yellow house?

14 A It was the driveway next to the yellow house.

15 Q The driveway next to the yellow house. I'm sorry.

16 And you went to check on him?

17 A Yes, sir.

18 Q And you found that he was bleeding from the leg?

19 A Yes, sir.

20 Q Okay. Did you see any evidence that he had
21 been bleeding?

22 A (No response.)

23 Q Okay. You didn't see any evidence that he had
24 been hit anywhere else?

25 A No, sir.

CROSS EXAMINATION OF JOSE TORRES BY MR. WEHRMAN

1 Q There was no evidence that he had been hit above
2 the waist?

3 A No, sir.

4 Q So based on what you saw at the scene, at least
5 some of the rounds were fired low enough to ricochet off the
6 ground, correct?

7 A Yes, sir.

8 Q And several others struck Timothy in his legs,
9 correct?

10 A I'm sorry?

11 Q And others struck -- struck the victim in the leg,
12 correct?

13 A Yes, sir.

14 Q Now, after the shots, you mentioned seeing
15 somebody you're identifying now as my client running through
16 the back yard?

17 A Yes, sir.

18 Q And that's the back yard of [REDACTED] 8 Cambridge?

19 A Yes, sir.

20 Q The property shown in State's Exhibit 3?

21 A Yes, sir.

22 Q Okay. You stated he crossed a fence at the back
23 of the yard?

24 A Yes, sir.

25 Q You saw him run through another property?

CROSS EXAMINATION OF JOSE TORRES BY MR. WEHRMAN

1 A Yes, sir.

2 Q You saw him run over to the next street over?

3 A Yes, sir.

4 Q So you would have seen him travel for a fair
5 distance?

6 A Pretty fair, yes, sir.

7 Q So that would be at least a hundred feet or so?

8 A Yes, sir.

9 Q In all that time, you never saw him holding a gun?

10 A In taking cover, I did not see him holding a gun,
11 no, sir.

12 MR. WEHRMAN: The Court's indulgence.

13 (Pause.)

14 BY MR. WEHRMAN:

15 Q Thank you, Officer Torres.

16 Just to clear one thing up. You stated that
17 when you arrived on scene, they were not coming from
18 around -- from behind the house?

19 A They were coming from inside. So they were -- to
20 draw a mental picture, as if they already had come down the
21 driveway, they were already near the bushes to the left of
22 the house that you can see up front, walking more towards
23 the front of the house.

24 Q Okay. And you wrote a report in this case?

25 A Yes, sir.

CROSS EXAMINATION OF JOSE TORRES BY MR. WEHRMAN

1 Q And, again, report writing is an important part of
2 police work, correct?

3 A Absolutely.

4 Q That is done to capture everything when it's fresh
5 on your mind, correct?

6 A Yes, sir.

7 Q You received training on report writing, correct?

8 A Yes, sir.

9 Q And we rely on reports in the criminal court
10 process, correct?

11 A Yes, sir.

12 Q And you wrote a report in this case?

13 A Yes, sir.

14 Q You stated in your report that the complainant,
15 the suspect, and the juvenile came down and were walking
16 from behind the house towards the road, correct?

17 A From behind, correct.

18 MR. WEHRMAN: Okay. No further questions, Your
19 Honor.

20 THE COURT: Any redirect?

21 MR. WARING: Just briefly, Your Honor.

22

23 REDIRECT EXAMINATION

24 BY MR. WARING:

25 Q Officer Torres, did you erase that body cam on

CROSS EXAMINATION OF JOSE TORRES BY MR. WEHRMAN

1 purpose?

2 A I did not, sir.

3 Q To your knowledge, did anybody else erase that
4 body cam on purpose?

5 A No, sir.

6 Q Who did you see immediately after the shots were
7 fired running away?

8 A The Defendant, sir.

9 Q Okay. Now, I believe you mentioned it in direct
10 examination, what did the Defendant's mother say as soon as
11 the shots rang out?

12 A Do not shoot him.

13 Q Do not what?

14 A Do not shoot him.

15 Q And did you see anybody else run away from the
16 scene other than the Defendant?

17 A No, sir.

18 Q I just want to show you a couple photos real
19 quick.

20 All right. I'm showing you State's Exhibit
21 16, which has already been admitted into evidence. Can you
22 tell us what we are looking at here?

23 A It's damage to the house that's across the street
24 from [REDACTED] 8 Cambridge Avenue.

25 Q And what kind of damage?

CROSS EXAMINATION OF JOSE TORRES BY MR. WEHRMAN

1 A Due to the gunshots.

2 Q Okay. Now, the Defense was kind of making a big
3 deal about how the bullet was shot towards the ground,
4 right?

5 A Yes, sir.

6 Q Is that bullet -- is that -- is that damage from
7 the bullet, is that towards the ground or is that higher up?

8 A That is higher up, sir.

9 Q And what are we looking at here, Exhibit 18?

10 A It looks like to be the inside or the backside
11 part of the picture we just saw prior.

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

13 THE COURT: Anything further from this witness?

14 MR. WARING: Not from the State, Your Honor.

15 MR. WEHRMAN: Not from the Defense, Your Honor.

16 THE COURT: All right. Thank you, Officer. You
17 may step down.

18 MR. HEGGELKE: The State calls Tonia Mallette.

19 Thereupon,

20 TONIA MALLETTTE

21 was called as a witness, having been first duly sworn,

22 was examined and testified as follows.

23 THE CLERK: Please be seated. Please state your
24 name and spell your last name for the record, please.

25 THE WITNESS: Sure. Tonia Mallette.

CROSS EXAMINATION OF JOSE TORRES BY MR. WEHRMAN

1 M-A-L-L-E-T-T-E.

2 DIRECT EXAMINATION

3 BY MR. HEGGELKE:

4 Q Tonia, how are you?

5 A Doing well. Thank you.

6 Q Please tell the jury where you are employed.

7 A Sure. Charleston County Consolidated 911 Center.

8 Q And how long have you been there?

9 A Twenty-nine and a half years.

10 Q And what is your position there?

11 A Currently I am the analyst, a FOIA analyst.

12 Q And what are your -- some of your duties and
13 responsibilities within that capacity?

14 A Sure. My duties include, I am the records
15 custodian for the Charleston County Consolidated 911 Center.
16 I'm also the complaints compliance officer. I do a bit of
17 quality assurance. I handle lots of subpoenas and requests
18 dealing with 911 calls and CAD reports and radio
19 transmissions.

20 Q Which leads me to my next question.

21 So you receive subpoenas from law
22 enforcement, or investigators from our office, regarding
23 information from your department?

24 A Yes, I do.

25 Q And what are some of those documents or items

CROSS EXAMINATION OF JOSE TORRES BY MR. WEHRMAN

1 requested?

2 A The 911 calls. The incident detail report, which
3 we refer to also as the CAD report, and also radio and audio
4 transmissions.

5 Q Okay. So you deal with incident detailed records
6 and 911 calls on a regular basis?

7 A Yes, I do.

8 Q Okay. Now, let's first talk about this -- the
9 detailed reports. What are those?

10 A Those are the reports that are generated once it
11 starts between the caller and the call taker, and it's notes
12 basically about the actual phone call.

13 And it's also notes pertaining to the officer
14 and dispatcher, things that may go on on a scene that the
15 officer wishes to transmit by radio.

16 Q And are those reports made at the time or near the
17 time of the incident?

18 A Yes, it is.

19 Q And are those records kept in the ordinary course
20 of business for Consolidated Dispatch?

21 A Yes, it is.

22 Q And is it a regularly conducted business activity
23 to generate those reports?

24 A Yes, it is.

25 Q I'm now handing you what's been marked as State's

CROSS EXAMINATION OF JOSE TORRES BY MR. WEHRMAN

1 20.

2 A Okay.

3 Q And what is that?

4 A This is the incident detail report also referred
5 to as the CAD report.

6 Q And does that fairly and accurately depict the
7 incident detailed report for this case?

8 A Yes, it is..

9 Q And has it been altered or tampered with in any
10 way?

11 A It has not.

12 MR. HEGGELKE: Your Honor, at this time, the State
13 would seek to admit Exhibit 20.

14 THE COURT: Any objection?

15 MR. WEHRMAN: No objections, Your Honor.

16 THE COURT: Ladies and gentlemen, State's Exhibit
17 20 will be admitted without objection.

18 *(Whereupon, State's Exhibit No(s). 20 marked for*
19 *identification and received in evidence.)*

20 BY MR. HEGGELKE:

21 Q All right. Now, let's talk about 911 calls. When
22 a person calls 911, are those calls recorded?

23 A Yes, they are.

24 Q And are those calls recorded at the time the call
25 is made?

CROSS EXAMINATION OF JOSE TORRES BY MR. WEHRMAN

1 A Yes, it is.

2 Q And are the calls kept and recorded in the
3 ordinary course of business for Consolidated Dispatch?

4 A Yes, it is.

5 Q And is it a regularly conducted business activity
6 to generate those calls?

7 A Yes, it is.

8 Q How are they kept or stored?

9 A They're stored on the server, and it's used -- I
10 listen through what we call a nice recorder. But it's kept
11 on the service at the Consolidated 911 Center.

12 Q Okay. And when you receive a request or subpoena
13 for a particular 911 call, how do you go about retrieving
14 it?

15 A As I said, I use the what we call the nice
16 recorder. I listen to the actual call, I download the call,
17 save the call, and send the call electronically.

18 Q And I'm handing you what's been marked as State's
19 Exhibit 19.

20 A Yes.

21 Q What are we looking at there?

22 A This is a copy of the 911 call.

23 Q And were there several calls for this incident?

24 A Yes.

25 Q And have the calls been altered or tampered with

CROSS EXAMINATION OF JOSE TORRES BY MR. WEHRMAN

1 in any way?

2 A They have not.

3 Q And have you had a chance to listen to that disc?

4 A Yes, I have.

5 Q And do they fairly and accurately depict the 911
6 calls for this case?

7 A Yes.

8 MR. HEGGELKE: Your Honor, at this point, I'd seek
9 to admit State's 19.

10 THE COURT: Any objection?

11 MR. WEHRMAN: No objections, Your Honor.

12 THE COURT: All right. State's Exhibit Number 19
13 will be admitted without objection.

14 *(Whereupon, State's Exhibit No(s). 19 marked for*
15 *identification and received in evidence.)*

16 MR. HEGGELKE: And I'm going to play a clip for
17 you.

18 (The 911 call CD being played for the jury.)

19 MR. HEGGELKE: I have no further questions, but
20 you can answer anything the defense counsel has.

21 THE WITNESS: Yes.

22 MR. HEGGELKE: Thank you.

23 THE COURT: Cross examination.

24 MR. WEHRMAN: We have no questions, Your Honor.

25 THE COURT: All right. Thank you, ma'am. You can

CROSS EXAMINATION OF JOSE TORRES BY MR. WEHRMAN

1 step down. State calls Officer Steinbrenner.

2 Thereupon,

3 CHARITY STEINBRENNER

4 was called as a witness, having been first duly sworn,

5 was examined and testified as follows:

6 THE CLERK: Please be seated. Please state your
7 name and spell your last name for the record, please.

8 THE WITNESS: Charity Steinbrenner.

9 S-T-E-I-N-B-R-E-N-N-E-R.

10 DIRECT EXAMINATION

11 BY MR. HEGGELKE:

12 Q How are you doing?

13 A I'm good. How are you?

14 Q Good. Thank you.

15 Where are you currently employed?

16 A The City of North Charleston Police Department.

17 Q And in what capacity?

18 A I'm a police officer.

19 Q And how long have you been working there?

20 A It will be 14 years in October.

21 Q And were you working on June 27th, 2017?

22 A Yes, sir.

23 Q And did you have an opportunity to become involved
24 in this case, State V Jamaa Washington?

25 A I did.

DIRECT EXAMINATION OF CHARITY STEINBRENNER BY MR.
HEGGELKE

1 Q Do you remember the incident location?

2 A I believe it was [REDACTED] 8 Cambridge Avenue.

3 Q And is that in Charleston County?

4 A It is.

5 Q Now, explain to the jury how you became involved.

6 A I was dispatched to a call for service for a
7 disturbance between mother and son.

8 Q And upon arriving at the scene, what did you first
9 do?

10 A As I pulled onto Cambridge Avenue, I could hear
11 gunshots. I exited my car, I observed Officer Torres, a
12 female complainant and a small juvenile. The juvenile was
13 screaming. I asked Officer Torres if he was okay, and if
14 the shots occurred there or if they were down the street.

15 Q What about the mother's demeanor?

16 A She was just -- kind of just standing there.
17 Didn't really say anything at the time.

18 Q Was she cooperative at all?

19 A She didn't tell me anything.

20 Q Okay. And where were they located?

21 A They were in front of the residence.

22 Q And did you see the victim?

23 A I did. I heard somebody yell out that they had
24 been shot. So I went to that person, who ended up being the
25 victim. He was bleeding from the leg, had been shot in the

DIRECT EXAMINATION OF CHARITY STEINBRENNER BY MR.
HEGGELKE

1 leg.

2 Q Where was he located?

3 A Across the street from the originating address.

4 Q And what was his state?

5 A He was really, really upset. He wasn't saying a
6 whole lot. He was very angry, he was standing at the chain
7 link fence. He was shaking it so hard I thought he was
8 going to rip it out of the ground.

9 Q And I believe you said this earlier. So you could
10 see any wounds?

11 A I could see blood coming out of his leg. It
12 appeared to be gunshots to the upper leg.

13 Q Okay. And were there any neighbors on scene?

14 A There was.

15 Q Did you interview any of them personally?

16 A I did not.

17 Q Okay. And did EMS arrive while you were outside?

18 A Yeah. I requested EMS and they were there shortly
19 after.

20 Q Okay. Did they take the victim away?

21 A They did.

22 Q And let's just address the body-worn camera. Were
23 you wearing a body-worn camera that day?

24 A I was.

25 Q And is your body cam available?

DIRECT EXAMINATION OF CHARITY STEINBRENNER BY MR.
HEGSELKE

1 A It is not.

2 Q And explain to the jury why.

3 A The department was going through a transition on
4 how they were storing the camera, and after 90 days, it
5 purged out of the system due to storage.

6 Q Okay. Now, do responding officers typically write
7 police reports following an incident?

8 A They do.

9 Q Did you write one in this case?

10 A I did not.

11 Q Why?

12 A I did not receive any information from anybody
13 that Officer Torres did not receive himself.

14 Q Okay. So is there anything that you did or
15 observed that wasn't in Officer Torres' report?

16 A No, sir.

17 MR. HEGSELKE: The Court's indulgence.

18 (Pause.)

19 BY MR. HEGSELKE:

20 Q I'm just going to show you a couple of pictures.

21 Now, where -- who did you observe in this
22 yard?

23 A Officer Torres, the female complainant, and the
24 female juvenile.

25 Q Then across the street?

DIRECT EXAMINATION OF CHARITY STEINBRENNER BY MR.
HEGGELKE

1 A Across the street, on the left side by the van is
2 where the victim and the neighbor were located.

3 Q Okay. And that's the chain fence you are talking
4 about that he was shaking?

5 A Yes, yes.

6 MR. HEGGELKE: I have nothing further. Please
7 answer any question the defense counsel has.

8 THE WITNESS: Yes, sir.

9 CROSS EXAMINATION

10 BY MR. KING:

11 Q Good afternoon, Ms. Steinbrenner. You said you
12 arrived on the scene and you heard shots?

13 A Yes, in my patrol vehicle. And as I turned on
14 Cambridge, I could hear gunshots.

15 Q So you heard the shots before you even got to the
16 residence, right? Just when you turned on the street?

17 A Yes, sir.

18 Q Okay. So obviously you didn't see who was
19 shooting?

20 A I did not.

21 Q You didn't see anybody running away?

22 A No, sir.

23 Q Your attention was mainly focused on the victim
24 that had been shot once you got in and got out, right?

25 A Correct.

CROSS EXAMINATION OF CHARITY STEINBRENNER BY MR.
KING

1 Q You talked about the body camera. You had a body
2 camera on, but that was lost.

3 A Yes, sir.

4 Q Right. You weren't the lead officer in this case?

5 A No, sir.

6 Q But one of your duties as an officer is to write
7 reports, right?

8 A Yes, sir.

9 Q That's important because you document what you
10 saw.

11 A Yes, sir.

12 Q So it's not just about what witnesses that you've
13 talked to, it's also about what you have seen for yourself.

14 A That is correct. Yes, sir.

15 Q And this was a shooting, right?

16 A Yes.

17 Q Fairly serious case. Not, you know, littering or
18 anything like that, right?

19 A Right.

20 Q And you saw things?

21 A I did.

22 Q You did. You heard shots and you witnessed at
23 least some part of what was going on?

24 A Yes, sir.

25 Q And even considering the seriousness of the case

CROSS EXAMINATION OF CHARITY STEINBRENNER BY MR.
KING

1 and what you saw, you didn't write any report?

2 A I did not.

3 MR. KING: Beg the Court's indulgence.

4 (Pause.)

5 MR. KING: I have no other question, Your Honor.

6 THE COURT: Anything further of this witness?

7 MR. HEGGELKE: No, Judge.

8 THE COURT: Thank you. You may step down.

9 MR. WARING: Thank you, Your Honor. The State
10 calls Timothy Haynes.

11 Thereupon,

12 TIMOTHY HAYNES

13 was called as a witness, having been first duly sworn,

14 was examined and testified as follows:

15 THE CLERK: Please be seated. Please state your
16 name and spell your last name for the record, please.

17 THE WITNESS: Timothy Haynes. H-A-Y-N-E-S.

18 DIRECT EXAMINATION

19 BY MR. WARING:

20 Q Mr. Haynes, what is your relation to the Defendant
21 over here?

22 A He's my girlfriend's son.

23 Q Girlfriend's son?

24 A Yeah.

25 Q Are you still currently in a relationship with

DIRECT EXAMINATION OF TIMOTHY HAYNES BY MR. WARING

1 that lady?

2 A Yes, I am.

3 Q Tanisha Powell.

4 MR. WARING: Your Honor, may we approach for a
5 moment?

6 (Off-the-record discussion held.)

7 BY MR. WARING:

8 Q Mr. Haynes, do you want to be here today?

9 A No, I don't.

10 Q Do you want the charges dropped?

11 A Yes, I do.

12 Q Do you identify with the Defendant as opposed to
13 the State?

14 A Do I do what?

15 Q Are you more on the side of the Defendant than on
16 the side of the State?

17 A I'm on my side. I'm not on nobody side.

18 Q Okay. But you don't want to go forward with the
19 case; is that right?

20 A I don't.

21 Q Now, Mr. Haynes, can you tell us what the whole
22 reason for this shooting was, why it got started?

23 A It was over something that I took from him.

24 Q Can you tell us what that was?

25 A Yeah, it was a gun.

DIRECT EXAMINATION OF TIMOTHY HAYNES BY MR. WARING

1 Q What kind of gun?

2 A I don't know what kind of gun it was.

3 Q Was it a small gun or a big gun?

4 A I can't remember.

5 Q Do you know what the difference is between a
6 handgun and a rifle?

7 A Yeah.

8 Q And you don't recall whether it was a rifle or a
9 handgun?

10 A It wasn't a rifle.

11 MR. WARING: Your Honor, may we approach?

12 THE COURT: Yes, sir.

13 (Off-the-record discussion held.)

14 BY MR. WARING:

15 Q Mr. Haynes, do you not remember telling myself and
16 Victim Advocate Keyanna Young, in the reception area of the
17 Solicitor's Office on October 26th, 2017, that you had taken
18 away the chopper assault rifle away from the Defendant?

19 A I don't remember saying that. I said it was a
20 gun. I didn't say what kind of gun it was.

21 Q You said you don't remember saying it?

22 A Yeah.

23 Q So you could have said it?

24 A No, I would never say that, I never said what kind
25 of gun it was.

DIRECT EXAMINATION OF TIMOTHY HAYNES BY MR. WARING

1 Q But if you don't remember, then how is what you
2 are saying today accurate?

3 A When I said -- I said it, that it wasn't a hand --
4 I didn't tell you what kind of gun it was. I just said it
5 was a gun.

6 Q So you do remember.

7 Who did you give the gun to when you
8 confiscated it?

9 A To the neighbor.

10 Q And what is his name?

11 A I'm not giving you his name.

12 Q Do you not recall telling Major Perry from the
13 North Charleston Police Department on the same date at the
14 incident location, June 27th, 2017, that you gave the
15 chopper to a guy named Antwan who lived across the street?

16 A I didn't tell him that. I told him I gave the gun
17 to the neighbor.

18 Q You don't recall on that same day pointing out to
19 the neighbor's house, saying Antwan, giving me the name of
20 Antwan?

21 A No, I didn't give him the name. I just told him
22 where the gun was.

23 Q Now, the Defendant threatened to kill you, didn't
24 he?

25 A I'm not going to answer that.

DIRECT EXAMINATION OF TIMOTHY HAYNES BY MR. WARING

1 THE COURT: Sir, you need to answer the question
2 that is asked.

3 THE WITNESS: Do I got to answer the question? I
4 mean, I feel like I'm being forced to be here.

5 THE COURT: Sir, you are a witness in the case.
6 You need to answer the question that is asked.

7 BY MR. WARING:

8 Q Would it help if I played your 911 call, where you
9 indicate that?

10 A I mean, I didn't call 911.

11 Q You don't remember calling 911 on the day of the
12 incident, June 27th, 2017, and telling the 911 dispatcher
13 while you are waiting on the call for the 911 dispatcher,
14 you said, quote, "Oh, you threaten to kill me and your mom?"

15 You don't remember that?

16 MR. WEHRMAN: Objection, leading.

17 MR. WARING: May we approach again, Your Honor?

18 (Off-the-record discussion held.)

19 BY MR. WARING:

20 Q All right. Mr. Haynes, I'm playing what has
21 already been admitted as State's Exhibit 19.

22 (Exhibit 19 being played for the jury.)

23 BY MR. WARING:

24 Q That wasn't you, Mr. Haynes?

25 A I don't remember that.

DIRECT EXAMINATION OF TIMOTHY HAYNES BY MR. WARING

1 Q You don't remember it, so it could have been you?

2 A I say I don't remember it.

3 Q So if you don't remember it, then it could have
4 been you, right?

5 A What I say? I don't remember it, how could it be
6 me?

7 Q Well, it's possible that it either was you or
8 wasn't you, right?

9 MR. WEHRMAN: Objection, leading.

10 THE COURT: Rephrase your question.

11 BY MR. WEHRMAN:

12 Q Mr. Haynes, was that not your voice on the 911
13 call?

14 A It could have been, but like I said, I don't
15 remember.

16 Q Okay. So you admit --

17 A I ain't admit nothing. I just said I don't
18 remember.

19 Q Did you not just say it could have been? Did you
20 or did you not?

21 A I just say I don't remember, too. I said two
22 things, not one.

23 Q Did the person on that call say that somebody had
24 just threatened to kill them?

25 A Yeah. That's what I heard just now.

DIRECT EXAMINATION OF TIMOTHY HAYNES BY MR. WARING

1 Q Now, when all of this was going down, did you go
2 over to the neighbor's house?

3 A Yeah.

4 Q Okay. And it is at that time, or was it at that
5 time, the Defendant shot you?

6 A When I went to the neighbor's house?

7 Q Yes.

8 A When I went to the neighbor house, I went inside
9 the house. I came back out the house.

10 Q Okay.

11 A And I was talking to the next door neighbor.

12 Q So at what point did you get shot?

13 A When I was talking to the next door neighbor that
14 live in the yellow house.

15 Q All right. And is that Oliver Rainey's house?

16 A Yeah.

17 Q Okay. And more specifically, who shot you?

18 MR. WEHRMAN: Objection, lack of personal
19 knowledge.

20 THE COURT: Overruled.

21 BY MR. WARING:

22 Q Who shot you?

23 A At that point, I can't -- I can't tell you that.

24 Q All right. Well, do you not recall telling myself
25 and Victim Advocate Keyanna Young in the reception area of

DIRECT EXAMINATION OF TIMOTHY HAYNES BY MR. WARING

1 the Solicitor's Office on October 26th, 2017, that the
2 Defendant shot you five times in the legs from across the
3 street, and you don't also remember yelling out to the
4 neighbor you just talked about, Oliver Rainey, in his back
5 yard on the day of the shooting that that woman's son just
6 shot you?

7 A I don't recall saying none of that. When I got
8 shot, I didn't actually see nobody shoot no gun, point no
9 gun at me. Because I was striking at the time, talking to
10 the neighbor.

11 So both of us was catty-corner, standing on a
12 45. So the shots rang off, I ran. I ducked. And the first
13 one came past me and I ran between the vans. So I couldn't
14 see what was going on or who was left outside behind me,
15 whatever.

16 Q Now, at some point, the Defendant, while this 911
17 call, and while this argument is going on, he approached you
18 or pulled out a handgun; is that right?

19 MR. WHRMAN: Objection, leading.

20 BY MR. WARING:

21 Q Did he pull out a handgun on you?

22 THE COURT: Rephrase the question.

23 A He never pulled a handgun on me.

24 Q All right. So, again, you don't recall on
25 October 26th, 2017 talking with myself and former Victim

DIRECT EXAMINATION OF TIMOTHY HAYNES BY MR. WARING

1 Advocate Keyanna Young in the reception area of the
2 Solicitor's office, where you said that the Defendant pulled
3 out a different gun from the chopper assault rifle that you
4 had confiscated, he pulled out a handgun?

5 A First of all, he never had the chopper on him.

6 Q That is not what I said. A different gun from the
7 one that you had confiscated. Did he pull out that handgun?
8 You don't remember telling us that?

9 A No, I don't remember telling you that.

10 Q Okay. So you are saying that it's possible you
11 did say that?

12 A I don't remember telling you that.

13 Q Now, during this time, the Defendant, did he
14 follow you out of the house?

15 A No. I came out the door by myself.

16 Q Okay. And was he located on the side of the
17 house, of Tanisha's house?

18 A No. I left him, his mom, and his sister inside
19 the house.

20 Q All right. Similar scenario, Mr. Haynes. We can
21 play this all day long.

22 You don't remember October 26th, 2017, with
23 myself and former Victim Advocate Keyanna Young in the
24 reception area of the Solicitor's Office, telling us that
25 the Defendant was at the side of Tanisha's house, across the

DIRECT EXAMINATION OF TIMOTHY HAYNES BY MR. WARING

1 street, when he shot you?

2 A I understand everything you are saying, but you
3 didn't just ask that. What you said was, was he -- did
4 anybody come out the house with me?

5 No. Nobody came out the house with me. I
6 came out Tanisha house by myself. I left --

7 Q That is not what I asked.

8 A Yes, you did.

9 Q That is not what I asked.

10 Mr. Haynes, listen to the question. Did you
11 not, on October 26th, 2017, at the Solicitor's Office, with
12 myself and Ms. Young, tell us that the Defendant shot you
13 from across the street while he was on the side of Tanisha's
14 house, while you were across the street?

15 A No.

16 Q You don't remember that?

17 A No.

18 Q Okay. But you are saying that it's possible you
19 said it?

20 A I said no.

21 Q But you said you didn't remember it.

22 A I said no.

23 Q So now you are saying no. Do you remember the
24 police showing up?

25 A Yeah.

DIRECT EXAMINATION OF TIMOTHY HAYNES BY MR. WARING

1 Q And were they present while the shots were being
2 fired?

3 A Yeah.

4 Q Was the Defendant's seven-year-old sister on
5 scene, too?

6 A Yes.

7 Q Did you have to be taken to the hospital?

8 A Yes.

9 MR. WARING: The Court's indulgence.

10 (Pause.)

11 MR. WARING: Please answer any questions that the
12 Defense has.

13 MR. WEHRMAN: Thank you, Judge. Mr. Haynes.

14 CROSS EXAMINATION

15 BY MR. WEHRMAN:

16 Q All right. Now, you are Jamaa's mother's
17 boyfriend, correct?

18 A Yes.

19 Q That is Tanisha Powell?

20 A Yes.

21 Q You call her Tanisha, right?

22 A Yes.

23 Q You wouldn't refer to her as "that woman,"
24 anything like that?

25 A No.

CROSS EXAMINATION OF TIMOTHY HAYNES BY MR. WEHRMAN

1 Q You respect your girlfriend?

2 A That's right.

3 Q And y'all have a good relationship?

4 A That's right.

5 Q Okay. And you have been in a relationship with

6 Tanisha -- this isn't a casual thing -- y'all have been

7 together for four years?

8 A That's right.

9 Q And you have known Jamaa all that time?

10 A Yes.

11 Q So you guys know each other well?

12 A Real good.

13 Q And all that time, y'all never really had any

14 problems?

15 A Never.

16 Q Y'all don't have any disagreements?

17 A None of that.

18 Q Y'all don't have a history of altercations?

19 A None of that.

20 Q Certainly nothing physical?

21 A Never.

22 Q You even helped Jamaa out in the past, correct?

23 A Many is the time.

24 Q Yeah. I believe he was working with you for a

25 while?

CROSS EXAMINATION OF TIMOTHY HAYNES BY MR. WEHRMAN

1 A Yeah.

2 Q So you helped him out financially, and you just
3 generally supported him?

4 A Always.

5 Q You are always someone who supported Jamaa, and I
6 think it's pretty clear at this point that you don't want
7 these charges going forward.

8 A No, I don't.

9 Q And you actually sat down with the Solicitor and
10 talked about that?

11 A Yes.

12 Q They made you fill out a form?

13 A Yes.

14 Q And you signed that form --

15 A Yes.

16 Q -- because you want these charges dropped?

17 A That's right.

18 Q Because you're not scared of Jamaa?

19 A I ain't scared of nothing.

20 Q And you don't worry about him trying to kill you
21 or hurt you or anything like that?

22 A No.

23 Q That's because you know him.

24 A That's right.

25 Q And have always had a good relationship.

CROSS EXAMINATION OF TIMOTHY HAYNES BY MR. WEHRMAN

1 A Always.

2 Q Now, back on June 27th, 2017, when all this
3 happened, you were there when Jamaa came to the house that
4 morning?

5 A Yes.

6 Q Okay. And he was asking about this gun?

7 A Yes.

8 Q This chopper, as the State is calling it, correct?

9 A Correct.

10 Q And this is something that you found under the
11 house?

12 A Yes.

13 Q And you had taken it?

14 A Yes.

15 Q You hadn't taken it directly from Jamaa?

16 A No.

17 Q But he wanted you to give him the gun?

18 A Yes.

19 Q Now, he made it clear it wasn't his gun, correct?

20 A Yeah.

21 Q Okay. And when he was having this conversation
22 with you, he seemed off. He didn't seem himself?

23 A No, he wasn't hisself.

24 Q Right. He seemed scared, in fact, correct?

25 A Yeah. I'm sorry.

CROSS EXAMINATION OF TIMOTHY HAYNES BY MR. WEHRMAN

1 Q He seemed scared?

2 A Yeah, you could see the fear in him.

3 Q Seemed nervous?

4 A Yeah.

5 Q He wouldn't tell you everything that was going on?

6 A No.

7 Q Okay. But he made it clear that there were other
8 people who were connected to this -- this gun that he was
9 looking for?

10 A Yes.

11 MR. WARING: Objection, Your Honor. Permission to
12 approach?

13 THE COURT: Yes.

14 (Off-the-record discussion held.)

15 THE COURT: Mr. Bailiff, would you take the jury
16 to the jury room, please?

17 (The jury exits the courtroom at 4:25 p.m.)

18 MR. WEHRMAN: Your Honor, may we approach one more
19 time?

20 THE COURT: Yes.

21 (Off-the-record discussion held.)

22 PROFERRED CROSS EXAMINATION

23 BY MR. WEHRMAN:

24 Q Mr. Haynes, I think you mentioned Jamaa was scared
25 when he was speaking to you that morning, correct?

PROFERRED CROSS EXAMINATION OF TIMOTHY HAYNES BY MR.
WEHRMAN

1 A Yeah.

2 Q He couldn't tell you everything that was going on?

3 A That's right.

4 Q But he made it clear that other people were
5 connected with the gun?

6 A Yes.

7 Q That being the gun that he was looking for?

8 A Yes.

9 Q Okay. He mentioned he was upset, one of his
10 friends had been killed the night before, correct?

11 A Yes.

12 Q So he's on edge. Okay.

13 Now, you made it clear that you weren't
14 giving him that gun.

15 A Yes, sir.

16 Q And as it became clear that he wasn't getting the
17 gun, he got more upset, correct?

18 A Yes, sir.

19 Q More nervous?

20 A Yeah.

21 Q More on edge, more worried, correct?

22 A (Nods in the affirmative.)

23 Q Okay. Now, when you were first speaking with
24 Jamaa, that was inside, correct?

25 A Yes.

PROFERRED CROSS EXAMINATION OF TIMOTHY HAYNES BY MR.
WEHRMAN

1 Q Okay. And you spoke with him for a while, then
2 you went outside?

3 A Yes.

4 Q And y'all had some conversation outside?

5 A Yes.

6 Q Okay. But when he came to the house, you didn't
7 see how he got there that day, correct?

8 A No, I was in bed.

9 Q Okay. So you don't know whether someone drove him
10 there?

11 A No, I'm not sure.

12 Q You don't know if he walked over from a house
13 nearby?

14 A Yeah, I didn't see that.

15 Q You don't know of any other way he could have
16 gotten there?

17 A No.

18 Q So it's entirely possible someone could have
19 dropped him off?

20 A Yes.

21 Q Or he could have walked from somewhere nearby?

22 A Yes.

23 Q Okay. Eventually, you were -- you were standing
24 outside of your neighbor's house across the street?

25 A Yeah.

PROFERRED CROSS EXAMINATION OF TIMOTHY HAYNES BY MR.
WEHRMAN

1 Q All right. And that's not the yellow house across
2 the street?

3 A No, sir. Next to it. It's the van --

4 Q The white house beside it?

5 A Yes.

6 Q Okay. And you saw a police officer get out of his
7 car?

8 A Yes, I did.

9 Q And you saw Tanisha outside on the other side of
10 the street?

11 A Yes.

12 Q Okay. Did you see Jamaa outside at all?

13 A No, I didn't see him. That was the last thing I
14 saw, when the officer pulled up and that's when the neighbor
15 distracted me.

16 Q All right. Did you mention before you were shot,
17 you were speaking with the neighbor?

18 A Yes.

19 Q So you didn't see who fired the shots?

20 A No, I didn't.

21 Q Did you see Jamaa after you were shot?

22 A No, I ain't see him.

23 Q Okay. Did you see Jamaa with a gun at all that
24 day?

25 A No.

PROFERRED CROSS EXAMINATION OF TIMOTHY HAYNES BY MR.
WEHRMAN

1 Q Okay.

2 MR. WEHRMAN: Thank you, Mr. Haynes.

3 THE COURT: Okay. Mr. Waring.

4 MR. WARING: Your Honor, regarding argument or the
5 questioning the witness --

6 THE COURT: Do you need to ask the witness any
7 questions before you state your position?

8 MR. WARING: No, Your Honor.

9 THE COURT: Okay. Tell me the State's position.

10 MR. WARING: Your Honor, I would just hope that
11 based on the case law that Mr. Wehrman would skate not
12 over the line into third-party guilt when there's no --
13 there is no evidence that somebody else other than this
14 Defendant did the shooting. I would just hope that he
15 would not surpass that line, Your Honor.

16 THE COURT: Well, it sounds like -- the testimony
17 sounds like, and this is being brought for purposes of
18 showing what the dispute was about, is that Mr. Waring,
19 and the reason for flight, is there any allegation that
20 this -- what did you call it, the chopper -- is there
21 any allegation that that was the gun that was used in
22 the shooting?

23 MR. WEHRMAN: No, Your Honor. I don't think that
24 that's -- I think it's pretty clear that the chopper
25 could not have fired the rounds that were used in the

PROFERRED CROSS EXAMINATION OF TIMOTHY HAYNES BY MR.
WEHRMAN

1 shooting.

2 MR. WARING: That's my understanding, Your Honor.

3 THE COURT: So this couldn't be third-party guilt
4 because it's not the gun that's involved in this
5 incident.

6 MR. WARING: Right.

7 THE COURT: So I will allow the testimony since it
8 explains other aspects, or gives the Defendant an
9 explanation for their aspects, subject again to the
10 State's ability to cross-examine the witness.

11 MR. WEHRMAN: Understood. Yes, sir.

12 MR. WARING: Okay. Your Honor.

13

14 MR. WEHRMAN: Thank you, Your Honor.

15 THE COURT: All right. Let's get our jury.

16 (The jury enters the courtroom at 4:32 p.m.)

17 THE BAILIFF: The jury is all seated, Your Honor.

18 THE COURT: Thank you. All right.

19 MR. WEHRMAN: Thank you again, Your Honor.

20 CROSS EXAMINATION CONTINUED

21 BY MR. WEHRMAN:

22 Q All right. Mr. Haynes, I believe when we left off
23 with the jury, you stated that when Jamaa was speaking with
24 you that morning, he was nervous. He was scared, correct?

25 A (Nods in the affirmative.)

CROSS EXAMINATION CONTINUED OF TIMOTHY HAYNES BY MR.
WEHRMAN

1 Q I believe you stated that he made it clear that
2 other folks were connected to this gun, the gun that he was
3 looking for, correct?

4 A Yeah.

5 Q He made it clear it wasn't his gun?

6 A That is right.

7 Q And he also mentioned a friend who had been killed
8 last night?

9 A Yes.

10 MR. WARING: Objection, Your Honor. May we
11 approach one more time?

12 THE COURT: You may.

13 (Off-the-record discussion held.)

14 MR. WEHRMAN: My apologies, Mr. Haynes.

15 And, again, one more time, he mentioned a friend
16 who had been killed the night before.

17 THE WITNESS: Yes.

18 MR. WEHRMAN: Okay. All right.

19 THE COURT: Let me -- sir, let me get you to get a
20 little bit closer to the microphone to make sure that
21 everyone can hear you. Thank you.

22 BY MR. WEHRMAN:

23 Q So just one last time, with the microphone, when
24 you were speaking with Jamaa, he was upset?

25 A Yes.

CROSS EXAMINATION CONTINUED OF TIMOTHY HAYNES BY MR.
WEHRMAN

1 Q And he was upset about a friend who had been
2 killed the night before?

3 A Yes.

4 Q Okay. Now, eventually you made it clear that you
5 weren't giving him the gun.

6 A Yes.

7 Q And that's when it became clear he got more upset?

8 A Yes.

9 Q More nervous?

10 A Yeah.

11 Q More on edge?

12 A Yeah.

13 Q More scared?

14 A Yeah.

15 Q Okay.

16 Now, this discussion was going on inside the
17 house.

18 A Yes.

19 Q And it was a while before you even went outside of
20 the house?

21 A Yeah.

22 Q So you were inside the house when Jamaa arrived
23 that day?

24 A Yeah.

25 Q So you don't know how he -- how he got there?

CROSS EXAMINATION CONTINUED OF TIMOTHY HAYNES BY MR.
WEHRMAN

1 A No.

2 Q You don't know whether someone drove him?

3 A No.

4 Q You don't know whether he walked from a nearby
5 residence?

6 A No.

7 Q Nearby wherever?

8 A No.

9 Q You have no idea how he could have gotten there?

10 A No.

11 Q So it's entirely possible that someone could have
12 dropped him off?

13 A I have no idea.

14 Q Okay. But eventually you walked over to your
15 neighbor's house?

16 A Yeah.

17 Q And that is a white house across the street from
18 your own?

19 A Yeah.

20 Q It's right beside a yellow house, correct?

21 A That's right.

22 Q Now, while you were over there, you saw the police
23 arrive?

24 A Yeah.

25 Q You saw a police officer getting out of his car?

CROSS EXAMINATION CONTINUED OF TIMOTHY HAYNES BY MR.
WEHRMAN

1 A Yeah.

2 Q And you saw your girlfriend, Tanisha, walking
3 outside -- outside of her house?

4 A Yeah.

5 Q And you didn't see Jamaa outside at that point?

6 A No. At the time, I was distracted by a neighbor.

7 Q Okay. So you didn't see him outside, so you
8 certainly didn't see him carrying a gun?

9 A No.

10 Q And you said before the shooting, you were
11 speaking with a neighbor?

12 A Yeah, in the yellow house.

13 Q So you weren't -- go ahead.

14 A The neighbor in the yellow house.

15 Q Okay. So you weren't looking in the direction
16 where the shots were fired?

17 A No. My back was turned.

18 Q So you didn't see the shooter at all?

19 A No.

20 Q You didn't see how the shots were fired?

21 A No.

22 Q Okay. Again, you didn't see Jamaa outside at that
23 point?

24 A No, not at that point.

25 Q Okay.

CROSS EXAMINATION CONTINUED OF TIMOTHY HAYNES BY MR.
WEHRMAN

1 MR. WEHRMAN: Thank you, Your Honor.

2 THE COURT: Mr. Waring, redirect.

3 MR. WARING: The Court's indulgence Your Honor.

4 (Pause.)

5 REDIRECT EXAMINATION

6 BY MR. WARING:

7 Q Mr. Haynes, do you want to see the Defendant
8 convicted?

9 A No, I don't.

10 Q Are you still dating his mother?

11 A I already answered that.

12 Q Yes. Now, can you tell us who the individual is
13 who just walked in the courtroom, who is in the back in the
14 white shirt back there?

15 A Who are you talking about?

16 MR. WEHRMAN: Objection. Your Honor, I'm going to
17 object under 403. May we approach?

18 THE COURT: Yes.

19 (Off-the-record discussion held.)

20 THE COURT: Mr. Bailiff, would you take our jury
21 out.

22 (The jury exits the courtroom at 4:40 p.m.)

23 THE COURT: Okay. Mr. Waring, why don't you
24 proffer the question you would like to ask.

25 MR. WARING: Thank you, Judge.

PROFERRED REDIRECT EXAMINATION OF TIMOTHY HAYNES BY
MR. WARING

1 PROFERRED REDIRECT EXAMINATION

2 BY MR. WARING:

3 Q Mr. Haynes, do you know who the large individual
4 was who just walked out, walked out of the courtroom, who
5 was wearing the white t-shirt?

6 A Yeah.

7 Q Who is that?

8 A That's his father.

9 Q The Defendant's father?

10 A Yeah.

11 Q Has he threatened you at all in this case?

12 A For what?

13 Q For anything.

14 A Not at all.

15 Q He hasn't intimidated you? Has he contacted you
16 about this case?

17 A No.

18 Q You sure?

19 A Yeah, I'm sure.

20 Q You had to think about it.

21 A I ain't have to think about it. Let me tell you
22 something, nobody intimidates me. Okay?

23 Q He's never talked to you about this case?

24 A Never. We ain't got no reason to talk.

25 MR. WARING: Your Honor, that is all the questions

PROFERRED REDIRECT EXAMINATION OF TIMOTHY HAYNES BY
MR. WARING

1 I have.

2 MR. WEHRMAN: Thank you, Your Honor.

3 Again, I'm objecting. I guess object under 401 as
4 well as relevance. I think I see the train of thought
5 that the Solicitor is trying to go down here.

6 It seems to me that the idea that Jamaa's father
7 is in the courtroom, it's suggested there's some sort
8 of intimidation.

9 I have looked up the particular video visit clip
10 that he referred to up at the Bench. And I guess we
11 made it a Court's exhibit, but it seems -- it states to
12 me -- I'll just read it.

13 Defendant says, "Man, I need -- man, I need -- I
14 need you to -- man, let him talk to my old man, man."

15 That's him talking to his mother.

16 That is the only reference I see. There is a
17 statement, "You be too soft," at one point, but that's
18 the only reference I see to the Defendant's father.

19 THE COURT: Who said the being "too soft"?

20 MR. WEHRMAN: It does appear that my client said,
21 "You're too soft." So he would have been saying that
22 to his mother.

23 THE COURT: Okay. But that isn't what y'all told
24 me. Up here, I thought you had a video of this witness
25 talking. So you're saying this is not --

PROFERRED REDIRECT EXAMINATION OF TIMOTHY HAYNES BY
MR. WARING

1 MR. WARING: I guess maybe I wasn't clear enough,
2 Your Honor. It's a video of the Defendant telling his
3 mother to contact the father, to essentially -- and
4 what it looks like, strong arm him into changing his
5 story or not going forward.

6 MR. WEHRMAN: And, Your Honor, that is sort of
7 precisely my point. But this is a remote conversation
8 that doesn't involve this particular witness. It's --
9 it's vague at best, if that's even what is going on in
10 that conversation. And, again, I think that the sort
11 of inflammatory nature of suggesting that certain
12 members of his family's very presence in the courtroom
13 is intimidation, when obviously they're interested.
14 Obviously, they are going to be here. They want to see
15 their son.

16 So, again, Your Honor, I don't think we should be
17 going down this road. I would object under 401 under
18 relevance. And then certainly under 403, argument that
19 there are sort of inflammatory issues, perhaps even
20 jury confusion would outweigh any probative value by a
21 substantial margin.

22 THE COURT: I'm going to sustain the objection.
23 Okay.

24 Get our jury, please.

25 (The jury enters the courtroom at 4:45 p.m.)

PROFERRED REDIRECT EXAMINATION OF TIMOTHY HAYNES BY
MR. WARING

1 THE BAILIFF: The jury is present, Your Honor.

2 THE COURT: Thank you, Mr. Bailiff.

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

4 THE COURT: Anything further from this witness?

5 MR. WEHRMAN: None from the Defense, Your Honor.

6 THE COURT: All right. Thank you, sir. You can
7 step down.

8 MR. WARING: We have got two very, very quick
9 witnesses.

10 THE COURT: Go ahead.

11 MR. WARING: State calls Antwan Williams.

12 Thereupon,

13 ANTWAN WILLIAMS

14 was called as a witness, having been first duly sworn,
15 was examined and testified as follows:

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

18 THE WITNESS: Antwan Williams. W-I-L-L-I-A-M-S.

19 DIRECT EXAMINATION

20 BY MR. WARING:

21 Q Antwan, can you tell us briefly where your father
22 lives?

23 A [REDACTED] 3 Cambridge.

24 Q [REDACTED] 3 Cambridge?

25 A (Unintelligible.)

DIRECT EXAMINATION OF ANTWAN WILLIAMS BY MR. WARING

1 Q I'm sorry?

2 A (Unintelligible.)

3 (Off-the-record discussion held.)

4 A Cambridge.

5 Q Okay. Do you know the victim, Timothy Haynes,
6 also known as Rell?

7 A Yeah, I know him.

8 Q Okay. Now, leading up to the shooting on June
9 27th, 2017, had you received anything from him to hold?

10 A The only reason I'm here because he done asked me
11 to hold a gun for him two days, and then he sent the police
12 to my house to come pick it up. Other than that, I don't
13 know why I'm even here.

14 Q Okay. Now, this gun, was it a handgun or was it a
15 long gun?

16 A A long gun. That's what I say, when they came to
17 get it, I didn't really look at it or anything.

18 Q Was the gun exposed, or was it wrapped in
19 something?

20 A It was wrapped up.

21 Q Do you remember where you kept it?

22 A I kept it in my closet.

23 Q Okay. And was that at your dad's house?

24 A Yes.

25 Q Was that in the main house or in the shed?

DIRECT EXAMINATION OF ANTWAN WILLIAMS BY MR. WARING

1 A In the back office.

2 Q All right. Were you actually present for the
3 shooting?

4 A I was at work. I have work two jobs. I don't be
5 around.

6 Q All right. So on the day of the incident, did you
7 go to your house -- your dad's house, at some point?

8 A Yes, between one job and the next.

9 Q Okay. And did you retrieve anything for the
10 police?

11 A The police came to my house and said that
12 Mr. Haynes told them that he asked me to hold a gun, and I
13 gave it to them. That was that.

14 Q All right. Mr. Williams, I just want to show you
15 a couple real quick photos.

16 A I never looked at the gun. I only looked at the
17 wrapped up sheet in it. When I gave it to them, I didn't
18 look at it, I didn't even care about it.

19 Q I understand.

20 All right. This has already been admitted as
21 State's Exhibit 25. Is that the sheet you are referring to?

22 A Yeah, that's the sheet. Other than that, I never
23 seen the gun.

24 Q All right. And State's Exhibit 26, is that the
25 same sheet?

DIRECT EXAMINATION OF ANTWAN WILLIAMS BY MR. WARING

1 A Yeah, that's the sheet. Yeah.

2 Q Okay. And, again you said, you didn't really look
3 at the gun, but it was a long gun; is that right?

4 A Yeah.

5 MR. WARING: Please answer any questions the
6 Defense has.

7 THE COURT: Mr. Wehrman.

8 MR. WEHRMAN: Thank you, Your Honor.

9 CROSS EXAMINATION

10 BY MR. WEHRMAN:

11 Q Mr. Williams, I'll be brief.

12 You said you were not present for the
13 shooting alleged in this case?

14 A No, sir.

15 Q You don't know anything about it?

16 A I don't know anything about this.

17 Q You didn't even look at this gun?

18 A No.

19 Q So you didn't know anything about the gun either?

20 A No. I keep telling the -- the detectives that I
21 don't know anything, but they just keep trying to -- I guess
22 they trying to see if I know anything, but I work two jobs.
23 I don't be around. I'm supposed to be at work right now.

24 Q Gotcha.

25 MR. WEHRMAN: Well, I have no further questions.

CROSS EXAMINATION OF ANTWAN WILLIAMS BY MR. WEHRMAN

1 THE COURT: Anything further from this witness?

2 MR. WARING: No, Your Honor.

3 THE COURT: All right. Thank you. You may step
4 down.

5 THE WITNESS: Can I leave, or have I got to stay?
6 Do I leave or I got to stay?

7 THE COURT: No, you are free to go.

8 THE WITNESS: All right. Thank you.

9 MR. WARING: Got another real quick one, Your
10 Honor.

11 THE COURT: Okay.

12 MR. WARING: State calls Keyanna Young.

13 Thereupon,

14 KEYANNA YOUNG

15 was called as a witness, having been first duly sworn,
16 was examined and testified as follows:

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

19 THE WITNESS: Keyanna Young, Y-O-U-N-G.

20 DIRECT EXAMINATION

21 BY MR. WARING:

22 Q Good afternoon, Keyanna.

23 Keyanna, I was hoping you could clear some
24 things up for us. Do you recall meeting with myself and the
25 victim, Timothy Drake -- or excuse me, Timothy Haynes, on

DIRECT EXAMINATION OF KEYANNA YOUNG BY MR. WARING

1 October the 26th, 2017 in the Solicitor's Office?

2 A Yes.

3 Q All right. Now, he said some things. Do you
4 remember if he told you who shot him back on the June 27th,
5 2017?

6 A Yes.

7 Q Who did he say?

8 A Jamaa Washington.

9 Q The Defendant?

10 A Yes.

11 Q All right. Did he say how many times he got shot?

12 A Yes. Five, in both legs.

13 Q All right. Did he mention anything about taking
14 an assault rifle, a chopper, away from the Defendant?

15 A Yes.

16 Q Did he mention anything about the Defendant
17 pulling out a different gun, a pistol, in the house?

18 A Yes.

19 Q Do you recall Mr. Haynes, the victim, saying that
20 the Defendant said he would kill not only the victim, but
21 the Defendant's own mom?

22 A Yes.

23 MR. WARING: Please answer any questions the
24 Defense has.

25 CROSS EXAMINATION

CROSS EXAMINATION OF KEYANNA YOUNG BY MR. WEHRMAN

1 BY MR. WEHRMAN:

2 Q Ms. Young.

3 A Yes.

4 Q You work for the Victim's Advocate Office?

5 A I used to, yes.

6 Q Okay. At the time this conversation occurred, you
7 were employed by Victim's Advocate Office?

8 A Yes.

9 Q And that office is connected with the Solicitor's
10 Office?

11 A Yes.

12 Q The Solicitor's Office being the office that
13 Mr. Waring works with?

14 A Yes.

15 Q Okay. You mentioned that in this prior
16 conversation, Mr. Haynes said he was shot five times in both
17 legs?

18 A Yes.

19 MR. WEHRMAN: Court's indulgence, Your Honor.

20 (Pause.)

21 MR. WEHRMAN: No further questions, Your Honor.

22 THE COURT: Anything further from this witness?

23 MR. WARING: Just two questions.

24 REDIRECT EXAMINATION

25 BY MR. WARING:

REDIRECT EXAMINATION OF KEYANNA WILLIAMS BY MR.
WARING

1 Q Keyanna, can you tell the jury what the
2 circumstances under which this meeting took place in the
3 first place between you, myself, and the victim?

4 A Why I called him?

5 Q Well, why we met.

6 A Because he didn't want to proceed with the
7 charges, or because -- I initially called him because I
8 wanted to know if he needed any assistance with his medical
9 bills through SOVA, State Office of Victim Assistance. And
10 then he later told me that he did not want to pursue any
11 charges. But he also said he would answer any questions
12 that we had for him.

13 Q And as we discussed, did he talk about the case?

14 A Yes.

15 Q And did he indicate who shot him?

16 A Yes.

17 Q Who did he say shot him five times?

18 A The Defendant.

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

20 THE COURT: Anything further?

21 MR. WEHRMAN: Nothing from the Defense.

22 THE COURT: Thank you, ma'am. You may step down.

23 Okay. Ladies and gentlemen, we are about five
24 minutes till five. We have reached a stopping point,
25 so I'll adjourn the case for today. We will resume at

REDIRECT EXAMINATION OF KEYANNA WILLIAMS BY MR.
WARING

1 9:00 tomorrow morning. So be back in the jury room
2 shortly before nine.

3 Now, remember your three instructions. Can't talk
4 to anyone about the case, and that's going to be tough.
5 Your family is going to want to know what you are doing
6 up here. So, just tell them you can't talk about it.

7 No independent research, don't discuss the case
8 amongst yourselves. Don't deliberate.

9 So, I hope everyone has a good evening, and we
10 will see you in the morning at 9:00.

11 (The jury exits the courtroom at 4:56 p.m.)

12 THE COURT: Okay. Anything before we adjourn?

13 MR. WARING: Not from the State, Your Honor.

14 MR. WEHRMAN: Nothing from the Defense, Your
15 Honor.

16 THE COURT: Okay. We will start back at 9:00
17 tomorrow.

18 MR. WARING: Thank you very much, Judge.

19 (Court adjourned for the day.)

20

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22

23

24

25

REDIRECT EXAMINATION OF KEYANNA WILLIAMS BY MR.
WARING

1

2. CERTIFICATE

3

4 STATE OF SOUTH CAROLINA:

5 COUNTY OF BEAUFORT:

6 I, MONA L. MANLEY, Court Reporter, certify that I was
7 authorized to and did stenographically report the foregoing
8 proceedings and that the transcript is a true and complete
9 record of my stenographic notes.

8

DATED this 28th day of August, 2019.

9

10

11

Mona L. Manley /s/

12

MONA L. MANLEY

13

Official South Carolina Court Reporter

14

Circuit Reporter for the 14th Circuit

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STATE OF SOUTH CAROLINA

COURT OF GENERAL SESSIONS

COUNTY OF CHARLESTON

2017-GS-10-6450

2017-GS-10-6451

STATE OF SOUTH CAROLINA)

-vs-)

JAMAA ATO WASHINGTON,)

Defendant.)

TRANSCRIPT OF RECORD

May 14-15, 2019

Charleston, South Carolina

B E F O R E:

The Honorable R. Scott Sprouse, Judge, and a Jury.

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

Thomas Richard Waring, II, Assistant Solicitor
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E X A M I N A T I O N S

WITNESS	DIRECT	CROSS	REDIRECT	RECROSS
Oliver Rainey	5	20	24	--
Diana Alvarez	24 38	31 49	-- --	-- --
Jacqueline Ong	53	64	--	--
Lisa Bloodworth	74	89	89	88
Tanisha Powell	90	94	--	--
Lawrence Frazier	107 113	111 115	-- --	-- --
Sean Bernard	117	130	131	--

E X H I B I T S

STATE'S	DESCRIPTION	MARKED	RECEIVED
27	EMS Report	46	46
28	Shell Casings	61	61
29	Shell Casings	61	61
30	Shell Casings	61	61
31	Shell Casings	61	61
32	Shell Casings	60	61
33	Shell Casings	61	61
34	Assault Rifle	63	63
35	Visitation Videos	76	--
36	Visitation Videos	76	--
37	Visitation Videos	76	--
38	CD of Clipped Video	88	88

COURT'S	DESCRIPTION	MARKED	RECEIVED
1	Note from Juror	73	--

1 (May 14, 2019.)

2 (In open court, jury not present.)

3 THE COURT: Let's go on the record.

4 We're ready to proceed with the continuation
5 of the State's case. Is there anything we need to take
6 up before we bring the jury in?

7 MR. WARING: Not from the State, Judge.

8 MR. WEHRMAN: Nothing from the defense,
9 Judge.

10 THE COURT: And, Mr. Waring, does your victim
11 wish to be in the courtroom today? I mean, he has a
12 right to watch the proceedings, since he's --

13 MR. WARING: Your Honor, I did not see him.
14 I can poke my head out real quick if you want me to.

15 THE COURT: He has a right to -- you know, I
16 understand, he testified yesterday, if he doesn't want to
17 be here, but I have to ask that question. He has a right
18 to be here, under the law.

19 MR. WARING: Understood, Judge. We'll get
20 you an answer in a second.

21 MR. HEGGELKE: No, sir. She said he chose
22 not to come back.

23 THE COURT: Okay. Okay. All right. Let's
24 get our jury.

25 (In open court, jury present.)

OLIVER RAINEY - DIRECT EXAMINATION

1 Good morning, ladies and gentlemen. We are
2 ready to proceed. Mr. Waring, call your next witness.

3 MR. WARING: Thank you, Your Honor. The
4 State calls Oliver Rainey.

5 OLIVER RAINEY,
6 having been first duly sworn,
7 was examined and testified as follows:

DIRECT EXAMINATION

8
9 BY MR. WARING:

10 Q. Good morning, Mr. Rainey.

11 Mr. Rainey, I understand you are in a little bit
12 of pain this morning?

13 A. Yeah. I had to leave the dentist to come in.

14 Q. You had to leave the dentist?

15 A. I have some face swelling.

16 Q. We'll try to keep it quick, okay? All right,
17 Mr. Rainey. I understand you're in some pain. To the
18 best of your ability, can you tell the jury where you
19 live?

20 A. [REDACTED] 3 Cambridge Avenue, North Charleston.

21 Q. All right. Now, I'd like to put up a photo that
22 has already been admitted as State's Exhibit 5. Is that
23 your house?

24 A. Yeah. That's where I stay.

25 Q. That's where you stay?

OLIVER RAINEY - DIRECT EXAMINATION

1 A. Yes.

2 Q. And how long have you lived there, Mr. Rainey?

3 A. Ten years plus.

4 Q. All right. And back in 2017, in June, did you
5 know the people that lived across the street from you, at
6 ■ 8 Cambridge Avenue?

7 A. No.

8 Q. At this house here, Exhibit 3?

9 A. You ask if I know them?

10 Q. Had you seen them before?

11 A. I seen, yes.

12 Q. Okay. Who do you recall lived at that house?

13 A. It's a family. I never -- we wasn't, like,
14 neighbors because persons move in, I guess. It wasn't
15 any of my business, so you see people as you go. Like,
16 in the morning time, you see somebody. Somebody wave at
17 you, good morning and so-and-so. We never had no
18 conversation.

19 Q. I understand. So are you saying that you didn't
20 necessarily go over to dinner at their house, but you
21 would see people that lived there from time to time?

22 A. Yeah. I see them on the porch sometimes.

23 Q. And can you tell us, was it a mother, a son, and a
24 daughter that lived there?

25 A. Or more.

1 Q. Or more?

2 A. Yeah.

3 Q. Okay. Now, is the individual that you know as the
4 victim in this case, is that who you know as Ralph?

5 A. Yes. That's what my son told me. Called him
6 Ralph.

7 Q. The victim, you understand, or at least that was
8 the name that you attributed to him, as Ralph?

9 A. Yes.

10 Q. Now, we're talking about seeing the neighbors over
11 the years. Did you see the son over the years?

12 A. Whose son?

13 Q. Did you see the son who lived at that address over
14 the years?

15 A. Maybe once or twice.

16 Q. I'm sorry?

17 A. Maybe once or twice.

18 Q. That's it, once or twice?

19 A. Yeah.

20 Q. And on those occasions, did you see him well
21 enough to see what he looked like?

22 A. Not really.

23 Q. Mr. Rainey --

24 A. I mean, ain't like -- it's a young brother, you
25 know what I'm saying. Everybody come and go.

OLIVER RAINEY - DIRECT EXAMINATION

1 Everybody -- I only see him, really, if he was staying
2 with his mother. He might be with somebody else to hang
3 out together. That's why I say I don't see him but now
4 and then, mostly, like, on a Saturday or something like
5 that. They might be getting together, standing there
6 talking, but other than that, I really can't -- see, I
7 recognize his face, but I never been in his presence.

8 I can't know names. I could have recognized face
9 once I get them in my sight, but I haven't seen the young
10 fellow that much. That's what I said.

11 Q. Do you recall what his physical description was
12 from the times that you saw him?

13 A. Oh, kind of tall and slender.

14 Q. Tall and slender?

15 A. Yeah.

16 Q. What about haircut?

17 A. Young boy -- I don't know. Like, box or whatever
18 you call it. I don't know.

19 Q. Do you recall telling myself and Investigator Hall
20 about a month ago at your house that you knew the
21 defendant to have a shorter haircut on the sides and a
22 little bit taller up top?

23 A. No. Y'all asked me about the hairstyle, and I
24 said I don't know them hairstyles. But I said yeah, it
25 was low on the bottom. Something like a box cut or

1 whatever anybody call it. They got a name for it, and I
2 don't know it, and he might have had something like that;
3 you know, like a fade, or go up and lower in the back and
4 then, like, springs to the top or something like that,
5 like a lot of young boys are wearing that now, so --

6 Q. But that's the haircut that you understand that he
7 had back then, is that what you're saying?

8 A. Well, that's what the lady said.

9 Q. No, I'm asking what you said and what you
10 understand the defendant's haircut was back then.

11 A. When you bring it up and I think about it --
12 because I didn't really see the brother that much, but,
13 you know what I mean, kind of like -- if he pass outside
14 the gate or something like that, I see him. I recognize
15 that, and that's it. So he had that kind of stylish, you
16 know, but --

17 Q. I'm talking specifically about this defendant.

18 A. Yeah, but -- I would say he has a box, a fade or
19 something like that, so --

20 Q. Is that categorized by short on the sides and a
21 little bit taller up top, a little bit longer up top?

22 A. I guess. I guess so.

23 Q. Okay. Now, on the day of the shooting, were you
24 at your house?

25 A. Yeah, I was at my house.

OLIVER RAINEY - DIRECT EXAMINATION

1 Q. And on that day, at the time of the shooting, what
2 were you doing and where were you located?

3 A. I was in the back house, taking some clothes out
4 of the dryer and getting ready to put some clothes into
5 the washer.

6 Q. All right. Mr. Rainey, I'm going to show you a
7 couple photos that have already been admitted as State's
8 Exhibits 21 through 24.

9 Starting with Exhibit 21, can you tell the jury
10 what we're looking at here.

11 A. That's the back house.

12 Q. Is that where you were hanging out as the shooting
13 unfolded?

14 A. That's where I was when things started getting --
15 the door wasn't open right here. The door was closed.

16 Q. Okay.

17 A. And I was putting things in the washer.

18 Q. But you were hanging out there?

19 A. Yeah, I was there, putting clothes -- taking out
20 of the dryer and stuff like that.

21 Q. All right. State's Exhibit 22, which has already
22 been admitted, and what are we looking at here?

23 A. The back yard.

24 Q. Is that looking out from the shed where you were
25 hanging out?

1 A. The back house?

2 Q. Yes.

3 A. Yeah. You can stand in that direction there.

4 Q. Okay. So can you tell the jury what you remember
5 about that day pertaining to the shooting, as far as were
6 you in the back house when you heard the shots?

7 A. Yeah. I heard some shots. I was just getting
8 ready to come out the back house, and I heard shots.

9 Q. Okay.

10 A. And then, like, I started walking, like, right
11 side of the house.

12 Q. I'm going to put up State's Exhibit 23. Is this
13 what you're talking about, the right side of the house?

14 A. Yeah, yeah.

15 Q. Okay. And so what's going on over there?

16 A. Well, I say -- shots were fired, and then we have
17 them come up -- maybe three shots or whatever, three,
18 maybe. Then walking up this way on the right side of the
19 house, and before I get up, I hear two more shots, boom
20 boom, and right at the back of the house, on the right
21 edge, and that's when I look and I see somebody -- the
22 lady lives across the street from me, the next house,
23 because they have a tree with a fence being up, somebody
24 turned. Just turned and going, you know, through the
25 back yard on the other side, on the other street. So I

OLIVER RAINEY - DIRECT EXAMINATION

1 didn't see, like, a face, and that's what you asked me
2 about haircuts and stuff like that.

3 Q. All right. So we're looking at Exhibit 24 here.
4 After you heard the first few shots, did you see anybody
5 come into your back yard?

6 A. Nobody come in my back yard.

7 Q. I'm sorry?

8 A. Nobody was in my back yard.

9 Q. Okay. Well, did you see anybody that looked to be
10 in distress after you heard the shots?

11 A. Yeah, yeah.

12 Q. And who did you see?

13 A. The fellow they called Ralph.

14 Q. Is that the victim?

15 A. Yes, it is --

16 Q. I'm sorry?

17 A. Yes.

18 Q. Now, where did you see him?

19 A. He was in -- my neighbor next to me, in their
20 yard.

21 Q. Okay. So are you talking about somewhere over
22 here?

23 A. Right. He went -- that's the fence that separate
24 our yards.

25 Q. All right.

1 A. And --

2 Q. What was he doing?

3 A. At first, I didn't know what he was doing. You
4 know, like I said, when I come out, I hear shots just
5 when I'm getting ready to come out the back house, and
6 I'm, like, who is shooting, coming closer. I walk up. I
7 heard two more shots before I get to the corner of the
8 house, and then when I come around, I look. I see
9 somebody standing across the street in the yard by the
10 tree, but he didn't come -- on the right side of the
11 tree, he was on the other side. He been on the right
12 side, so he roll like this and then he's just gone.

13 Q. Okay.

14 A. And Ralph -- there was a van been in the neighbor
15 yard, and the only reason I know, he came between the van
16 and the house to get behind the van, I guess, to get keep
17 from getting shot.

18 Q. So had the victim, the person you know as Ralph,
19 had he been shot?

20 A. Yeah.

21 Q. And was he saying anything?

22 A. Only thing he said, he said, That damn woman's son
23 me.

24 Q. Okay. He said that damn woman's son shot me?

25 A. That's what he said.

OLIVER RAINEY - DIRECT EXAMINATION

1 Q. Now, you mentioned that you saw somebody standing
2 near a tree in the yard across the street, or near the
3 yard across the street. I'm going to try to zoom in a
4 little bit.

5 So this house that I'm pointing to right now,
6 which is on Exhibit 24, is that the same house that we're
7 looking at from Exhibit 3, which is [REDACTED] 8 Cambridge Avenue?

8 A. That's the house, and then right over to the right
9 front right there, that's the tree right there. He was
10 standing on the other side, not that one, the first --
11 right there. That's the tree, and he was standing on
12 this side toward the fence.

13 Q. On this side?

14 A. Yeah.

15 Q. Okay. And what was this individual doing?

16 A. I would say that's when I came around the corner
17 of the house, of my house.

18 Q. Right.

19 A. And I came around, and I see somebody go like this
20 and do like this, and then he just take off.

21 Q. Okay.

22 A. That's when you came in with the hairstyle thing,
23 but I couldn't say that was him because all they wear
24 that kind of hairstyle. I tell the lady too.

25 Q. Well, we'll get to that in a minute. The

1 individual who you saw who was standing there, did you
2 see him holding a gun?

3 A. I said I heard two shots. When I get to his
4 house, all he did like this, turn like this, to break, so
5 I can't see -- I can't say I see a gun, you know, but one
6 way to assume because he turned like this and then turned
7 like this. He must be have a reason. I can't say he had
8 a gun because the last two shots, when I get to the edge
9 of my house, right there, the edge of my house, the
10 person is turned, and then he just take off down the
11 street.

12 Q. So from what you're motioning from the jury box,
13 are you saying or indicating that the shooter or the
14 person you saw across the street who ran right after the
15 shots were fired was holding something in his hands, up
16 like this?

17 A. Uh-huh. Just, but his hand -- like, if you look
18 at the fence, see the fence and the tree, like, combined?
19 Like, if he been on the inside, like you're inside, he
20 can't do like this because he might scrape his elbow or
21 whatever on the fence due to the sharp edges, so he go
22 like this. He do like this to make sure he don't scratch
23 that, and then he just take off.

24 Q. Okay.

25 A. But I can't say right off I saw a gun in his hand,

1 whoever that person I saw, in their hand.

2 Q. I understand.

3 A. But the motion kind of --

4 Q. Well, so now we're talking about the general
5 description of the defendant, and you mentioned he was
6 kind of tall, slender, had a haircut that was short on
7 the sides and back, but a little bit taller, or longer,
8 up top. What did -- the shooter or the person you saw
9 running away right after the shooting, what did that
10 person look like?

11 A. Like I said, all of them look alike. All the
12 brothers, most of them, like tall too, you know.

13 Q. But I'm not asking about them or anybody else.
14 I'm asking about that specific individual that you saw
15 across the street --

16 A. Like I said, I hadn't had a chance to check his
17 wardrobe or nothing like that. I'm just saying he had
18 that kind of hairstyle, loose with the plaits and just
19 down on the side or whatever. I could tell that.

20 Q. So was the haircut --

21 A. I don't know the name of the haircut.

22 Q. Was the haircut shorter on the sides and back and
23 longer on top?

24 A. I didn't see the back until he turned. Like, you
25 see some boys, you see the front of a person's face. I

1 don't know -- up behind that tree, you see them things by
2 the tree there? You really can't see all of that.

3 Q. Okay. So --

4 A. You know.

5 Q. So are you saying you don't remember what it
6 looked like or are you saying --

7 A. No, you can't see all that. You said if it was
8 shorter at the bottom and to the top, I couldn't see two
9 parts of the hair like that.

10 Q. Okay. Did you see any part of his haircut?

11 A. I see it -- like, he got it bald up and everything
12 coming down the side, so --

13 Q. Okay. So are you saying it was longer up top?

14 A. A plait, like -- you know, they got the plait and
15 then they -- like a flower or something, you know.

16 Q. And you said you didn't get a great look, but did
17 it appear that the sides and back of that individual's
18 hair were shorter or longer than up top?

19 A. On the back?

20 Q. On the sides and the back.

21 MR. WEHRMAN: Objection, Your Honor. I think
22 this has been asked and answered.

23 THE COURT: Overruled, but we need to move
24 on.

25 MR. WARING: Understood, Your Honor.

OLIVER RAINEY - DIRECT EXAMINATION

1 THE WITNESS: Yeah, I guess so.

2 BY MR. WARING:

3 Q. You guess so? Okay. How about the build of the
4 individual you saw running right after the shooting?

5 A. The boat?

6 Q. The build. Was he a large, hefty person or a thin
7 person, slender?

8 A. I didn't get all that because, like I said, once I
9 get there and the person shoot two more times, I get to
10 the edge of my house. I see a person by that tree over
11 there, and when I came on the edge, I look on the
12 outside, he do, the person, like that, and he just take
13 off. Ralph, in the other yard, and he had -- he said he
14 got shot three times, he tell me.

15 Q. Ralph said he got shot three times?

16 A. Yeah. So I was going to go in the house to get
17 the phone and call the police or something like that, but
18 then I think somebody else already did that. I think
19 somebody else did that too, but just --

20 Q. Is it your testimony today that you do not recall
21 or you didn't see the type of build of that individual?

22 A. No. I mean, he wasn't big and heavy, you know,
23 nothing like that, I mean, but he was maybe my size. I
24 don't know. You know, he ain't like six-nine or nothing,
25 but, you know, he wasn't short. Like, medium.

1 Q. Okay.

2 A. I'd say like medium.

3 Q. All right. Now, Mr. Rainey, did anything happen
4 to your house?

5 A. Like what?

6 Q. Did your house get shot up?

7 A. Oh, yeah. The officer said -- that's what made me
8 mad in the first place, because the bullet grazed against
9 my house and ricocheted, and the police officer and me
10 was trying to find the bullet, and that's when I know
11 that if I had come around that bend a little earlier, it
12 could have been a scrape for me.

13 Q. All right, Mr. Rainey. I'm showing you briefly
14 what's already been admitted as State's Exhibit 16. Is
15 that what you understand is the bullet damage to your
16 house?

17 A. Yeah, the awning, going through that awning right
18 there.

19 Q. The awning?

20 A. Yeah, that hole right there, and then on the edge,
21 it got a little skid mark.

22 Q. Okay. This is Exhibit 18, which has already been
23 admitted. Is that the same awning?

24 A. Yeah.

25 MR. WARING: Please answer any questions the

OLIVER RAINEY - CROSS-EXAMINATION

1 defense has.

2 MR. WEHRMAN: Court's indulgence, Your Honor.
3 Thank you, Your Honor.

4 CROSS-EXAMINATION

5 BY MR. WEHRMAN:

6 Q. All right. Mr. Rainey, good morning. I'm sorry
7 you have to be here when you want to get some medical
8 treatment, but I'll try and make this brief.

9 Just to clarify, you're saying you didn't actually
10 see anyone firing a gun, correct?

11 A. Right.

12 Q. It sounds like you're saying you can't even say --
13 you didn't see a gun in that person's hands.

14 A. Right.

15 Q. Okay. You were behind your house when all this
16 started.

17 A. Right.

18 Q. In that back house?

19 A. Right.

20 Q. So when you first heard the shots, you had to open
21 up the door from the back house?

22 A. Had to open.

23 Q. Had to walk around, and you say you got to that
24 corner edge of your main house.

25 A. Yeah. When I been in the house, I hear shots.

1 When I came out and I'm getting ready to walk on the side
2 of my house, on the other side, I heard two more shots,
3 and then when I got to the spot and I looked, I see
4 somebody go like this and actually turn around and break.

5 Q. Okay. So you didn't see that person when the two
6 shots were fired?

7 A. I didn't see the person.

8 Q. You were still blocked by your house, correct?
9 Your vision was still blocked by your house?

10 A. Like I said, when I came around the right side, I
11 see someone -- I see the person doing like this by the
12 tree and just take off. Then Ralph starts talking to me,
13 and he said he was shot three times, so I didn't keep my
14 focus on the person or whoever, persons, who shoot.

15 Q. I got you. Maybe I can clarify it. I'm saying
16 that you were still behind this area when you heard those
17 two shots. You hadn't rounded this corner.

18 A. Right, right, right, right, right.

19 Q. And you said when you did round the corner, you
20 saw someone making a turning motion?

21 A. Yeah, by the tree, because --

22 Q. And let me get that for you as well. And you're
23 saying it was this tree?

24 A. Right.

25 Q. Okay. And they were really close to the tree?

1 A. Uh-huh.

2 Q. On this side of the tree?

3 A. On the fence side of the tree, you know.

4 Q. On this side of the tree?

5 A. No, no.

6 Q. On this side?

7 A. Yeah.

8 Q. But they had to turn. They were so close they had
9 to turn to avoid the fence?

10 A. Yeah. You know, it got, like, those little sticky
11 parts.

12 Q. Sure. There was a lot of confusion, I think,
13 about the haircut situation. You said you weren't
14 familiar with the haircut that you saw that day?

15 A. I don't know nothing about them kind of
16 hairstyles.

17 Q. You said it was a young person's kind of
18 hairstyle?

19 A. Yeah.

20 Q. A kind hairstyle a lot of young people had around
21 the area?

22 A. Right.

23 Q. And you weren't that familiar with my client,
24 Mr. Washington, your neighbor? You didn't know him very
25 well?

1 A. No.

2 Q. Okay. You might have seen him occasionally?

3 A. That's what I been trying to tell you.

4 Q. But not up close.

5 A. No, me and him -- we had no personal contact or
6 conversations.

7 Q. I think you stated that you're good with faces
8 when you can get up close.

9 A. Yeah.

10 Q. But you're not so good with faces from seeing
11 people from far away?

12 A. Not wearing my glasses, I can't see.

13 Q. So it's hard for you to see sometimes?

14 A. That's right.

15 Q. I got you. So you didn't have a good memory of my
16 client's face at that time?

17 A. I have no memory of his face at all, I just --

18 Q. Got you. And the person who was running, you
19 didn't even see their face.

20 A. (Shakes head.)

21 Q. Okay.

22 MR. WEHRMAN: Beg the Court's indulgence,
23 Your Honor.

24 BY MR. WEHRMAN:

25 Q. All right. Mr. Rainey, just one more thing, and

OLIVER RAINEY - REDIRECT EXAMINATION

1 just to clarify, you can't say that it was my client that
2 you saw that day.

3 A. Right.

4 MR. WEHRMAN: Thank you.

5 THE COURT: Mr. Waring?

6 MR. WARING: Thank you, Your Honor. Just a
7 couple quick questions.

8 REDIRECT EXAMINATION

9 BY MR. WARING:

10 Q. Mr. Rainey, just for the jury's benefit, is it
11 true that you testified that the individuals you knew as
12 associated with this house or that lived at that house
13 were a mother, a son, a daughter, and maybe more?

14 A. Yeah, I would say.

15 Q. Okay. And is it true that right after the shots
16 rang out, you saw somebody holding something, or at least
17 giving the impression that they were holding something,
18 standing by a tree in that same yard of [REDACTED] 8 Cambridge?

19 A. You mean on this side, the fence?

20 Q. Yeah, on this side.

21 A. No, not -- he wasn't in that yard.

22 Q. Okay.

23 A. He was on the next door yard.

24 Q. Okay.

25 A. Because that's pushing the fence back, he was

1 inside.

2 Q. I see. And just to refresh our memory, what did
3 the victim say out loud again after he got shot?

4 A. Who, Ralph?

5 Q. Yes.

6 A. He said, That damn girl's son shot me.

7 Q. That damn girl's son shot me?

8 A. (Nods head.)

9 Q. Is that a yes?

10 A. Yes.

11 MR. WARING: Thank you, Mr. Rainey.

12 THE WITNESS: All right.

13 MR. WARING: No further questions, Your
14 Honor.

15 THE COURT: Any further questions for this
16 witness?

17 Thank you, Mr. Rainey. You are excused.

18 MR. WARING: Call our next witness?

19 THE COURT: Call your next witness.

20 MR. WARING: The State calls Diana Alvarez.

21 DIANA ALVAREZ,

22 having been first duly sworn,

23 was examined and testified as follows:

24 DIRECT EXAMINATION

25 BY MR. WARING:

DIANA ALVAREZ - DIRECT EXAMINATION

1 Q. Good morning, Diane.

2 A. Good morning.

3 Q. How are we doing today?

4 A. Good. How are you doing?

5 Q. Good, good. Diane, I'd like you to tell the jury
6 where you work currently.

7 A. Right now I work for MUSC teaching CPR courses and
8 American Heart Association courses to doctors and nurses.

9 Q. All right. And how about back in June of 2017?
10 Were you working back then?

11 A. Yes, Charleston County EMS.

12 Q. And at that time, what was your role with EMS?

13 A. I was a paramedic crew chief.

14 Q. Can you explain what that means.

15 A. So you're paired up with a partner in the
16 ambulance, and one is considered a crew member and the
17 other person is considered the crew chief, and the crew
18 chief is the supervisor to the crew member, and whenever
19 you get called to be on scene, you're in charge of
20 everything. You're in charge of all the patient care,
21 directing police, directing fire department, bystanders;
22 anywhere that you need help for the best interest of
23 patient care.

24 Q. All right. Now, at that time, or in your
25 training, did you ever get any schooling or training on

1 injury recognition?

2 A. Yes. I've got a lot of training on traumas. You
3 get different certificates, so you have to take a certain
4 amount of classes and hours of training and stuff. I was
5 a disaster medical specialist for Florida
6 task force four, and they get deployed to hurricanes and
7 natural disasters to do search and rescue, and as far as
8 being a paramedic, you also have to take a semester of
9 courses in trauma, and then I have nine years of
10 experience dealing with trauma in the field.

11 Q. Okay. Now, what about gunshot wounds? Do you
12 have any experience with recognition of gunshot wounds?

13 A. Yep. We take a class on gunshot wounds, looking
14 at how the bullet travels and the damage that can be
15 done, stuff like that, and then a lot of experience with
16 gunshot wound patients.

17 Q. Can you tell the jury what the general procedure
18 is for when you arrive on a scene and somebody has a
19 gunshot wound?

20 A. Your most important thing is bleeding control,
21 checking for airway, checking that they have pulses and
22 that they're breathing on their own, and you've got to
23 address those because those all can be fatal.

24 So typically when you walk up on a gunshot wound,
25 you're seeing how much bleeding is going on and how you

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1 need to control it as quickly as possible, whether you
2 need bandages or tourniquets or other kinds of ways to
3 address it.

4 Q. Now, as part of your job working for EMS, did you
5 also or were you required to write reports?

6 A. Yes.

7 MR. WEHRMAN: Objection.

8 THE COURT: Hold on, old on.

9 MR. WEHRMAN: Your Honor, may we approach?

10 THE COURT: Yes.

11 (Discussion held at sidebar.)

12 Would you take our jury to the jury room,
13 please.

14 (In open court, jury not present.)

15 We've got an objection on the next line of
16 questioning. Mr. Waring, why don't you proffer the
17 testimony and exhibits you want to put in, and then I'll
18 hear from them. Mr. Wehrman, I'll give you an
19 opportunity to cross-examine the witness on this issue,
20 and then I'll hear from both of you as to your arguments
21 on the law.

22 MR. WARING: Thank you, Judge.

23 BY MR. WARING:

24 Q. Okay, Diane. As part of your job back then, were
25 you required to write reports?

1 A. Yep.

2 Q. And were those reports generated in the normal
3 course of business?

4 A. Yes.

5 Q. Was it a regularly conducted business activity to
6 generate those reports?

7 A. Yes, mandatory.

8 Q. Mandatory. Were they typically generated at or
9 near the time of an incident?

10 A. Yep. Usually when you're dispatched to a call,
11 you start the report, getting in the location of where
12 you're supposed to go and how you're going, and then you
13 take care of the patient.

14 More people, during the process of patient care,
15 also type in info like address or other important
16 information like medications or allergies and stuff, and
17 then after you complete the call, the patient's been
18 transferred to the hospital personnel, then you would
19 finish writing your report, unless you got dispatched to
20 another call. So then you would have to write your
21 report by the end of the day, and then the State of South
22 Carolina requires that within 24 hours. Normal
23 standard's 24 to 48 hours.

24 Q. Okay. How often would you generate these reports?

25 A. In a period of a day?

1 Q. One day.

2 A. At this particular unit, medic two, is the busiest
3 unit in Charleston County, so you would generate between
4 10 and 12 reports a day.

5 Q. Okay. So you personally would generate 10 to 12
6 reports a day?

7 A. Yeah.

8 Q. And it was mandatory?

9 A. Uh-huh.

10 MR. WARING: Your Honor, may I approach the
11 witness?

12 THE COURT: Yes.

13 BY MR. WARING:

14 Q. Now showing you -- well, let's get a couple other
15 questions out of the way. Before this incident here, did
16 you respond to the scene?

17 A. For the incident?

18 Q. For this particular incident that we're on trial
19 here today.

20 A. Yes.

21 Q. Okay. And did you treat the victim?

22 A. Yes.

23 Q. Okay. And did you determine that he had some
24 injuries?

25 A. Yes.

1 Q. And what kind of injuries?

2 A. He appeared to have three gunshot wounds to the
3 back of the right thigh and one to the left thigh.

4 Q. And did he say anything to you when you were on
5 scene?

6 A. He was moaning and groaning in pain, grimace in
7 the face, and requesting pain medication and patient
8 care.

9 Q. Pertaining to the incident itself, did he give you
10 any information about that?

11 A. When I asked him what happened, you're trying to
12 figure out if it's close range or far range or some other
13 little issues for patient care. He said that he was
14 trying to mentor his significant other's son, and I guess
15 things did not go the way that he intended, and as he was
16 leaving, he was shot from behind.

17 Q. Okay. To your knowledge, did you indicate that in
18 your report?

19 A. Yes.

20 Q. All right. And did you put in the report per
21 policy all pertinent matters?

22 A. Yeah.

23 Q. All right. I'm now showing you what has been
24 marked for identification purposes only as State's
25 Exhibit 27. Do you recognize that?

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1 A. Yeah. That's the report I generated.

2 Q. And does that fairly and accurately generate your
3 report?

4 A. Yeah.

5 MR. WARING: Your Honor, at that time we
6 would seek to admit State's Exhibit 27.

7 THE COURT: Mr. Wehrman?

8 MR. WEHRMAN: I certainly object to admitting
9 it into evidence at this point. I want to
10 cross-examine --

11 THE COURT: Well, I'll give you the
12 opportunity to ask her questions pertaining to this
13 issue, and then I'll hear from both of you.

14 MR. WARING: Thank you, Your Honor. Please
15 answer any questions the defense asks.

16 CROSS-EXAMINATION

17 BY MR. WEHRMAN:

18 Q. Ms. Alvarez, you were saying that this statement
19 Mr. Haynes gave about mentoring and gang activity and all
20 of that, the purpose of that was to determine how -- the
21 physical way in which he was shot.

22 A. I didn't say anything about gang activity. What I
23 said was what the patient told me, and the patient told
24 me that he was trying to mentor his significant other's
25 son and somehow or another things did not go the way they

1 were supposed to, and as he was walking away, he was shot
2 from behind.

3 So my questions are usually are were you shot from
4 the front, behind, how far away, just to try to figure
5 out what the impact of damage might be.

6 Q. So what you're relying on and the information that
7 you need is the distance of the shot, the direction of
8 the shot, that sort of thing.

9 A. That's part of your understanding about what the
10 wound is, but there's other things that you look at.

11 Q. Okay. And he answered this in response to one of
12 your questions.

13 A. Yes. We ask all our patients what happened.

14 Q. Sure. And you're relying on the information to
15 help understand the type of injury?

16 A. Uh-huh.

17 Q. You're not concerned with the motives behind that
18 injury.

19 A. No.

20 Q. Okay.

21 MR. WEHRMAN: Court's indulgence, Your Honor.

22 BY MR. WEHRMAN:

23 Q. And frequently you'll get answers that go into the
24 whole history of what might have happened. I mean, I'm
25 sure that patients give a wide variety of answers.

1 A. Yes. Part of doing patient care is you're
2 responsible for going through what's called, like, a
3 sample assessment, which is signs and symptoms,
4 allergies, medication, pertinent history, last intake,
5 outtake and then events leading up to the incident, so
6 you ask all your patients, you know, what led up to this
7 incident? It's kind of required as a paramedic.

8 Q. Sure. And, again, what you're trying to figure
9 out is the nature of the injury?

10 A. The nature of the injury, what you should be
11 looking for, and what kind of damage you might be
12 considering might be done.

13 Q. And, again, the particular motives for how -- or,
14 I guess, the motives behind an injury are not germane to
15 any of that.

16 A. No, not really. You're just trying to figure out
17 was it close range or far range because that kind of
18 determines how much damage there might be and so that's
19 kind of the reason you ask when did it happen? How long
20 ago did it happen? Because then you try to figure out
21 how long they've been bleeding for and how much blood
22 loss there might be, so that's why you ask about how this
23 happened.

24 Q. Okay.

25 MR. WEHRMAN: No further questions.

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1 THE COURT: Mr. Waring?

2 MR. WARING: Your Honor, I don't have any
3 further questions at this time, but I think it is a
4 business record. We've gone through the colloquy of all
5 the requirements under the business record exception, and
6 803(6), you know, this record was generated in the normal
7 course of business. Regularly conducted business
8 activities generate those records. They were made at or
9 near the time of the incident by a person with knowledge,
10 Your Honor, so I think it satisfies that.

11 It's not a testimonial or hearsay issue
12 because these EMS reports are not generated for the
13 specific purpose of litigation; furthermore, she's not
14 going to mention gang activity declaration at all. It's,
15 in addition, an excited utterance under 803(2). It was a
16 statement by the victim relating to a startling event or
17 condition. He had been shot multiple times, made while
18 the declarant was under distress or excitement caused by
19 the event.

20 In addition, I think that it's textbook
21 excited utterance. In addition, it's also a prior
22 inconsistent statement because the victim, who was
23 clearly uncooperative, got up there and changed his story
24 and said that he didn't even see the defendant outside,
25 but this report contradicts that, and it's a prior

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1 inconsistent statement, so we would ask that it come in
2 for those reasons, Your Honor.

3 THE COURT: All right. Mr. Wehrman?

4 MR. WEHRMAN: Your Honor, just to address the
5 excited utterance argument, I don't think we've heard --
6 first of all, there's no foundation for how quickly after
7 the event these questions were even asked, but I would
8 also note that it was a question that was asked that he
9 responded to. It's not something he spontaneously
10 stated. It wasn't something that he just exclaimed. He
11 was responding. Apparently -- you know, he was
12 apparently in a responsive state, and he was able to
13 answer the questions that the EMS personnel put to him,
14 so I don't think that we have a foundation for being an
15 excited utterance.

16 On the issue, again, of really whether it's a
17 business record, I mean, there's another requirement for
18 business records, which is that they can be excluded if
19 the source of information or method or circumstances of
20 preparation indicated a lack of trustworthiness. Now, I
21 think that if we just ignore that and say that this is
22 somehow trustworthy information when it would never be
23 considered trustworthy under any other alternative
24 format -- and, again, I'm really saying that this is in
25 around the exception under 803(4), statements for the

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1 purposes of a medical diagnosis or treatment, and just
2 because they wrote down the statements that were made for
3 purposes of medical diagnosis and treatment, I don't
4 think that suddenly makes them trustworthy in a way that
5 they can be admitted as a business record when they
6 certainly would never be admitted as statements for
7 purposes of medical diagnosis or treatment.

8 And, again, just to make it clear, what I'm
9 focussing on -- and if the solicitor is saying that she's
10 not going to go into this, then I'll just withdraw the
11 objection entirely, but patient states that he was trying
12 to mentor significant other's son from gang activity, but
13 when he turned around to walk away, he was shot in the
14 back.

15 If we can start with he was shot in the back,
16 I'll withdraw this objection entirely.

17 THE COURT: Now, the gang activity
18 referenced, how about that?

19 MR. WARING: Just that portion, just from
20 gang activity. Everything else is still in there.

21 THE COURT: Okay. That has been redacted.

22 MR. WEHRMAN: No, I would not withdraw the
23 objection in that case.

24 I would also argue, Your Honor, that even if
25 this is considered a business record, then that

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1 particular statement is hearsay within hearsay. You
2 know, I don't think it's inconsistent with the testimony
3 from Mr. Haynes who said that he didn't see who shot him,
4 and he's now saying he was shot in the back.

5 So, Your Honor, I think the main thrust of my
6 argument is in and around 804(4). I don't think that
7 just because something is written down that that would
8 suddenly make it trustworthy in a way that wouldn't be
9 trustworthy otherwise, and I think that another way to
10 analyze it is to say that if it is a business record
11 itself, that particular statement is still a hearsay
12 statement.

13 I don't think it's an excited utterance, and
14 I also don't think it's really consistent with
15 Mr. Haynes' statement that he didn't see who shot him.

16 THE COURT: Thank you. All right.

17 After hearing the evidence and viewing the
18 exhibit, I find that this is admissible under Rule 803 as
19 a business record. Furthermore, under the excited
20 utterance exception, there was testimony that the patient
21 was moaning and groaning in pain, requesting medication,
22 so I would find it would come in under that as well, so
23 I'm going to overrule the objection.

24 Let's get our jury back.

25 That's as redacted.

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1 MR. WARING: Yes, Your Honor. Ms. Alvarez
2 will not mention that part.

3 (In open court, jury present.)

4 THE COURT: Thank you.

5 All right, Mr. Waring. Proceed.

6 MR. WARING: Thank you, Your Honor.

7 DIRECT EXAMINATION (Cont'd)

8 BY MR. WARING:

9 Q. All right, Diane. A little while ago we were
10 talking about reports, and is it mandatory to write
11 reports?

12 A. Yes.

13 Q. How many reports would you say you write in a day?

14 A. When I was on this particular unit, which serviced
15 the North Charleston area, I would write about 10 to 12
16 reports a day.

17 Q. So are you dealing with a ton of reports
18 throughout the week?

19 A. Yes.

20 Q. Now, these reports, are they generated in the
21 normal course of business?

22 A. Yes, they are.

23 Q. Is it a regularly conducted business activity to
24 generate these reports?

25 A. Yes.

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1 Q. And are they generated at or near the time of the
2 incident?

3 A. Yes.

4 Q. Let's fast forward to the day of this incident,
5 which was June 27, 2017, involving the victim, Timothy
6 Haynes. Did you respond to the scene on that?

7 A. Yes.

8 Q. Do you recall where you responded to?

9 A. It was on Cambridge, which is between Dorchester
10 and Azalea in North Charleston.

11 Q. All right. When you got on scene, did you, in
12 fact, see the victim, Timothy Haynes?

13 A. Yes.

14 Q. All right. Can you tell us a little bit about
15 that? What happened when you got on the scene?

16 A. We got on scene. Police had already cleared the
17 scene, and that means that the shooting had stopped, and
18 they either secured weapons and stuff for us so it's okay
19 for us to approach the patient, and we found the patient
20 walking from behind a yellow house with two other
21 bystanders that were on either side of him to help him
22 walk from the back yard to the ambulance where we were.

23 Q. Did you do anything with the victim at that time?

24 A. Immediately I introduced myself. That's how I
25 kind of checked to see for airway breathing and if

1 there's any altered mental status, as well as I usually
2 grab a person's wrist and I check for a radial pulse.
3 That that kind of tells me how well the body is handling
4 the gunshot wounds.

5 Q. And did he have any injuries?

6 A. Yep. He had what appeared to be three injuries at
7 the time when we saw him. He had his jeans on, so we
8 immediately got him in the back of the ambulance on our
9 stretcher, and then we stripped him down to his
10 underwear.

11 Q. All right. And do you recall where specifically
12 these injuries were located?

13 A. He had what appeared to be two gunshot wounds to
14 the back of the right thigh and one to the back of the
15 left thigh.

16 Q. So are you saying at that time y'all saw at least
17 three gunshot wounds?

18 A. Yes.

19 Q. Okay. Now, did you remove his underwear?

20 A. No, we did not remove his underwear. I usually
21 try to maintain some decency for the patients.

22 Q. I understand. So are you aware or do you know
23 whether or not he had any injuries underneath his
24 underwear?

25 A. He could have, but when I asked him did he have

1 any other injuries, he said no.

2 Q. Okay. Now, initially, did he appear to be in
3 pain?

4 A. Yes.

5 Q. And while this is all taking place, did he say
6 anything to you about this incident?

7 A. He said he was shot from behind.

8 Q. Okay. Did he say anything else?

9 A. He said that he was trying to mentor his
10 significant other's son, and as he was walking away, he
11 got shot from behind.

12 Q. Earlier you talked about how he had some gunshot
13 wounds to his legs. Is there a specific area in the
14 human body in the leg where a gunshot wound could be
15 fatal?

16 A. Yeah. There are five major arteries in the body
17 that could lead to fatality, one of which is the femoral
18 artery, so that kind of runs from hip/pelvic area all the
19 way down the leg. It's a major artery. If it's severed,
20 a person could bleed out between 7 and 15 minutes.

21 Q. So are you saying if the victim in this case had
22 been shot in one of those femoral arteries that he could
23 have died?

24 A. Yes.

25 Q. Ultimately, did you end up taking Mr. Haynes to

1 the hospital?

2 A. Yes. We took him to MUSC because they're a level
3 one trauma hospital.

4 Q. And were your lights and sirens activated?

5 A. Yes.

6 Q. And you said you took him to MUSC because he was
7 trauma what?

8 A. Every hospital is ranked in the country in terms
9 of its capabilities of patient care, being either trauma
10 hospital or medical hospital. Because he was shot three
11 times, he's considered a high priority trauma patient, so
12 the most appropriate hospital to take him south of
13 Columbia would be MUSC.

14 Q. Asked differently, are you saying that MUSC is for
15 the most serious of cases?

16 A. Yes.

17 Q. Once y'all got to the hospital, what happened
18 there?

19 A. He was met by the trauma team, which means a
20 trauma alert has been called. So you would have anywhere
21 between 6 to 15 doctors at the bedside and then another 6
22 to 8 nurses at the bedside, and they all specialize in
23 different aspects of the body.

24 Different surgeons that are going to be there,
25 different bone specialists, so everybody is there, and

1 you give them the story about events leading to the
2 incident, what you suspect, and what we suspected was
3 three gunshot wounds, and you get the vital signs, and
4 then the trauma team will take over from there. And then
5 they'll move the patient to the bed, and they'll
6 immediately -- it moves fast in terms of patient care.

7 Q. All right. So you mentioned a bed. So is that
8 the means by which that unit transports the individual or
9 the patient from the EMS vehicle to the hospital, inside
10 the hospital?

11 A. We transport the patient on a stretcher and then
12 move the stretcher into the trauma bay, and then we
13 usually will have a team of nurses that are moving the
14 patient from our stretcher to the trauma bed.

15 Q. How many people are typically involved in that?

16 A. Typically, if I remember right, there was about 12
17 to 15 people, and for his case, there were five of us
18 that moved him from the stretcher to the bed because
19 we're trying to eliminate as much moving around as
20 possible so the patient is also not in a lot of pain.

21 Q. All right. Now, I want to ask you a different
22 question: How long, from start to finish, do you recall
23 being on scene with this victim from showing up on scene
24 to getting him out of there?

25 A. Between patient contact when I first meet him to

1 getting off the scene, we were there less than ten
2 minutes, which is the required ideal time for trauma
3 patients.

4 Q. Can you discuss that a little bit further for the
5 jury? What does that mean, trauma patients needing to
6 get out of there prior to ten minutes? What does that
7 mean?

8 A. Well, because there's such a high risk of bleeding
9 that you can't control and things that you can't see,
10 unless you're a surgeon and you have diagnostic
11 equipment, CT scans and X-rays and stuff like that, so if
12 it hit one of these major arteries, he could bleed out in
13 10 to 15 minutes, so you're trying to limit the amount of
14 time you're on scene, and there's tissue that's dying
15 every time it's not getting enough oxygen and blood.

16 So, again, the sooner you're off scene and the
17 sooner you get to an appropriate hospital, we can try to
18 save those tissues and bones and the loss of blood.

19 Q. After all this went down, did you ultimately write
20 a report for this case?

21 A. Yes.

22 MR. WARING: May I approach witness, Your
23 Honor?

24 THE COURT: Yes, sir.

25 MR. WEHRMAN: Your Honor, I would just object

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1 on the grounds previously stated.

2 THE COURT: It's noted for the record.

3 BY MR. WARING:

4 Q. I'm now showing you what has been marked for
5 identification purposes only as State's Exhibit 27. Do
6 you recognize that?

7 A. That is the report I wrote in this case.

8 Q. All right. And does that report fairly and
9 accurately depict the report that you did, in fact, write
10 for that case?

11 A. Yes.

12 MR. WARING: Your Honor, at this point, State
13 moves to have Exhibit 27 admitted into evidence.

14 THE COURT: So admitted with defendant's
15 objection noted.

16 (State's Exhibit 27 was marked for
17 identification and admitted into evidence.)

18 BY MR. WARING:

19 Q. Okay, Diane. I'm going to put up on the overhead
20 this Exhibit 27, and there's just a couple of things that
21 I've got a couple of questions about.

22 So primary impression up here where you say
23 traumatic injury, what does that mean?

24 A. So for the most part, we classify things as either
25 medical or trauma. Medical would be that there is no

1 bleeding loss. There wasn't an assault. It wasn't some
2 sort of injury that was caused by an object. It might be
3 more medical, like a stroke or blue and stuff like that,
4 and then traumatic injury would mean there is some sort
5 of object that was used that caused injury to the
6 patient.

7 Q. And now over here can you tell us what the
8 reported patient is?

9 A. Timothy Haynes.

10 Q. Let's see what else we got here. So up here,
11 where it says abnormalities, left leg, right leg, does
12 that indicate gunshot wounds?

13 A. That indicates there's a significant amount of
14 edema. There's a significant amount of swelling going
15 on, possibly blood loss that's kind of leaking out, and
16 then other is with reference to the gunshot wounds.

17 Q. Okay. You briefly referenced it before. Would
18 you mind reading for the jury starting here, patient
19 states he was, all the way down to right there?

20 A. Patient states he was trying to mentor significant
21 other's son, but when he turned to walk away, he was shot
22 in the back. Patient insists on laying in the prone
23 position, which means he's laying face down, and that is
24 a position of comfort. Normally we don't transport
25 patients in that position, but that is what he requested,

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1 and it works for bleeding control. So it allowed us,
2 EMS, to apply direct pressure to the trauma, with trauma
3 dressings. Patient appears to have three gunshot wounds.

4 Q. All right. And now mobilization recommended, what
5 does that mean?

6 A. Typically when there is a trauma involved, the
7 computer generates information as to whether or not we
8 should be back boarding the patient to protect spinal
9 injuries; however, he did not complain of any back pain,
10 any nerve pain. He was able to walk freely when we first
11 got there, so he did not require a backboard; however,
12 where you see distracting injury, sometimes the
13 adrenaline is pumping so hard in the patient that he may
14 not realize that something else is hurting too, and
15 that's where you put in the question yes, that he did
16 have distracting injuries. So the computer recommends
17 immobilization, but there's paramedic discretion as to
18 whether or not they really need a backboard.

19 Q. All right. And then as far as incident details,
20 can you tell the jury what the incident location was.

21 A. So the general location is [REDACTED] 8 Cambridge Avenue.
22 That comes from whoever called in the call to dispatch.
23 It may not always be the exact address because the
24 mailbox have numbers on them. Sometimes where they're
25 standing, they can't see the exact address, but it's

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1 usually within, like, 500 feet of that address. When you
2 get there, you kind of figure it out.

3 MR. WARING: Please answer any questions the
4 defense has.

5 THE COURT: Mr. Wehrman, your witness.

6 MR. WEHRMAN: Thank you, Your Honor.

7 CROSS-EXAMINATION

8 BY MR. WEHRMAN:

9 Q. Ms. Alvarez, you said these injuries were to the
10 back of his legs?

11 A. Uh-huh. Appeared to be, yes.

12 Q. But he stated he was turned around when he
13 received the injuries?

14 A. Yes.

15 Q. And --

16 A. Well, he said he was shot from behind. I don't
17 know if -- his head, obviously, could have been turned
18 either way, so --

19 Q. But he was shot from behind?

20 A. Yeah.

21 Q. And he was able to answer those types of
22 questions?

23 A. Yes. He could answer questions appropriately, did
24 not appear to have any altered mental status.

25 Q. That reference to traumatic injury, that describes

1 physical type of injury?

2 A. Yeah.

3 Q. That's not a reference to his mental state?

4 A. His what?

5 Q. His mental state?

6 A. No.

7 Q. It's just saying it was an injury caused by an
8 external object?

9 A. Typically, yeah.

10 Q. Okay. In part of your report, you list the
11 location where you arrived, where you picked him up. You
12 list the destination, and you also list the condition
13 that he's in at the destination?

14 A. Uh-huh.

15 Q. And in this case he had improved in his condition?

16 A. Uh-huh. Yes. We gave him some pain medication
17 that helped that.

18 Q. And you list -- I believe you just spoke about the
19 assessments you did on his left leg and his right leg?

20 A. Uh-huh.

21 Q. You didn't assess his pulse?

22 A. I did assess his pulse.

23 Q. You did assess his pulse?

24 A. Yeah, when I first met him. When he was standing,
25 I checked his pulse. It was at 100. Normal heartbeat is

1 between 60 and 100 for an adult, and his was 100.

2 Q. So his pulse was fine?

3 A. Yep.

4 Q. Maybe you can clarify this for me, and maybe that
5 is what clarifies it.

6 What I'm looking at here is page two of your
7 report, where those assessments are listed. It says
8 pulse not assessed. Is that just because his pulse was
9 fine?

10 A. Yeah. The pedal pulses are still there within the
11 legs and stuff like that.

12 Q. Okay.

13 A. So I'm at the head of him, and so I'm checking his
14 radial pulses, not the pedal pulses by the leg.

15 Q. I see.

16 A. Does that make sense?

17 Q. So that's a reference to a different pulse?

18 A. Yeah. There's, like, five areas you could take a
19 pulse at.

20 Q. And the pulse that you checked was fine?

21 A. Yeah.

22 Q. Okay.

23 MR. WEHRMAN: Court's indulgence.

24 No further questions. Thank you,

25 Ms. Alvarez.

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1 THE COURT: Anything further for this
2 witness?

3 MR. WARING: Just two questions.

4 REDIRECT EXAMINATION

5 BY MR. WARING:

6 Q. Ms. Alvarez, I just want to make sure I've got it
7 right. So you mentioned some arteries in the legs. If
8 he were to be shot in this specific artery, could he have
9 died?

10 A. Yes.

11 Q. And how many times was he shot that you saw?

12 A. He appeared to have three gunshot wounds. There's
13 always a slim, slim chance that -- you look at three
14 gunshot wounds, I guess there's always a 1 percent chance
15 that maybe one of the bullets had traveled, causing an
16 exit wound, but those appeared to be three entry wounds,
17 so we assumed there was three gunshot wounds.

18 MR. WARING: No further questions, Your
19 Honor.

20 THE COURT: Thank you, Ms. Alvarez. Call
21 your next witness.

22 MR. HEGGELKE: State calls Investigator
23 Jacqueline Ong.

24 JACQUELINE ONG,
25 having been first duly sworn,

1 was examined and testified as follows:

2 DIRECT EXAMINATION

3 BY MR. HEGGELKE:

4 Q. How are you?

5 A. Doing well, thanks. How are you?

6 Q. Good. Where are you currently employed?

7 A. Charleston County Emergency Management.

8 Q. And how long have you been there?

9 A. Since January.

10 Q. And what do you do in that capacity?

11 A. I'm an emergency management specialist, so I help
12 organize and manage resources in response to emergencies
13 and help mitigate, minimize the negative effects we all
14 feel with emergencies and disasters.

15 Q. Have you ever been employed by the North
16 Charleston Police Department?

17 A. Yes.

18 Q. And in what capacity were you working there?

19 A. I was a forensic investigator.

20 Q. And how long were you in that position?

21 A. A little over five years.

22 Q. And were you working in that capacity back in June
23 of 2017?

24 A. Yes.

25 Q. And can you just explain, what is the crime scene

1 unit and what is its purpose?

2 A. Crime scene unit is responsible for responding to
3 crime scenes, and we document with photographs how the
4 scene is when we find it and identify and collect
5 evidence.

6 Q. And, if you could, could you just walk the jury
7 through how you properly collect evidence.

8 A. When I arrive on scene, I first find an officer,
9 supervisor, detective to give me a synopsis, or quick
10 rundown, of what they've seen, what they have. I do a
11 walk-through, and then I take my camera and I photograph
12 overall the scene, kind of just provide a big picture,
13 and just show how I found it, and then I'll identify
14 items of evidence, and then I'll take -- we call them
15 numerical placards.

16 So they're the little plastic, like, teepee things
17 you see have numbers on, and I put those down next to
18 each item of evidence. Then I rephotograph everything,
19 wear gloves, and then take up and package the items, in a
20 nutshell.

21 Q. So you're wearing gloves when you're doing this?

22 A. Yes.

23 Q. Now, say you collect a piece of evidence. What do
24 you do with it?

25 A. Say again?

1 Q. Say you collect a piece of evidence after you just
2 go through that whole process. What do you do with it
3 from there?

4 A. Package it. I'll secure it in my department
5 vehicle on scene, ensure nothing else is needed from
6 crime scene, clear the scene, transport everything back
7 to the North Charleston Police Department to the crime
8 scene unit and then further package the item, coordinate
9 it being sent to the lab, a different lab if it needs to
10 go, and then put it into evidence for safekeeping.

11 Q. And you mentioned bagging it. Is that bag sealed?

12 A. Yes.

13 Q. And do you, like, label it?

14 A. We apply labels to indicate what is in the
15 package, and it has, like, bar codes, my name, date, and
16 time, what case it's associated with, and then there's
17 special tape that we put called integrity tape that we
18 put on the seals of the envelopes, and I sign my name
19 over it. So it's super delicate, so if somebody tries to
20 mess with the envelope, it breaks, and you can tell
21 someone's been in it before.

22 Q. And you got into this a little bit, but following
23 the physical collection and bagging, what do you do with
24 it or where do you take it?

25 A. I'll take it from the scene back to North

JACQUELINE ONG - DIRECT EXAMINATION

1 Charleston Police Department.

2 Q. Directly, correct?

3 A. Yes.

4 Q. And that area in the police department, is that a
5 secure area?

6 A. Y he.

7 Q. Who has access to that area?

8 A. Only the crime scene folks.

9 Q. So would a patrolman have access or not?

10 A. No.

11 Q. Now, were you involved in this case, State v.
12 Jamaa Washington which occurred on June 27, 2017?

13 A. Yes.

14 Q. And how did you get involved?

15 A. I think detectives requested crime scene to
16 respond.

17 Q. What did you do when you first arrived on the
18 scene?

19 A. Spoke to detectives on scene and got the rundown
20 of what they had.

21 Q. Did you take photographs?

22 A. Yes.

23 Q. Okay. And I know you touched on it a little bit.
24 Can you just explain it again, just to reiterate.

25 A. Uh-huh. The photographs?

1 Q. Yes, just the photographs.

2 A. We call it overall photographs, so overall would
3 be if I were to photograph this room, you try and
4 encompass as much of the room into one photograph to kind
5 of give you the normal eye's view of the scene, and I do
6 that from all sorts of different angles, and then I'll --
7 just as the scene is, and then I will apply the placards
8 to evidence, and I will do that whole process again, the
9 overall photos, and then I will start to photograph as I
10 move closer to each specific item of evidence and then
11 get close-up photographs of each placard item of
12 evidence.

13 Q. Does every placard have a different number?

14 A. Yes.

15 Q. Do you recall what evidence you collected in this
16 case?

17 A. Shell casings and a rifle.

18 Q. Do you recall how many shell casings?

19 A. Six.

20 Q. And do you recall where those were located?

21 A. On the side of the house.

22 Q. I'm going to show you what's already been admitted
23 into evidence as State's 6 through 14. Actually, I'm
24 going to start with Exhibit 3. Can you point to where
25 you collected the shell casings?

1 A. I can't doodle.

2 Q. Is it right there?

3 A. Yes.

4 Q. I'm going to show you State's Exhibit 6, and what
5 are we looking at here?

6 A. The stairs to the side door of the house.

7 Q. And is that placard on the second stair?

8 A. Yes.

9 Q. And State's Exhibit 7?

10 A. That is the same set of stairs, ever so slight
11 different angle, a little closer, and then you can see,
12 partially, placards one and two on the steps.

13 Q. State's Exhibit 8?

14 A. Same stairs, more of a front-on angle, and you can
15 see placards one and two.

16 Q. State's 9?

17 A. More of a midrange image from placard one, also
18 showing a relative association with the positioning of
19 placards three and four, which are on the ground just
20 next to the stairs.

21 Q. And that's where you found a shell casing?

22 A. Yes.

23 Q. State's 10?

24 A. Placard two, shell casing.

25 Q. Three and four?

1 A. Placards three and four, both shell casings.

2 Q. This is State's 12.

3 A. Different angle of the same steps. Now we're kind
4 of facing toward the street, and you can see placards one
5 through four and five.

6 Q. State's 13.

7 A. Midrange photograph showing the association
8 between the steps and the fence line. You can see the
9 white placard number six with the six shell casing.

10 Q. And State's 14?

11 A. Is another midrange image showing placard six with
12 the shell casing.

13 Q. I'm just going to zoom out a little on these
14 photos, just so the jury can see the angle of it. So
15 right here, these are the same steps we saw for shell
16 casings one and two?

17 A. Yes.

18 Q. And this is the other side of the steps where you
19 see one, two, four, three, five?

20 A. Yes.

21 Q. And then, obviously, the same steps, just for
22 placard six.

23 A. Yes.

24 Q. Handing you what's marked State's Exhibit 33, what
25 are we looking at there?

JACQUELINE ONG - DIRECT EXAMINATION

1 A. The six envelopes that I packaged the shell
2 casings in.

3 Q. And how do you know that?

4 A. They have the barcoded sticker with my name. I
5 wrote the case number on there and then the integrity
6 taping with my initials and the date.

7 Q. What caliber are the shell casings?

8 A. .40 caliber.

9 Q. Are they all .40 caliber?

10 A. Yes.

11 Q. Do you know what company makes them?

12 A. Perfecta.

13 Q. Are they in substantially the same condition as
14 they were back on June 27, 2017?

15 A. Yes.

16 Q. And do they fairly and accurately depict the shell
17 casings from this case?

18 A. Yes.

19 Q. And you're the one that turned them in to
20 evidence?

21 A. Yes.

22 MR. HEGGELKE: At this time the State seeks
23 to admit Exhibits 28 through 33, I believe without
24 objection.

25 THE COURT: Any objection?

JACQUELINE ONG - DIRECT EXAMINATION

1 MR. WEHRMAN: No objection, Your Honor.

2 THE COURT: All right. State's Exhibits 28,
3 29, 30, 31, 32, 33 are all admitted without objection.

4 (State's Exhibits 28 through 33 were marked
5 for identification and admitted into evidence.)

6 BY MR. HEGGELKE:

7 Q. And, if you could, please show the jury each of
8 the shell casings and the identifying number.

9 A. This is State's Exhibit 28. This would be the
10 casing assigned to placard No. 1. State's Exhibit 29,
11 shell casing assigned to placard No. 2. State's Exhibit
12 30, this is the placard assigned to placard No. 3.
13 State's Exhibit 31, casing assigned to placard No. 4.
14 State's Exhibit 32, casing assigned to placard No. 5.
15 State's Exhibit 33, the casing assigned to placard No. 6.

16 Q. Now, you said you collected a firearm as well?

17 A. Yes.

18 Q. And you're the one that personally collected it?

19 A. Yes.

20 Q. All right. I'm going to show you State's Exhibit
21 25 and 26, which are already admitted. What are we
22 looking at here?

23 A. A trash can. There's a sheet or some kind of a
24 cloth on top of the trash can, and you see part of the
25 rifle sitting on top of that.

JACQUELINE ONG - DIRECT EXAMINATION

1 THE COURT: Which exhibit is that?

2 MR. HEGGELKE: 25, Your Honor.

3 BY MR. HEGGELKE:

4 Q. And then I'm showing you State's Exhibit 26.

5 A. An overall image of the rifle I collected.

6 Q. I'm now showing you what's been marked as State's
7 Exhibit 34, I believe, and what is that?

8 A. It is the item No. 7 that I collected from the
9 scene.

10 Q. What is the serial number for that firearm?

11 A. 10169697.

12 Q. Is that the same serial number you documented in
13 your report?

14 A. Yes.

15 Q. What type of gun is that considered?

16 A. It's an SKS 7.62 x 39. A common term people would
17 use is assault rifle.

18 Q. And do you know what caliber it is?

19 A. 7.62, I think.

20 Q. Do you know what company makes that?

21 A. Capco.

22 Q. Is it in substantially the same condition as when
23 you collected it on June 17, 2017?

24 A. Yes.

25 Q. Is that the same assault rifle we're looking at in

1 the photo, on the overhead?

2 A. Yeah.

3 Q. And does it fairly and accurately depict the
4 assault rifle you collected in this case?

5 A. Yes.

6 MR. HEGGELKE: Your Honor, at this point, the
7 State would seek to admit Exhibit 34 into evidence.

8 THE COURT: Any objection?

9 MR. WEHRMAN: No objections, Your Honor.

10 THE COURT: All right. State's Exhibit 34
11 will be admitted without objection.

12 (State's Exhibit 34 was marked for
13 identification and admitted into evidence.)

14 BY MR. HEGGELKE:

15 Q. And, if you could, would you just show the jury.

16 A. (Witness complies.)

17 Q. And after you collected the assault rifle, what
18 did you do with it?

19 A. Secured it in my department-issued vehicle,
20 ensured there was nothing further needed from crime
21 scene, and transported the rifle with the casings back to
22 the police department.

23 Q. And for those who aren't familiar with guns, the
24 shell casings you collected from this scene, is that the
25 same caliber as the assault rifle?

JACQUELINE ONG - CROSS-EXAMINATION

1 A. No.

2 Q. What type of gun are the shell casings that you
3 collected suitable for, a handgun, rifle?

4 A. A .40 caliber handgun.

5 Q. And after photographing and collecting the
6 evidence, did you have any other involvement in this
7 case?

8 A. No.

9 MR. HEGGELKE: Court's indulgence.

10 Answer any questions defense has.

11 THE WITNESS: Yes.

12 THE COURT: Any cross?

13 MR. WEHRMAN: Yes, Your Honor. Thank you.

14 CROSS-EXAMINATION

15 BY MR. WEHRMAN:

16 Q. Investigator Ong, so you mentioned -- you went
17 over your process for how you would collect and then put
18 evidence into the department's evidence room, correct?

19 A. Up to the point that I brought it back to the
20 office, yeah.

21 Q. And you would leave it with -- leave it with
22 another officer?

23 A. No.

24 Q. You would -- well, let's go over the process then.
25 So I think we got it at the scene. You would be

1 at the scene. You would identify it as evidence.

2 A. Yes.

3 Q. You would collect them wearing gloves?

4 A. Yes.

5 Q. You would package them, correct?

6 A. Yes.

7 Q. Secure them in your vehicle, correct?

8 A. Yes.

9 Q. You would take them back to the police department?

10 A. Yes.

11 Q. And maybe do some further packaging.

12 A. Yes.

13 Q. And that further packaging would be sort of
14 putting it in that sealed container, I believe you
15 stated.

16 A. The integrity tape and signing of the stickers.

17 Q. And the stickers, which are to keep track of which
18 evidence is linked to which case and which item it is.

19 A. Yes.

20 Q. And then what would you do after that?

21 A. I would take it to, like, a locker exchange system
22 in the secure crime scene part, and I'd find a locker,
23 put it in, close it. It's locked. The other side of the
24 locker opens up into the evidence compound, and only the
25 evidence technicians are there, and then they have a key

1 and unlock their side and take it out. So it's a
2 secured -- once I put it in there and close it up, I
3 can't get back in to it until evidence takes it out on
4 their side.

5 Q. And you would fill out a form when you do this?

6 A. Chain of custody.

7 Q. So you would sign something saying you completed
8 that process?

9 A. Yes.

10 MR. WEHRMAN: Court's indulgence, Your Honor.

11 BY MR. WEHRMAN:

12 Q. I'm handing you what's marked Defense Exhibit 1
13 for identification purposes. Is that a copy of the sheet
14 you would sign?

15 A. Yes.

16 Q. And that shows that you did, in fact, sign the
17 sheet on July 3rd, I believe?

18 A. Yes.

19 Q. Okay. And it lists the items of evidence that you
20 deposited into that locker.

21 A. Yes.

22 Q. And items one through six are the shell casings?

23 A. Yes.

24 Q. Item seven is the rifle?

25 A. Yes.

1 Q. And then it shows the signature of the evidence
2 technician who received it.

3 A. Yes.

4 Q. That's S. Middleton?

5 A. Yes.

6 Q. Also shows that an S. Middleton released it later
7 in 2018, on January 24th, correct?

8 A. Yes.

9 Q. And that was a release of the six shell casings,
10 not the rifle.

11 A. Per the chain of custody, it says one through six
12 would be the shell casings, yes.

13 Q. And that says that was released to an S. Andrews.

14 A. A detective.

15 Q. That's a detective in your department? Okay. And
16 it looks Detective Andrews returned it on February 23 of
17 2018 to the evidence locker?

18 A. That's what the chain says, yes.

19 Q. That's what the chain says. Okay. And you
20 weren't involved in that? You weren't involved in the
21 subsequent checking out and turning back in?

22 A. No.

23 Q. Part of your job is coordinating sending items to
24 the lab.

25 A. If requested, yes.

JACQUELINE ONG - CROSS-EXAMINATION

1 Q. But you weren't requested in this case?

2 A. No.

3 MR. WEHRMAN: Court's indulgence.

4 BY MR. WEHRMAN:

5 Q. So just to clarify, Investigator, you don't have
6 any personal knowledge of any analysis that was requested
7 in this case?

8 MR. HEGGELKE: Objection. May we approach,
9 Your Honor?

10 THE COURT: Yes.

11 (Discussion held at sidebar.)

12 BY MR. WEHRMAN:

13 Q. The final question, you don't have any personal
14 knowledge of any analysis that was done on any items in
15 this case?

16 A. Per the chain, it went to IBIS.

17 Q. Okay. So that would indicate there was some
18 analysis done in this case?

19 A. Per the chain, I would assume that.

20 Q. Okay. You don't know anything about that IBIS --

21 A. Not this case, no.

22 Q. Okay. And IBIS -- just to clarify for the jury,
23 what is IBIS?

24 A. The Integrated Ballistics Indexing System.

25 Basically, a nutshell, most people are very familiar with

1 how fingerprints work, so somebody will take, like, a
2 fingerprint and put it in that camera -- or the computer
3 system, and it will search through the database and find
4 whose fingerprint goes to which human.

5 Same general concept with a gun. The gun
6 basically has its own fingerprint, if you will, and it
7 leaves that mark on the casing, and so IBIS is the system
8 where it will take the picture of the fingerprint, the
9 specific unique marking from the gun on the casing, it
10 will take a picture of that and search it through the
11 system and try to compare it to other guns, other
12 casings, and see if there's been a similar involvement
13 somewhere, if that makes sense.

14 Q. I think it did. I think, to summarize it, it's a
15 system that allows you to check if the gun that fired
16 that bullet, or the bullet that was in that shell casing,
17 was used perhaps in a difference incident?

18 A. Fair to say.

19 Q. And it looks -- per the chain, it looks to you
20 that that analysis was done here?

21 A. From what I can tell, the casings were signed
22 out -- it says to or for IBIS, and then it was returned,
23 so I have no idea.

24 Q. But you weren't part of that?

25 A. No, I wasn't.

1 Q. You don't know the results of that?

2 A. No.

3 MR. WEHRMAN: Thank you. No further
4 questions, Your Honor.

5 THE COURT: Anything further from this
6 witness?

7 MR. HEGGELKE: No, Your Honor.

8 THE COURT: All right. Thank you, Officer.
9 You can step down.

10 We're going to take a short break.

11 Mr. Bailiff, will you take the jury to the jury room?

12 We're going to take a short break.

13 (In open court, jury not present.)

14 THE COURT: Before we go into recess, I have
15 received a note from the jury. Juror number 340 has had
16 a medical issue arise, and he has a doctor's appointment
17 at MUSC at 3:30, and I wanted to confirm with the
18 attorneys to see how close we are to completing.

19 If we're going to run over -- we have two
20 alternates, so it's not a -- it's not going to be a
21 problem if we have to move an alternate to a primary
22 juror. Now, the other alternative would be simply to
23 break for the day at 3:00 if we're not finished, but I
24 wanted to discuss that with the two of you and just see
25 what your thoughts are.

1 MR. WARING: Your Honor, I'm very confident
2 that we're going to finish our case before that time.
3 We've got four fairly short witnesses, that's it, from
4 what I can see.

5 MR. WEHRMAN: Your Honor, just in all candor,
6 I do have some objections that might require taking the
7 jury out for, I believe, some of those witnesses. I
8 anticipate having to make those objections.

9 I don't know, you know, if it's four
10 witnesses -- I mean, I think we did about three this
11 morning. I don't know that it would take much longer
12 than that, so I think we might be on track for 3:30 to
13 get through the witnesses at least, and I don't know if
14 you would maybe save closing for the next day or just
15 keep going. That would be up to Your Honor's discretion.

16 THE COURT: He says here that he has to leave
17 by 3:00, leave at 3:00 for his -- and, of course, I
18 haven't gotten into the specifics of his medical issue,
19 but if you think you can -- of course we don't know at
20 this point what the defense is going to do, as far as
21 presenting, whether or not the defendant will testify and
22 whether or not he'll present any evidence.

23 I think the safest thing to do is just move
24 one of the alternates to primary, and it would not
25 constrain the parties because we may be able to finish

1 today, but, on the other hand, I don't want to rush you.
2 If we need to argue and charge in the morning, that would
3 certainly give you more time to get through it.

4 Don't know how long these witnesses will take
5 and if there are objections that have to be proffered.
6 We may need more time than you anticipate for it.

7 MR. WARING: Yes, sir, Judge.

8 THE COURT: Just to be safe, I think probably
9 we just need to let juror number 340 go and move one of
10 the alternates to primary.

11 Now, what method would you like me to move
12 the alternate? Would you like it to be random or just
13 assign alternate number one as the primary? I'll do it
14 any way.

15 MR. WARING: Your Honor, random sounds fine
16 to me.

17 MR. WEHRMAN: I think random sounds fine to
18 me.

19 THE COURT: Do you want the clerk to just put
20 the -- let's do this: Put the juror numbers -- can your
21 computer do that?

22 All right. Mr. Wehrman, I'll let you call:
23 Heads will be number one; tails will be number two. Is
24 that acceptable?

25 MR. WEHRMAN: That's acceptable. I'll go

1 with two, tails.

2 THE COURT: All right.

3 (Judge flips coin.)

4 And it is heads. Okay. So alternate number
5 one would be our primary juror now. Juror 144 would move
6 to primary, and we would still have one alternate.

7 (In open court, juror present.)

8 THE COURT: Mr. Thompson, I received your
9 note, and I'm scared that the case may not be at a
10 stopping point for your appointment, so I'm going to
11 excuse you for the remainder of this case. Call the
12 number tonight. It will give you further instructions.

13 THE JUROR: Okay.

14 THE COURT: Or tomorrow, but I'm going to
15 excuse you from this case because I want you to be able
16 to meet your appointment. Thank you for your service.

17 THE JUROR: Do I need to bring an excuse
18 back?

19 THE COURT: No. Just call that number, and
20 if you need any excuse, work excuse or whatever you need,
21 talk to the clerk about that.

22 Make this a Court's exhibit.

23 (Court's Exhibit 1 was marked for
24 identification.)

25 (Recess taken.)

LISA BLOODWORTH - DIRECT EXAMINATION

1 (In open court, jury not present.)

2 LISA BLOODWORTH,

3 having been first duly sworn,

4 was examined and testified as follows:

5 DIRECT EXAMINATION

6 BY MR. WARING:

7 Q. Good morning, Lisa. We're going to proffer your
8 testimony outside the presence of the jury right now,
9 okay?

10 A. Okay.

11 Q. So I'm going to ask you some questions similar to
12 what I would ask you, starting with where do you work?

13 A. At the Al Cannon Detention Center.

14 Q. What's your role there?

15 A. I work with the security threat group.

16 Q. And how long have you worked at the detention
17 center?

18 A. Almost ten years now.

19 Q. Could you tell me some of your duties?

20 A. When we have subpoenas that come into my office,
21 we fulfill those, review video. We also monitor, like
22 threats within the jail, monitor about contraband, so we
23 do a couple of different things.

24 Q. And would you tell us what a video visitation
25 video is?

1 A. Video visitation is when anybody is incarcerated
2 and somebody comes to visit them, they have to come to
3 the jail, or they can go online and register, and they
4 can schedule a visit and do a visit at the jail or they
5 could do one, like, via -- almost Facetime at home.

6 Q. I see. Is all that recorded?

7 A. Yes, sir, it is.

8 Q. And do you deal with these videos on a regular
9 basis?

10 A. Yes, sir, I do.

11 Q. Can you describe what you do when you get a
12 subpoena for a video visitation recording?

13 A. When we get a subpoena for a recording, what we do
14 is based on what the subpoena states, if it's for a
15 certain inmate date range, so we will hold what they're
16 looking for. If it's a certain date, we pull those
17 dates. We download all of the videos and the video logs,
18 and then we turn them over.

19 Q. Okay. And are those videos stored and generated
20 at or near the actual time of the visitation?

21 A. Yes, they are.

22 Q. Can they be altered by anyone after they're
23 stored?

24 A. No, they cannot.

25 Q. Are they generated in the normal course of

LISA BLOODWORTH - DIRECT EXAMINATION

1 business?

2 A. Yes, they are.

3 Q. Is it a regularly conducted business activity to
4 generate those videos?

5 A. Yes, it is.

6 Q. Now, in preparation for this trial, have you come
7 across the defendant's video visitation videos?

8 A. Yes, I have.

9 Q. Was your organization given a citation for that?

10 A. Yes, they were.

11 MR. WARING: May I approach the witness, Your
12 Honor?

13 THE COURT: Yes, sir.

14 (State's Exhibits 35 through 37 were marked
15 for identification.)

16 BY MR. WARING:

17 Q. I'm showing you what will be marked for ID
18 purposes as 35 through 37. Can you tell us what those
19 are?

20 A. These are the videos that were sent to you that
21 have -- that were for the subpoena that have the inmate
22 and then the date range that was requested.

23 Q. And have you listened to specific videos, basic
24 videos, or watched them on those specific disks?

25 A. Yes, I have.

1 Q. All right. And have you initialed those disks
2 indicating that you have watched them?

3 A. Yes, I have.

4 Q. And is that the format which you respond to
5 subpoenas?

6 A. Yes, it is.

7 Q. Do those disks fairly and accurately depict the
8 video visitation videos?

9 A. Yes, they do.

10 Q. Have you had a chance to watch a selection of
11 video visit videos that I've requested?

12 A. Yes, I have.

13 Q. And do you recall from memory which numbers those
14 were, which videos?

15 A. I do not. I do not. I know we watched on all
16 three disks.

17 Q. Would it help assist you if I showed you a copy of
18 the logs?

19 A. Yes, yes, it would.

20 Q. Now, specifically, do those disks that I handed
21 you, have you had a chance to watch videos from video
22 visit numbers 400127, 392292, 400540, 396836, 425531,
23 check and 433610?

24 A. Yes, I have.

25 Q. Okay. And now what I'd like to do is show you

LISA BLOODWORTH - DIRECT EXAMINATION

1 what's been marked for ID purposes as State's Exhibit 38.

2 Do you recognize that?

3 A. Yes, I do.

4 Q. And can you tell us what that is.

5 A. This is the -- a disk with the small video clips
6 from each of the larger ones that was put together.

7 Q. So have you had a chance to listen to the clips on
8 that disk?

9 A. Yes, I have.

10 Q. And you kind of referenced it, but are they from
11 the same video numbers that I referenced earlier?

12 A. Yes, they are.

13 Q. And is the only thing that has been changed is
14 that they've been otherwise condensed or clipped?

15 A. Correct, yes.

16 Q. And does Exhibit 38 fairly and accurately depict
17 the defendant's video visitation?

18 A. Yes, it does.

19 MR. WARING: Your Honor, at this point, we
20 would seek to admit it, but I can play it at this point.

21 THE COURT: Let me hear it.

22 MR. WARING: Okay.

23 (Video played.)

24 MR. WARING: That was the last clip, Your
25 Honor. Please answer any questions defense has.

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1 THE COURT: Do you have any questions?

2 MR. WEHRMAN: I don't have any questions,
3 Your Honor.

4 THE COURT: All right. Mr. Wehrman, do you
5 have objections?

6 MR. WEHRMAN: Yes, Your Honor. I do have
7 objections, and I think the reason I wanted to do this is
8 because I think the objections are somewhat different for
9 each clip.

10 I'll focus first on clip one. That's the one
11 between the victim and the defendant. You know, to the
12 extent that the victim is stating things like everyone
13 deserves a second chance and I feel like I have to return
14 a favor back, first of all, I'm going to make an argument
15 that's hearsay, Your Honor, because I don't think it's
16 inconsistent with anything he's already said.

17 And it's certainly an out of court statement,
18 and I think it's being offered to prove the truth of the
19 matter asserted, which is he wants to give him a second
20 chance. I don't think that's inconsistent with anything
21 he stated this entire time, so, you know, I guess I would
22 also argue under 403 it's sort of speculative as to what
23 the meaning is. If the meaning is he's supposed to know
24 he was the shooter or something like that, that's sort of
25 speculative and, I think, a bit remote of an

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1 interpretation and not very probative of that issue as
2 opposed to being quite prejudicial to suggest that
3 they're somehow coordinating their defense together.

4 As far as the other clips the clips between
5 Ms. Powell and the defendant, that being the defendant's
6 mother, you know, it's not clear to me how much of
7 Ms. Powell's words are being actually offered to prove
8 the truth of the matter asserted. She doesn't make a lot
9 of actual assertions, so I think my main argument on some
10 of this is -- and the Court can have -- I invite the
11 Court to use its discretion in cutting it up however you
12 like, but I think it's largely cumulative.

13 I mean, you can see that some of the clips
14 are actually cut up from different parts of the
15 conversation, and it's just repeating some of the same
16 things over and over. Certainly I would say on clip
17 number two, I don't think that's very probative. That is
18 where they have a conversation about the rifle being in
19 dispute and whether he was going to use the rifle or he
20 was just going to give it back. We're not really
21 disputing that he came to the house that day.

22 I think it would be probative if we were
23 disputing it, but it seems sort of unnecessary, to me, to
24 go into that when, again, we're not really putting up any
25 sort of argument against that, and thus, you know, I

1 think it's sort of cumulative in that regard.

2 As far as clip three, clip four, clip five,
3 again, I think there's just a lot of repetition here,
4 Your Honor. I think we can cut it down, you know,
5 certainly either shortening the clips if they insist on
6 showing he did it on different days or maybe even just
7 one clip, which I would note that clip three clip -- I
8 guess three is a splicing up of six different actual
9 statements.

10 And then finally, Your Honor, I want to talk
11 about clip six. Clip six I think is inadmissible under
12 403 for the same reasons that I think it's sort of
13 repetitive of what they would be offering anyway, but I
14 think it raises another 403 objection which is the one we
15 kind of touched on yesterday afternoon when I think there
16 was going to be a line of questioning that the solicitor
17 was going to go down about the defendant's father being
18 in the courtroom. This, again, is a reference to the
19 defendant's father. Again, I think that any reference in
20 there is quite vague as to any indication of any witness
21 intimidation or anything like that. I think that the
22 point that the defendant wants these charges to be
23 dropped can quite clearly be made with all of the other
24 clips, so I don't think we're losing much probative value
25 by keeping this clip out.

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1 And, again, I think that the unfair prejudice
2 is a very sort of loose interpretation of what's being
3 said without any verification of it, I think, is a
4 separate reason to keep that clip six out under 403, Your
5 Honor.

6 THE COURT: Thank you, Mr. Wehrman. Any
7 response, Mr. Wearing?

8 MR. WARING: Thank you, Judge. These clips
9 are highly probative, highly damning and incriminating
10 for the defense.

11 Regarding clip one, Judge, I would argue that
12 the victim's statement is not hearsay. We're merely
13 using that as context. The defendant's responses are
14 what we're interested in, that being the admission by the
15 party opponent, and all of these are admissions by the
16 party opponent, which are covered by the rules of
17 evidence, and we think they should be admissible under
18 that rule, Your Honor.

19 So clip one, I think the victim's statement
20 is just a context. The defendant's responses to what the
21 victim says is the important information that we're going
22 for. Clip two through six, as I mentioned, classic
23 admissions by party opponent. We've got the burden of
24 proof. I know Mr. Wehrman is saying it's cumulative. I
25 think what he's saying is it's just too damning, which I

1 would agree, but it's also probative. It's more
2 probative than prejudicial.

3 Clip two where the defendant talks about the
4 rifle, that corroborates the victims and the mom's
5 original stories that this whole argument and shooting
6 got started over that, so that's highly corroborative.
7 Clips three through five, each clip is slightly
8 different, all goes toward showing guilty conscience.
9 He's desperately trying to get these witnesses to change
10 their stories and pressure them into not showing up,
11 witness tampering; clip six, classic intimidation
12 evidence. He's trying to procure the absence of the
13 victim.

14 That, again, goes toward guilty conscience.
15 The threat is clear. He says his mom's being too soft,
16 and so he needs his dad to get involved. I don't know
17 how clearer you can get, Your Honor, and so I think all
18 this information is prime admission by a party opponent,
19 and we ask that it be admissible, Your Honor.

20 THE COURT: All right. I've heard the
21 testimony and watched the videos. I would sustain the
22 defense's objection to clip six. It's consistent with
23 the Court's prior ruling, and I would also note that
24 testimony of the victim was that he had no contact with
25 the defendant's father; however, I would overrule

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1 defense's objection to clips one through five.

2 MR. WARING: May I go ahead and erase clip
3 six from that disk?

4 THE COURT: Just have it ready to play, and,
5 Mr. Wehrman, you can renew your objection on the record.

6 MR. WEHRMAN: Yes, Your Honor.

7 THE COURT: But take clip six out.

8 MR. WARING: Yes, Your Honor.

9 (In open court, jury present.)

10 Juror number 144 will now be a primary juror.
11 Okay? Let's proceed.

12 LISA BLOODWORTH,
13 having been first duly sworn,
14 was examined and testified as follows:

15 DIRECT EXAMINATION

16 BY MR. WARING:

17 Q. Good morning, Lisa. How are you doing today?

18 A. I'm good.

19 Q. All right. Lisa, please tell the jury where you
20 work.

21 A. I work at the Sheriff Al Cannon Detention Center.

22 Q. How long have you worked there?

23 A. Just about ten years now.

24 Q. And in what role have you worked there, and do you
25 work there now?

1 A. Yeah, I currently work there. I've worked in a
2 few different places. I worked down in booking, and I
3 currently work in STV as a security checker.

4 Q. All right. Now, can you tell the jury what video
5 visitation is?

6 A. Video visitation is when an inmate is incarcerated
7 and they would like to be visited. They, the person that
8 wants to come do the visit, they either have to go online
9 or come to the jail. They have to register, and once
10 they're registered, which is a one-time thing, then they
11 can sign up and schedule visits. You can come to the
12 jail and do that or do almost like via Facetime. You can
13 do an Internet visit from home.

14 Q. Are those visits recorded?

15 A. Yes, they are.

16 Q. And are they generated in the normal course of
17 business?

18 A. Yes, they are.

19 Q. And is it a regularly conducted business activity
20 for the jail to record those videos?

21 A. Yes, it is.

22 Q. Do they record at or near the time of the actual
23 video visit?

24 A. Yes, they do.

25 Q. Now, can you describe what you do when you get a

1 subpoena for a video visit.

2 A. When we get a subpoena for a video visit, the
3 subpoena will come in, and it generally will have the
4 inmate's name and, like, a date range in which they're
5 looking for a time they would like the visits to be
6 downloaded. Once we get it out, put together, we
7 download all the visits and then put them on a disk, plus
8 we will download a log that will go with it to show who
9 came in, what date, so it's all documented.

10 Q. Are all those videos stored somewhere?

11 A. Yes, they are.

12 Q. And where is that?

13 A. At the jail.

14 Q. In preparation for this trial, have you come
15 across the defendant's videos?

16 A. Yes, I have.

17 MR. WARING: May I approach, the witness,
18 Your Honor?

19 THE COURT: Yes, sir.

20 BY MR. WARING:

21 Q. Showing you what's been marked for identification
22 purposes as State's Exhibits 35 through 37, do you
23 recognize those?

24 A. Yes, I do.

25 Q. And could you tell us what they are?

1 A. They are the actual disks that they had subpoenaed
2 from my office, and they're downloaded -- all of them are
3 downloaded onto the disks.

4 Q. Is that the format which you respond to subpoenas
5 for video visit videos?

6 A. Yes, it is.

7 Q. Have you had a chance to listen to or otherwise
8 watch specific videos from those disks?

9 A. Yes, I have.

10 Q. And are your initials on those disks indicating
11 that?

12 A. Yes, they are.

13 Q. Do those videos fairly depict the videos?

14 A. Yes, it does.

15 Q. Have you had a chance to watch -- let me ask you
16 this: Do you remember exactly which video numbers I
17 asked you to watch?

18 A. No, I do not.

19 Q. Would it help refresh your memory if I showed you
20 a copy of the log?

21 A. Yes.

22 Q. Specifically, have you had a chance to watch
23 videos number 400127, 392292, 400540, 396836, and 425531?

24 A. Yes.

25 Q. I'd like to show you what has been marked as

LISA BLOODWORTH - DIRECT EXAMINATION

1 Exhibit 38. Do you recognize that?

2 A. Yes, I do.

3 Q. And tell us what that is.

4 A. This is a disk that was completed that has -- all
5 those visits you stated, it's a small clip from each of
6 those visits on this disk.

7 Q. And do the clips that are on that disk, Exhibit
8 38, do they fairly and accurately represent the full
9 videos? Are they coming from the full videos that are
10 from the other exhibit disk that I just showed you?

11 A. Yes, yes, they are.

12 Q. And are they fairly and accurately depicting those
13 specific numbers that I referenced earlier?

14 A. Yes, it does.

15 MR. WARING: Your Honor, at this point the
16 State would move to have Exhibit 38 admitted into
17 evidence.

18 MR. WEHRMAN: Objection, Your Honor. I would
19 object on the grounds previously stated.

20 THE COURT: Previous ruling of the Court,
21 your objection is noted.

22 MR. WEHRMAN: Thank you, Your Honor.

23 (State's Exhibit 38 marked for identification
24 and admitted into evidence.)

25 MR. WARING: Please answer any questions the

1 defense has.

2 CROSS-EXAMINATION

3 BY MR. WEHRMAN:

4 Q. Ms. Bloodworth, you said you had a chance to view
5 the clips that were just admitted into evidence?

6 A. Yes.

7 Q. And all of the material on those clips came from
8 the video visits that you described?

9 A. Yes.

10 Q. Now, those clips are obviously shortened from the
11 full video?

12 A. Correct.

13 Q. And there are points that are not entirely
14 contiguous?

15 A. Correct.

16 Q. So there are points where it skips from one point
17 of visit to another, leaving the middle out of that clip.

18 A. Yes.

19 Q. All right.

20 MR. WEHRMAN: Nothing further.

21 REDIRECT EXAMINATION

22 BY MR. WARING:

23 Q. The defense was talking about how there are some
24 gaps, and there were some clips that maybe spliced out
25 some things. From what you recall, on those video visit

TANISHA POWELL - DIRECT EXAMINATION

1 clips for the disk that we just admitted into evidence
2 and the ones that we played for you, was there enough
3 information in each one of those clips to get the full
4 context of what was going on in the conversation?

5 A. Yes.

6 MR. WARING: No further questions, Your
7 Honor.

8 THE COURT: Anything further?

9 Thank you, ma'am. You may step down.

10 TANISHA POWELL,

11 having been first duly sworn,

12 was examined and testified as follows:

13 DIRECT EXAMINATION

14 BY MR. WARING:

15 Q. Can you tell the jury what your relationship is to
16 the defendant?

17 A. I'm the mother of Jamaa Washington.

18 Q. Are you currently in a relationship with Timothy
19 Haynes?

20 A. Yes, I am.

21 Q. Were you in a relationship with him back in June
22 2017?

23 A. Yes.

24 Q. All right. Ms. Powell, can you tell the jury the
25 reason behind why this whole thing got started.

1 A. Timothy and Jamaa got into a discussion over a gun
2 that didn't belong to Jamaa, and he was trying to
3 retrieve it, but he was not able to retrieve the gun, so
4 they had an argument, and that's what happened.

5 Q. Okay. Do you remember what the gun looked like?
6 Was it a small gun or a big gun?

7 A. It was a big gun.

8 Q. So on the day of the incident, did you call 911?

9 A. Yes.

10 Q. Can you tell the jury why you called 911?

11 A. I called 911 because I didn't want the argument to
12 escalate. At this time, there was no yelling, but it was
13 heated, but they weren't yelling but I didn't want it to
14 escalate at that time, so I called.

15 Q. Ms. Powell, I'm now going to play a portion of the
16 911 call that's already been admitted into evidence as
17 Exhibit 19.

18 (Video played.)

19 BY MR. WARING:

20 Q. All right. Ms. Powell, was your daughter on scene
21 that day during the shooting?

22 A. Yes. She was with me.

23 Q. Can you tell the jury about how old she was at
24 that time?

25 A. Six.

1 Q. Now, right after the shots were fired, can you
2 tell us, did you see anybody running away?

3 A. After the shots were fired, did I see anybody
4 running away?

5 Q. Yes, ma'am.

6 A. Yes.

7 Q. Can you tell us who you saw running away?

8 A. I saw Jamaa, yeah.

9 Q. And when you say Jamaa, you're referring to the
10 defendant?

11 A. Yes.

12 Q. Did the police show up while this was unfolding?

13 A. No.

14 Q. You don't remember the police being there?

15 A. The police came after the shots were fired. When
16 I left out of the house, I left Jamaa in the house.

17 Q. But did they show up at some point?

18 A. Yes, they did.

19 Q. I see. At that point, did you try to more or less
20 prevent them from harming your son?

21 A. Yes.

22 Q. Did you see the victim with the injuries?

23 A. Not -- I didn't even know Timothy was shot until I
24 went next door.

25 Q. But ultimately you did come to find out that he

1 had been shot?

2 A. Yes.

3 Q. Now, just to be clear, Ms. Powell, can you tell us
4 who shot Timothy?

5 MR. WEHRMAN: Objection, Your Honor. I don't
6 think he's laid a foundation for having any personal
7 knowledge of that.

8 THE COURT: Establish a foundation, whether
9 she knows or not.

10 BY MR. WARING:

11 Q. Ms. Powell, where were you when the shooting took
12 place?

13 A. When the shooting took place, I was -- I was
14 walking down the steps, so that's when the shots were
15 fired.

16 Q. Okay. And you said that you saw your son running
17 right after the shots had been fired.

18 A. When the shots were fired, Jamaa was in the house.
19 I left Jamaa in the house because I was done with the
20 argument. When I was going down the steps, that's when
21 the shots were fired, and that's when the officer was
22 coming from the left.

23 Q. Ms. Powell, do you not recall telling Detective
24 Bernard on the day --

25 MR. WEHRMAN: Objection. Your Honor, may we

TANISHA POWELL - DIRECT EXAMINATION

1 approach?

2 THE COURT: Yes.

3 (Discussion held at sidebar.)

4 BY MR. WARING:

5 Q. Ms. Powell, do you recall -- do you not recall
6 telling Detective Bernard the day of the incident at the
7 Charleston Police Department that Jamaa shot Timothy?

8 A. Yes.

9 MR. WEHRMAN: Objection. Your Honor, I'm
10 objecting under Rule 701. I think that that statement,
11 whether it was made there or here, is inadmissible
12 opinion of a lay witness. I would argue specifically
13 that it's inadmissible. It's unhelpful because it was
14 speculative when made. It would be just as speculative
15 now.

16 THE COURT: Overruled.

17 BY MR. WARING:

18 Q. I'm sorry. Did you say yes, you do remember
19 making that statement?

20 A. At the police department?

21 Q. Yes, ma'am.

22 A. Yes.

23 MR. WARING: Please answer any questions the
24 defense has.

25 CROSS-EXAMINATION

1 BY MR. WEHRMAN:

2 Q. Good afternoon, Ms. Powell. Now, you love Jamaa,
3 correct?

4 A. Yes.

5 Q. Anyone would say that about their son, obviously,
6 but you two have been through a lot. You and his father
7 split up when he was young.

8 A. Uh-huh.

9 Q. For a long time there, you raised him and his
10 sister as a single mother.

11 A. Yes.

12 Q. So you two are very close?

13 A. Uh-huh.

14 Q. You were his sole provider?

15 A. Yes.

16 Q. And you've always provided for him?

17 A. Uh-huh.

18 Q. He's never wanted for food on the table, and
19 that's taken a lot of work for you?

20 A. Yes.

21 Q. You've done that while going to school?

22 A. Yes.

23 Q. To get degrees, and you did that because you cared
24 for him.

25 A. Uh-huh.

TANISHA POWELL - CROSS-EXAMINATION

1 Q. And you wanted him to see you get a degree.

2 A. Yes.

3 Q. While supporting you. To show him it was
4 possible.

5 A. Uh-huh.

6 Q. And so that takes a lot of strength, correct?

7 A. Yes.

8 Q. It takes a lot of love.

9 A. Uh-huh.

10 Q. And Jamaa knows that you love him?

11 A. Yes.

12 Q. He sees that in your actions every day?

13 A. Yes.

14 Q. And you know that he loves you?

15 A. Definitely.

16 Q. Y'all are an affectionate family?

17 A. Uh-huh.

18 Q. You talk about your feelings?

19 A. Yes, we do.

20 Q. And y'all tell each other that you love each
21 other?

22 A. Yes.

23 Q. And he's always told you.

24 A. Uh-huh.

25 Q. Now, as much as you've done, you can't control

1 everything?

2 A. No.

3 Q. There's a lot of danger in that neighborhood that
4 y'all were living in?

5 A. Yes.

6 Q. Especially for young black men?

7 A. Yes.

8 Q. And Jamaa had been asking you over the years --

9 MR. WARING: Objection, Your Honor. Hearsay.

10 THE COURT: Overruled.

11 BY MR. WEHRMAN:

12 Q. Jamaa had asked you over the years if there was a
13 way to move out of that neighborhood?

14 A. Yes, he did.

15 Q. He was actually shot himself once.

16 A. Yes.

17 Q. In the back of the head, I believe.

18 A. Uh-huh.

19 THE COURT: Ma'am, let me get you to say yes
20 or no. The court reporter has to take down everything
21 that you say. If you nod your head, it's hard for her to
22 determine that.

23 THE WITNESS: Okay. Thank you.

24 BY MR. WEHRMAN:

25 Q. And you think that being shot affected him?

1 A. Yes.

2 Q. Of course you couldn't just pick up and move.

3 A. No.

4 Q. That's not realistic.

5 A. No.

6 Q. But you did everything you could for him.

7 A. Yes.

8 Q. To provide for him?

9 A. Yes.

10 Q. And care for him. Okay. Now, that morning, on
11 June 27th of 2017, Jamaa came to the house. He hadn't
12 been there the night before?

13 A. No.

14 Q. You don't know where he was?

15 A. No.

16 Q. You don't know who he had been with?

17 A. No.

18 Q. You don't know how he got to the house?

19 A. No.

20 Q. Jamaa doesn't have a car.

21 A. No.

22 Q. So he either walked or he borrowed a car.

23 A. Yes.

24 Q. Or someone dropped him off.

25 A. Yes.

1 Q. But you didn't see any of it.

2 A. No.

3 Q. So you don't know how he arrived.

4 A. No.

5 Q. Okay. Now, when he came to the house, he was
6 asking about this gun y'all talked about.

7 A. Yes.

8 Q. And that's a gun that your boyfriend Timothy had
9 found under the house.

10 A. Yes.

11 Q. And we should say you and Timothy have been
12 together for a while.

13 A. Yes.

14 Q. He knew Jamaa well, and they had a good
15 relationship?

16 A. Yes, they did.

17 Q. This is not a gun that he had taken from Jamaa's
18 person?

19 A. No.

20 Q. This was something that was found under y'all's
21 house?

22 A. Yes.

23 Q. And you took it.

24 A. Yes.

25 Q. With the plan to turn it in.

1 A. Yes.

2 Q. And you told Jamaa about this?

3 A. Yes.

4 Q. So he came to y'all saying that he needed the gun.

5 A. Yes.

6 Q. Now, when he came to y'all, he seemed on edge?

7 A. Yes.

8 Q. Nervous?

9 A. Yes.

10 Q. Scared?

11 A. Yes.

12 Q. Desperate even?

13 A. Yes.

14 Q. He was out of breath?

15 A. Yes.

16 Q. And he couldn't tell you exactly what was going
17 on.

18 A. No.

19 Q. He told you he needed it, though.

20 A. Yes.

21 Q. He mentioned a friend getting killed the night
22 before.

23 A. Yes.

24 Q. But that's all the detail he really gave you.

25 A. Yes.

1 Q. And as it became clear he wasn't going to get the
2 gun back, he became even more scared?

3 A. Yes.

4 Q. Even more upset?

5 A. Yes.

6 Q. When you called the police -- and we just heard
7 it, so we kind of know a little bit about this -- you
8 said you just heard him say something disrespectful.

9 A. Yes.

10 Q. This wasn't because you had seen a gun?

11 A. No.

12 Q. This wasn't because you had heard any threats.

13 A. No.

14 Q. You just thought that he was being disruptive?

15 A. Yes.

16 Q. And sometimes a mother's got to put her foot down.

17 A. Yes.

18 Q. And we could hear Jamaa on the phone -- he was
19 around while you called.

20 A. Yes.

21 Q. Okay. Now, eventually you said you walked
22 outside.

23 A. Yes.

24 Q. You left Jamaa in the house?

25 A. Yes.

1 Q. You didn't walk around from the side of the house?

2 A. No, there was no need.

3 Q. Y'all were inside.

4 A. Yes.

5 Q. You were outside.

6 A. Yes.

7 Q. And then you heard shots fired.

8 A. Yes.

9 Q. You didn't see who fired those shots.

10 A. No.

11 Q. At the time you didn't know where they came from.

12 A. No.

13 Q. You were just kind of scrambling.

14 A. Yes.

15 Q. So you took some coverage?

16 A. Yes.

17 Q. And at that point a police officer was there?

18 A. At that point when I was going down the stairs,
19 because I saw Mr. Haynes across the street, I came down
20 the stairs. I heard the shots, and I saw the officer
21 coming from my left at that time.

22 Q. Okay. So you saw this officer coming from your
23 left. Did he have his gun drawn?

24 A. Yes.

25 Q. And he had yelled -- he had put shots fired over

1 the radio?

2 A. Yes, he did.

3 Q. And then after that, you say you saw Jamaa running
4 through the back yard?

5 A. Yes. He came out the house and ran.

6 Q. And you noticed that the officer noticed him as
7 well?

8 A. Yes.

9 Q. And that's why you said don't shoot?

10 A. That's why I ran over -- when I heard the shots, I
11 ran to the officer, like, what's going on? And he pulled
12 out his gun, and I was, like, what are you about to do?
13 And I saw my son running out of the house.

14 He ran out of the house and around the yard, so I
15 jumped in front of the officer, like, you're going to
16 shoot my son because you see a man running?

17 Q. And you didn't see Jamaa holding a gun at that
18 point?

19 A. Not at all.

20 Q. Okay. Now, at this point where you and the
21 officer are, y'all can't see the other side of the house.

22 A. Which side?

23 Q. Well -- I think we have some pictures in evidence
24 that might help.

25 A. Okay.

TANISHA POWELL - CROSS-EXAMINATION

1 MR. WEHRMAN: This is State's Exhibit 2. I
2 don't know if this has already been offered -- yes, this
3 has already been offered.

4 Actually, you know what? I think we'll use
5 one we've already done. Excuse me, Your Honor.

6 BY MR. WEHRMAN:

7 Q. All right. Ms. Powell, I'm saying, you were over
8 on this side of your house, correct?

9 A. No.

10 Q. You were on this side of your house?

11 A. I was coming down the steps.

12 Q. You were coming down the steps?

13 A. Yes.

14 Q. So you couldn't see this entire side of your
15 house?

16 A. No, at all.

17 Q. And you certainly wouldn't have been able to see
18 large portions of the back yard.

19 A. No.

20 Q. Okay. So you could see a good half of your
21 property?

22 A. You said couldn't? No.

23 Q. You could not see a good half of your property?

24 A. No.

25 Q. You would have known if somebody cut through that

1 area of property?

2 A. Would I have known?

3 Q. You would not?

4 A. No.

5 Q. Wouldn't know if somebody had run off through that
6 area?

7 A. No, because they always did.

8 Q. So you had some problems with people cutting
9 through that area of your back yard?

10 A. Yes, for the eight years that I was there.

11 Q. A constant problem, that you couldn't stop people?

12 A. Yes.

13 Q. People would cut through your back yard on a
14 pretty frequent basis?

15 A. Yes.

16 Q. A lot of young folks would do that?

17 A. Yes.

18 Q. In fact, y'all weren't happy about it either.

19 A. No.

20 Q. Timothy got upset about it?

21 A. Yes.

22 Q. And that's the part of the property that you
23 couldn't see when the shots were fired?

24 A. Definitely.

25 MR. WEHRMAN: Court's indulgence.

1 BY MR. WEHRMAN:

2 Q. Finally, the way Jamaa was headed out the back
3 yard, that would be towards another street over?

4 A. Yes.

5 Q. Would have been Kent Avenue?

6 A. Yes, it is.

7 Q. You wouldn't -- you couldn't see all the way to
8 Kent, though.

9 A. No.

10 Q. So you really don't know where he went from there.

11 A. No.

12 Q. You don't even know how he got there.

13 A. No.

14 Q. And there was an officer on scene at that point.

15 A. Yes.

16 Q. And a bunch more showed up right after.

17 A. Yes.

18 Q. And that was quickly after.

19 A. Yes.

20 Q. And some of those officers looked for Jamaa. They
21 didn't find him, correct?

22 A. Correct.

23 Q. Did you see any news reports about this incident?

24 A. Yes.

25 Q. Now, again, the solicitor mentioned a statement

1 that you might have made at one point. You didn't see
2 the shooter?

3 A. No.

4 Q. Any statement about the shooter would be pure
5 speculation on your part?

6 A. Yes.

7 MR. WEHRMAN: Thank you, Ms. Powell. No
8 further questions.

9 THE COURT: Anything further from this
10 witness?

11 MR. WARING: Thank you, Your Honor. Just a
12 couple questions.

13 REDIRECT EXAMINATION

14 BY MR. WARING:

15 Q. Ms. Powell, I just got a couple questions for you.

16 I understand this is very difficult for you. Did
17 you, in fact, see Jamaa running away right after the
18 shots were fired?

19 A. Yes.

20 Q. Did you tell the officer not to shoot your son?

21 A. Yes.

22 Q. And did you admit earlier on the stand that you
23 told Detective Bernard that Jamaa shot Timothy?

24 A. Yes.

25 MR. WARING: No further questions, Your

LAWRENCE FRAZIER - DIRECT EXAMINATION

1 Honor.

2 THE COURT: Thank you, Ms. Powell. You can
3 step down.

4 MR. HEGGELKE: State calls Officer Lawrence
5 Frazier.

6 LAWRENCE FRAZIER,
7 having been first duly sworn,
8 was examined and testified as follows:

9 DIRECT EXAMINATION

10 BY MR. WARING:

11 Q. Officer Frazier, how are you doing?

12 A. Good, sir.

13 Q. Could you please tell the jury where you're
14 currently employed.

15 A. North Charleston Police Department.

16 Q. And in what capacity?

17 A. Police officer.

18 Q. And how long have you been working there?

19 A. Three years.

20 Q. Were you working on July 15, 2017?

21 A. Yes.

22 Q. On that date, did you have an encounter with this
23 defendant, Jamaa Washington?

24 A. Yes.

25 Q. In what regard?

1 A. He was the driver of a vehicle I pulled over.

2 Q. Do you know why you stopped him?

3 A. Inoperable taillight.

4 Q. And did he provide you with his name?

5 MR. WEHRMAN: Objection, Your Honor. I'm
6 going to object under Rule 404(b).

7 THE COURT: All right. Hold on.

8 Mr. Bailiff, will you take the jury to the
9 jury room.

10 (In open court, jury not present.)

11 THE COURT: State your objection.

12 MR. WEHRMAN: Your Honor, the objection is
13 404(b), inadmissible character evidence; 403, probative
14 value substantially outweighed by the prejudice; and 401,
15 it's not relevant.

16 THE COURT: What is the question again?

17 MR. HEGGELKE: Your Honor, what name did he
18 give you? He provided a fake name. It's clearly an
19 admission of his guilt.

20 THE COURT: Is that the extent of the
21 testimony? Ask a question. Let me hear what the answer
22 is.

23 MR. HEGGELKE: Okay.

24 BY MR. HEGGELKE:

25 Q. So do you remember why you stopped him?

LAWRENCE FRAZIER - DIRECT EXAMINATION

1 A. Yes.

2 Q. Was it a busted taillight?

3 A. Yes.

4 Q. And did he provide you with his name?

5 A. He provided me with a name. It wasn't his name.

6 Q. What name did he tell you, do you recall?

7 A. I do not.

8 Q. Did he tell you his name was Brandon Green?

9 A. It sounds familiar, but I can't be certain.

10 Q. And did you verify whether or not the name he gave
11 you was his actual name?

12 A. I attempted to verify it through records, but it
13 came back not on file.

14 Q. And what did you do next?

15 A. I asked Mr. Washington to get out of the car. At
16 that point is when I found his ID.

17 Q. Okay. And once you ran his ID, what did you
18 discover?

19 A. That he had an active warrant for his arrest.

20 Q. Do you recall what those warrants were for?

21 A. One was for attempted murder, and the other one
22 was for possession of a firearm, commission of a violent
23 crime.

24 Q. And were you involved in that incident at all?

25 A. I was not.

1 Q. And once you determined he had warrants for that
2 case, what did you do next?

3 A. He was taken into my custody and lodged in the
4 county jail.

5 MR. HEGGELKE: That's all I would ask.

6 THE COURT: Any cross-examination on this?

7 MR. WEHRMAN: Very briefly, Your Honor.

8 CROSS-EXAMINATION

9 BY MR. WEHRMAN:

10 Q. Officer Frazier, did Mr. Washington have a valid
11 driver's license at that point?

12 A. I do not remember.

13 Q. Do you recall lodging him on charges of false
14 information to police and violation of a beginner's
15 permit?

16 A. Yes. That sounds familiar.

17 Q. So he wasn't legally driving at the time?

18 A. Say it again?

19 Q. So he wasn't legally driving at the time?

20 A. He was driving the vehicle.

21 Q. But not legally?

22 A. Right.

23 Q. Because he was violating his beginner's permit?

24 A. True, yes.

25 MR. WEHRMAN: Thank you, Your Honor. Thank

LAWRENCE FRAZIER - DIRECT EXAMINATION

1 you, Officer Frazier.

2 THE COURT: All right. I've heard the
3 testimony. I'm going to overrule the objection as to the
4 question. Now, I will, with this caveat, the violation
5 of the beginner's permit and false information, I'm going
6 to rule that those are inadmissible, but you can ask him
7 questions that you asked him about, the name he gave and
8 the probable cause for the stop.

9 MR. HEGGELKE: Yes, sir.

10 THE COURT: But, as I understand it, you
11 don't want the new charges --

12 MR. WEHRMAN: Your Honor, I would have no
13 problem talking about the violation of the beginner's
14 permit, so --

15 THE COURT: So you're not objecting to that.

16 MR. WEHRMAN: I'm not objecting to the
17 violation of the beginner's permit. I would object to
18 the false information by police coming in.

19 THE COURT: There's no objection to the
20 violation of the beginner's permit but don't talk about
21 the false information.

22 MR. WARING: If I might interject, I feel
23 like it's kind of an either/or.

24 THE COURT: No, sir. This lawyer is asking
25 the questions. We don't tag team questions and

1 objections.

2 MR. WARING: Understood.

3 THE COURT: That would be the ruling of the
4 Court.

5 MR. HEGGELKE: Yes, Judge.

6 THE COURT: All right. Let's get our jury
7 back.

8 (In open court, jury present.)

9 MR. HEGGELKE: Thank you, Your Honor.

10 DIRECT EXAMINATION (Cont'd)

11 BY MR. HEGGELKE:

12 Q. Once again, why did you stop this defendant?

13 A. Inoperable taillight.

14 Q. And when you approached the vehicle, did he
15 provide you with his name?

16 A. He provided me with a name.

17 Q. Do you remember what that name was?

18 A. I do not.

19 Q. Was it Brandon Green?

20 A. Sounds familiar.

21 Q. Okay. And did you verify if that was his real
22 name or not?

23 A. I attempted to verify through the records. It
24 came back not on file.

25 Q. And I guess -- explain how that works, running

1 through the records.

2 A. Yes. The record dispatches the information, and
3 either they gave me back what they have in the DMV or it
4 come back not on file.

5 Q. And what did you do next?

6 A. I asked Mr. Washington to get out of the car, at
7 which point I found his ID.

8 Q. Did you detain him?

9 A. Yes.

10 Q. And what did you discover about the defendant once
11 you ran his actual ID through the DMV?

12 A. He had two active warrants.

13 Q. Do you remember what those were for?

14 A. Attempted murder and possession of a firearm,
15 commission of a violent crime.

16 Q. And were you involved in that incident at all?

17 A. I was not.

18 Q. And once you determined he had those warrants,
19 what did you do?

20 A. He was placed into my custody and taken to the
21 county jail.

22 MR. HEGGELKE: Court's indulgence. Please
23 answer anything the defense has. Thank you.

24 THE COURT: Any questions?

25 MR. WEHRMAN: Very briefly, Your Honor.

CROSS-EXAMINATION (Cont'd)

BY MR. WEHRMAN:

Q. Officer Frazier, you said you did find Mr. Washington's ID?

A. Yes.

Q. That was a beginner's permit?

A. Yes.

Q. And he was, in fact, in violation of that beginner's permit?

A. Yes.

Q. By driving, he was violating his permit?

A. Right.

Q. So he was illegally driving?

A. Yes.

Q. Okay. And you said you had nothing to do with the actual attempted murder case?

A. No, I did not.

Q. You didn't find any physical evidence on him when you stopped him?

A. No.

MR. WEHRMAN: No further questions, Your Honor. Thank you, Officer Frazier.

THE COURT: Anything further from this witness?

MR. HEGGELKE: No, Your Honor.

LAWRENCE FRAZIER - DIRECT EXAMINATION

1 THE COURT: Thank you, Officer. You can step
2 down.

3 MR. WARING: Call next witness, Judge?

4 THE COURT: Counsel approach.

5 (Discussion held at sidebar.)

6 THE COURT: Ladies and gentlemen: We're
7 going to break for lunch, so be back in the jury room
8 shortly before 2:00. I hope everyone has a good lunch.

9 Okay. We'll be in recess until 2:00.

10 (Recess taken.)

11 A F T E R N O O N S E S S I O N

12 THE COURT: Is there anything from either
13 party before we bring our jury back?

14 MR. WARING: No, Your Honor.

15 THE COURT: Anything from the defense?

16 MR. WEHRMAN: Nothing from the defense, Your
17 Honor.

18 THE COURT: All right. Let's get our jury,
19 please.

20 (In open court, jury present.)

21 THE COURT: Mr. Waring, call your next
22 witness.

23 MR. WARING: Thank you, Your Honor. State
24 calls Detective Bernard.

25 SEAN BERNARD,

1 having been first duly sworn,
2 was examined and testified as follows:

3 DIRECT EXAMINATION

4 BY MR. WARING:

5 Q. Please tell the jury where you work.

6 A. I'm currently employed with the city of North
7 Charleston.

8 Q. Are you a police officer?

9 A. I am.

10 Q. How long have you been in that capacity?

11 A. I've been working with the city of North
12 Charleston as a police officer for eight-and-a-half
13 years.

14 Q. Now, back in June of 2017, what was your role back
15 then?

16 A. I was a detective.

17 Q. And were you specifically involved in the Jamaa
18 Washington case?

19 A. Yes.

20 Q. Now, can you tell us, were you case agent in that
21 case?

22 A. I was, yes, sir.

23 Q. And for the jury's benefit, what exactly is a case
24 agent?

25 A. Case agent is responsible for being familiar with

SEAN BERNARD - DIRECT EXAMINATION

1 the evidence that's present during the crime, tracking
2 down witnesses, speaking with witnesses and developing
3 the case with probable cause to make an arrest.

4 Q. And did you respond to the crime scene in this
5 case?

6 A. I did, sir.

7 Q. Do you recall where that was?

8 A. Yes. We responded to [REDACTED] 8 Cambridge Avenue in the
9 city of North Charleston.

10 Q. Is that in Charleston County?

11 A. It is, yes.

12 Q. All right. Now, what happened once you got on the
13 scene?

14 A. When we got on the scene, Charleston County EMS
15 was there, patrol was already was there, and they were
16 loading the victim up on the back of the EMS bus when I
17 arrived.

18 Q. All right. Now, you mentioned that as the role of
19 the case agent, you speak with witnesses and things like
20 that. Did you speak with anybody on the scene?

21 A. Yes. I spoke with several people to include the
22 victim and Ms. Powell.

23 Q. Okay. And what was her demeanor?

24 A. She was distraught, upset. She appeared to be
25 caring for the victim.

1 Q. Did you interview her later on in North
2 Charleston?

3 A. Yes, I did.

4 Q. Now, we had a man testify earlier named Oliver
5 Rainey. Did you speak with him as well?

6 MR. WEHRMAN: Objection, Your Honor. May we
7 approach?

8 THE COURT: Yes.

9 (Discussion held at sidebar.)

10 BY MR. WARING:

11 Q. The assault rifle that has been admitted into
12 evidence, were you present when that was collected at
13 scene?

14 A. Yes, sir, I was.

15 Q. And in your experience as a detective or a police
16 officer, have you ever heard of a gun or rifle referred
17 to as a chopper?

18 A. Yes.

19 Q. Can you tell us what a chopper is?

20 A. Similar to Ms. Ong's testimony earlier, we would
21 consider an assault rifle, typically an AK-47, is
22 classified as a chopper on the street, which is
23 762-millimeter round.

24 Q. I'm going to put up on the overhead what's already
25 admitted as State's Exhibit 40 and 42. This is Exhibit

SEAN BERNARD - DIRECT EXAMINATION

1 40. Can you tell us what this is.

2 A. That is a Department of Motor Vehicles of South
3 Carolina picture and information for the defendant, Jamaa
4 Washington.

5 Q. Could you tell us what his listed address is?

6 A. It's [REDACTED] 8 Cambridge Avenue.

7 Q. Is that the location that y'all responded to?

8 A. Yes.

9 Q. Now, I'm putting up what's already been admitted
10 as State's Exhibit 41. Can you tell us what this is?

11 A. That is, again, a DMV printout of the witness,
12 Ms. Powell, mom of Jamaa Washington.

13 Q. Now, I'd like to scroll down to right here. What
14 address is indicated as being her primary address back
15 around the time of the incident?

16 A. It would have been [REDACTED] 8 Cambridge Avenue during
17 the incident at the time.

18 Q. And is that the same one as the defendant's?

19 A. Yes, sir.

20 Q. All right. Detective, now I'd like to play some
21 clips for you that have already been admitted as State's
22 Exhibit 38.

23 (Audio played.)

24 Was that defendant apprehended that same day,
25 June 27, 2017?

1 A. Yes, sir.

2 Q. Do you know approximately how long before he was
3 apprehended?

4 A. A few weeks later.

5 Q. And when he was apprehended, did you charge him?

6 A. The warrants were set for attempted murder and
7 possession of a weapon.

8 Q. During the commission of a violent crime?

9 A. Yes.

10 MR. WARING: Court's indulgence. Please
11 answer any questions the defense has.

12 THE COURT: All right. Mr. Wehrman?

13 MR. WEHRMAN: All right. Thank you, Your
14 Honor.

15 CROSS-EXAMINATION

16 BY MR. WEHRMAN:

17 Q. Detective Bernard, Detective, you responded to a
18 call, this was on Cambridge Street in North Charleston,
19 correct?

20 A. Yes.

21 Q. That was a pretty dangerous neighborhood at the
22 time?

23 A. Yes, sir.

24 Q. Y'all had been dealing with a lot of shootings out
25 there?

SEAN BERNARD - CROSS-EXAMINATION

1 A. Yes.

2 Q. And you had been out there about 15 times in the
3 two months before this incident?

4 A. Yes.

5 Q. So it's a common neighborhood to respond to
6 shootings at?

7 A. Yes, sir, it is.

8 Q. And we talked about, or you and Mr. Wearing
9 discussed, your role as the case agent. Do you take
10 certain extra responsibilities as a case agent?

11 A. Yes, sir.

12 Q. That would include reviewing other officers'
13 reports in the case?

14 A. Yes.

15 Q. Pretty much all reports in the case you review?

16 A. Yes.

17 Q. That would include, like I said, the original
18 reports and supplements?

19 A. Yes.

20 Q. You would conduct and coordinate all of the
21 investigation?

22 A. Yes, sir.

23 Q. That would include doing interviews?

24 A. Yes, sir.

25 Q. And you did interview Ms. Powell?

1 A. Yes, sir, I did.

2 Q. And during that interview, y'all talked about what
3 happened?

4 A. Yes, sir, we did.

5 Q. She'd also, wouldn't you agree, calmed down by the
6 time she got to that interview?

7 A. Yes, sir.

8 Q. And you mentioned she was distraught at the scene?

9 A. Yes, sir, she was.

10 Q. She had time to think about everything, time to
11 settle?

12 A. Yes.

13 Q. But it wasn't a long time before you did the
14 interview?

15 A. No, sir.

16 Q. Everything was still fresh in her mind?

17 A. Yes, sir.

18 Q. She just had time to compose herself. Okay. And
19 y'all talked about what she saw?

20 A. Yes, sir.

21 Q. Y'all talked about what happened?

22 A. Yes.

23 Q. She made it clear she didn't see the shooting
24 occur?

25 A. She made the statement otherwise, but yes.

SEAN BERNARD - CROSS-EXAMINATION

1 Q. She told you that she heard the shots?

2 A. She told you during trial. She told me something
3 a little different during the interview, sir.

4 Q. Would listening to that interview help refresh
5 your recollection?

6 A. Yes, sir.

7 MR. WARING: Objection, Your Honor. Hearsay.

8 THE COURT: Counsel, approach.

9 (Discussion held at sidebar.)

10 BY MR. WEHRMAN:

11 Q. Maybe we can clear this up a little differently:
12 You're saying that she did not state during that
13 interview that she had never seen the gun?

14 A. I can't recall that statement.

15 Q. When you do interviews like this, they're
16 recorded?

17 A. Yes.

18 Q. They're video recorded?

19 A. Yes.

20 Q. They've obviously got the audio?

21 A. Yes.

22 Q. You also took a written statement from her?

23 A. Yes.

24 Q. And that written statement allows the witness to
25 kind of write everything out in their own words.

1 A. Yes.

2 Q. Do we have that written statement?

3 A. We do not.

4 Q. Okay. So that written statement's unavailable.

5 A. Yes.

6 Q. Okay. So we can't go back and check the accuracy
7 of whether she said this or didn't say this. We can't
8 use that statement to find this out.

9 A. Just from the recording. The room was recorded,
10 and all the conversation is documented.

11 Q. So we do have a recording?

12 A. Yes.

13 Q. So that would clear all of this up?

14 A. Yes, sir.

15 Q. Okay. Okay. Now, as the lead investigator on
16 this case, case agent, I guess, is the terminology, you
17 would also look into any forensic evidence that needed to
18 be analyzed.

19 A. Yes.

20 Q. And there was some forensic analysis done in this
21 case.

22 A. Yes.

23 Q. I believe that the rifle was collected into
24 evidence.

25 A. Yes.

SEAN BERNARD - CROSS-EXAMINATION

1 Q. Okay. And you never did any shell casing analysis
2 on the rifle?

3 A. I did not.

4 Q. You never attempted to trace the owner using the
5 serial number on the rifle?

6 A. We did. We run a records check to ensure that
7 it's not stolen. The weapon did not come back as stolen.

8 Q. But to locate the respective owner?

9 A. Yeah.

10 Q. Got you. We talked about shell casing analysis.
11 That's a pretty easy process. It can be sent to SLED?

12 A. Yes.

13 Q. SLED can analyze shell casings.

14 A. Yes.

15 Q. SLED can determine if those shell casings matched
16 shell casings found in another incident?

17 A. Yes.

18 Q. And the obvious implication from that is the same
19 gun was used in a different incident?

20 A. Yes.

21 Q. And that process, I believe, is actually a
22 two-step process, correct?

23 A. Can you expound on that.

24 Q. There's a preliminary report you would get back.

25 A. Yes.

1 Q. That shows what's considered a high correlation
2 match.

3 A. Yes.

4 Q. There is then follow-up investigation to determine
5 that match?

6 A. Yes.

7 Q. None of that was done with the rifle?

8 A. No, not to my knowledge.

9 Q. And that's the rifle that your department's had in
10 its possession since June 2017?

11 A. Yes.

12 Q. The rifle was checked for fingerprints, though.

13 A. I can't speak on that. I didn't do the analysis
14 of that. It was collected by crime scene, sir.

15 Q. I'm a bit confused. I thought as the case agent
16 you would be aware of any forensic analysis that was done
17 on the rifle.

18 A. Yes, sir. I don't have any knowledge of it being
19 fingerprinted.

20 Q. So you don't have any knowledge of any fingerprint
21 evidence in this case?

22 A. For the rifles, yes.

23 Q. You don't have any knowledge of any DNA swabs in
24 this case?

25 A. No, sir.

SEAN BERNARD - CROSS-EXAMINATION

1 Q. So we don't know if the rifle was even swabbed for
2 DNA?

3 A. No, sir.

4 Q. Okay. Just a moment. So you don't have any
5 information indicating that the rifle was swabbed for DNA
6 and checked for fingerprints on April 30th of this year?

7 A. I do not.

8 Q. So we don't have any forensic evidence on the
9 rifle at all, then?

10 A. Not to my knowledge.

11 Q. And the rifle, it's your theory the rifle was the
12 motive for the shooting.

13 A. Yes, sir.

14 Q. That Jamaa tried to kill Timothy to get the rifle?

15 A. Yes, sir.

16 Q. Okay. So finding out about that rifle would help
17 explain a lot about the case.

18 A. Yes, sir.

19 Q. But we don't have any of that.

20 A. We just know that the rifle existed. We collected
21 it, and that was based off witness testimony, victim
22 testimony, to be the motive of why Jamaa shot the victim.

23 Q. But we don't have any evidence to illuminate that?

24 A. Other than its existence.

25 Q. The rifle has been in evidence for about two years

1 now.

2 A. Yes, sir.

3 Q. Now, on the .40 caliber shell casings, there were
4 .40 caliber shell casings collected at the scene?

5 A. Yes.

6 Q. And, roughly speaking, those are in the area where
7 the shots are thought to have come from.

8 A. Yes.

9 Q. And those casings were collected?

10 A. They were, yes, sir.

11 Q. Are you aware that those casings were sent to
12 SLED?

13 A. Yes, sir.

14 Q. And they did that shell casing analysis we talked
15 about.

16 A. Yes, sir.

17 Q. So SLED analyzed the casings?

18 A. Yes.

19 Q. They found a high confidence correlation between
20 those casings and casings found in several other
21 shootings in the area?

22 A. Yes.

23 Q. And, again, the high confidence correlation,
24 that's that first step?

25 A. Yes.

1 Q. That indicates a strong chance that the same gun
2 was used in multiple cases.

3 A. Yes, sir.

4 Q. And your office has received police reports from
5 those other shootings?

6 A. Yes.

7 Q. I guess your office would have done the police
8 reports in those other shootings?

9 A. Yes.

10 Q. And Jamaa is not listed as a suspect in those
11 reports?

12 A. Not to my knowledge.

13 Q. There are a number witnesses of listed in those
14 reports?

15 A. Yes.

16 Q. There are victims listed in those reports,
17 correct?

18 A. Yes.

19 Q. You never contacted any of those witnesses?

20 A. We looked through the reports to see if there was
21 anything. We had some uncooperative victims in this
22 case.

23 Q. Now, with the shell casings, that SLED report was
24 done in February of 2018.

25 A. I don't have the high confidence correlation

1 paperwork in front of me, but I do see a supplemental
2 report from March of 2018 showing a correlation.

3 Q. So early spring of 2018.

4 A. Yes, sir.

5 Q. Okay. That second step was never completed?

6 A. No, sir.

7 Q. They never did the -- they never did the
8 microscopic analysis to confirm those leads?

9 A. Not to my knowledge, no, sir.

10 MR. WEHRMAN: Just a moment, Detective. Your
11 Honor, Court's indulgence.

12 No further questions, Your Honor. Thank you,
13 Detective.

14 THE COURT: Mr. Waring?

15 REDIRECT EXAMINATION

16 BY MR. WARING:

17 Q. All right, Detective. There was a little bit of
18 talk about Ms. Powell's interview back at the station.

19 Do you recall who she said shot Timothy, the victim?

20 A. Yes, sir. She told me Jamaa, her son, shot the
21 victim.

22 Q. Her son?

23 A. Yes, sir.

24 Q. Not somebody else?

25 A. No, sir.

1 Q. There is also some discussion about her written
2 statement. Do you recall anything about her reading
3 aloud her statement at the end of her interview?

4 A. No, sir. Typically, we'll read it to make sure I
5 don't have any follow-up questions. If I have follow-up
6 questions, I'll write a Q and A at the bottom of her
7 statement and have her initial it, but I don't recall
8 having any questions following her statement.

9 Q. I guess what I'm saying is, is it possible or
10 would it surprise you if Ms. Powell, as she's
11 communicating her statement or writing it down at the end
12 of the interview, was voicing it aloud?

13 A. It would surprise me, yes.

14 Q. And therefore, if that were true, it would be
15 captured on the video?

16 A. Yes.

17 Q. Now, there was some suggestions or references to
18 these other shootings that Mr. Wehrman asked whether at
19 that time this defendant was a suspect in those
20 shootings; is that right?

21 A. Yes.

22 Q. Now, was this report completed recently?

23 A. The high correlation?

24 Q. Yes.

25 A. It was -- I see a supplement for it in March 29 of

1 2018.

2 Q. Okay. Now, is it possible that due to the
3 circumstances that the defendant is a possible suspect in
4 those cases?

5 A. Yes, sir.

6 Q. And why would that be?

7 A. Just looking through the initial analysis of the
8 reports, most of the shootings, the correlations, were
9 from Cambridge, same street of the shooting incident.

10 Q. And just for our benefit, what caliber shell
11 casings were found on the scene in this case?

12 A. .40 caliber, sir.

13 Q. And what were some of those that were found in the
14 other cases?

15 A. .40 caliber, sir.

16 Q. Now, the defense was also talking about the
17 assault rifle and forensics and DNA and lack of DNA and
18 fingerprints and your lack of knowledge about all those
19 matters. I want to play one of these clips for you one
20 more time.

21 (Audio played.)

22 What's he talking about there?

23 A. The rifle.

24 Q. And specifically the chopper?

25 A. Yes.

SEAN BERNARD - REDIRECT EXAMINATION

1 Q. Was the chopper found nearby?

2 A. Yes.

3 Q. Was that on the day of the incident?

4 A. Yes, sir.

5 Q. So does -- forensic evidence in this case doesn't
6 really help?

7 A. No, sir, just uses an idea of what we're doing.

8 Q. So on some of those other video visit videos that
9 we already watched, who's trying to get witnesses to
10 change their stories?

11 A. Jamaa.

12 MR. WARING: Court's indulgence.

13 No further questions, Your Honor.

14 THE COURT: Anything further for this
15 officer?

16 MR. WEHRMAN: No, Your Honor.

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

19 MR. WARING: Your Honor, the State rests.

20 THE COURT: Mr. Bailiff, will you take our
21 jury to the jury room, please, sir.

22 (In open court, jury not present.)

23 THE COURT: All right. Any motions?

24 MR. WEHRMAN: At this time, I would move for
25 directed verdict on both indictments. State has failed

1 to meet every element of the crime charged. I'm
2 focussing on the attempted murder charge, and the
3 possession charge sort of piggybacks off of it. I don't
4 think we heard any testimony from anyone on the stand
5 that said they saw my client even with a gun that day, so
6 there is also very little evidence of intent.

7 In fact, all the physical evidence seems to
8 indicate the shots were fired low. One appears to have
9 missed low, maybe more missed low. All of the shots,
10 however many hit, although there's some dispute about
11 that, were all below the waist. I don't think that a
12 reasonable juror could find there was an intent to kill
13 based on the location of the shots, based on the family
14 relationship that's been established, and that would be
15 grounds for directed verdicts on this case.

16 Obviously, the possession of a weapon charge
17 would then fall away because there would be no guilt of a
18 violent crime.

19 THE COURT: Thank you.

20 MR. WARING: Just briefly, looked at in the
21 light most favorable to the nonmoving party, which is the
22 State, I think there's sufficient evidence to give it to
23 the jury. The 911 call, victim clearly says he
24 threatened to kill me, and Jamaa, the defendant,
25 profusely asking for the gun on there; the chopper was

1 found, which corroborates both the victim's and
2 Ms. Powell's original statements. Both of them at times,
3 not necessarily on the stand, admitted that they -- that
4 the defendant did the shooting. Officer Torres was on
5 the scene right after the shooting. Right before the
6 shooting, he saw the defendant go around the corner, the
7 shooting happened, and he saw the defendant run off.

8 Defendant gave a fake name. Six shell
9 casings found. There was that threat coupled with the
10 six shots that were fired, that's intent to kill. I
11 think there is more than enough evidence, and I also
12 think there is evidence he had a gun. Former victim
13 advocate Keyanna Young testified that the victim had told
14 us that the defendant had displayed a gun in the house,
15 separate from chopper.

16 So, Your Honor, we think there's ample
17 evidence to give to the jury, and, in addition, the video
18 visit videos seem to support all these theories that he
19 did do these crimes, Your Honor.

20 THE COURT: In ruling on the motion for
21 directed verdict, the Court is concerned with the
22 existence or nonexistence of evidence, not its weight.
23 To grant a directed verdict, I must find, after reviewing
24 the evidence in the light most favorable to the State,
25 the State has not produced any direct or circumstantial

1 evidence tending to prove the guilt of the accused. In
2 this case, the State has produced evidence to support the
3 elements of the charges; I therefore find that this is a
4 jury question and that the defense motion should be
5 denied.

6 So, Mr. Wehrman, would you have your client
7 stand, please. At this point, I'm going to explain some
8 of your rights. If you answer the question, I will
9 assume that you understood the question. Do you
10 understand?

11 THE DEFENDANT: Yes.

12 THE COURT: We've reached the stage in the
13 trial where you may present your defense. You have the
14 right to claim the protections given to you by the Fifth
15 Amendment to the constitution of the United States. This
16 amendment states, in part, no person shall be compelled
17 in any criminal case to be a witness against himself.
18 This means you cannot be required to testify in this
19 case.

20 On the other hand, you have the right to
21 testify on your own behalf, should you choose to do so;
22 however, no one can make you testify. This is a personal
23 right, and no one can waive this right except you. If
24 you decide to testify, you will be subject to the same
25 rules that govern other witnesses, and you may be

1 examined and cross-examined on any relevant issue in this
2 case. If you have any convictions regarding dishonesty
3 or false statements or crimes punishable by imprisonment
4 for more than one year and the Court determines probative
5 value of admitting such evidence outweighs its
6 prejudicial effect on you, the solicitor will be able to
7 introduce your records to attack your credibility.

8 If you decide to testify, this decision on
9 your part must be freely, voluntarily, and intelligently
10 made with the knowledge of the protections given to you
11 by the Fifth Amendment and the consequences of your
12 decision to testify.

13 If you decide not to testify, I will instruct
14 the jurors that they cannot give the fact that you did
15 not testify any consideration whatsoever and that there
16 is to be absolutely no prejudice to you because you did
17 not testify. It is left entirely up to you whether or
18 not to testify. You may talk to your attorneys, your
19 family, friends, or anyone else, but the final decision
20 will be left entirely up to you.

21 Do you understand what I've explained to you?

22 THE DEFENDANT: Yes.

23 THE COURT: Do you have any questions about
24 what I've explained?

25 THE DEFENDANT: No.

1 THE COURT: Okay. We're going to go off the
2 record, take a short break, and allow Mr. Washington to
3 discuss this with your attorneys, and, Mr. Wehrman, you
4 can inform us of his decision when we resume, and we'll
5 take a short break.

6 (Recess taken.)

7 THE COURT: Mr. Wehrman, have you had the
8 opportunity to talk to your client?

9 MR. WEHRMAN: I have.

10 THE COURT: What's his decision?

11 MR. WEHRMAN: He's decided not to testify.

12 THE COURT: Okay. Mr. Wehrman, will the
13 defense be putting up any other testimony?

14 MR. WARING: No, Your Honor.

15 THE COURT: All right. What we'll do, we'll
16 go back on the record, and I'll let you rest, and then we
17 can go directly into closing arguments. The defense
18 isn't putting up any testimony. The State will open in
19 full, and the defense will have the last argument.

20 Now, I'm going to use this opportunity to go
21 over charges with you. I have standard charges as
22 follows: I have the standard charge on the
23 responsibility of the judge and jury. I have the
24 standard charge on direct and circumstantial evidence;
25 credibility of witnesses; reasonable doubt, presumption

1 of innocence; intent; charge, arrest, indictment not
2 being evidence; identification, failure of the defendant
3 to testify, and then the case specific charges of
4 attempted murder and possession of a weapon during the
5 commission of a violent crime.

6 We also have a charge on the attempt,
7 definition of attempt, and then my final instruction is a
8 charge about their deliberations, and we printed -- my
9 law clerk printed a simple verdict form. If you'd like
10 to see the case, I'm sure you've the standard charges.
11 If you'd like to see the case with the specific charges,
12 I have a copy of those, if either attorney would like to
13 look at them.

14 Would you like to look at a copy?

15 MR. WARING: Is that the jury charges, Your
16 Honor?

17 MR. WEHRMAN: These are the case specific
18 charges. Here's another copy. Let Mr. Waring look.

19 MR. WARING: Thank you, Judge.

20 MR. KING: Your Honor, I'd ask just to make a
21 couple arguments on the jury charges. Do you charge
22 State vs. Logan on circumstantial evidence?

23 THE COURT: My circumstantial evidence charge
24 is directly from the chapter. If you'd like to look at
25 it, I have it here.

1 MR. KING: If it's taken directly from Logan,
2 I think everybody approves of that now.

3 Secondly would be, are you charging with the
4 malice to be inferred from use of a deadly weapon, State
5 versus Belcher issues?

6 THE COURT: That is included now. There is
7 case law to admit that in certain situations.
8 Self-defense is not being claimed in this case, so what's
9 the defense's position on that?

10 MR. KING: State vs. Shands, which is 424
11 S.C. 106, believes charges implied malice on attempted
12 murder. It has to do with the fact that it's attempted
13 murder and not murder. The quote from there, it cites to
14 the opinion State vs. Rakeem King, and it says that the
15 Court indicated its belief in a footnote that malice can
16 never be implied in an attempted murder case.

17 THE COURT: What's that -- was that case not
18 surrounding a self-defense issue?

19 MR. WARING: Your Honor, I tend to agree with
20 the defense. I think because they have that element,
21 that with the specific intent to kill it can't be
22 implied, from what I understand.

23 THE COURT: Here's what I'll -- the charge
24 had in it the statement inferred malice may also arise
25 when the deed is done with a deadly weapon. I'll just

1 strike that sentence from the charge, okay? I have
2 removed that from the charge.

3 Anything further?

4 MR. WARING: Your Honor, I don't know if
5 Mr. King pointed it out or not. There's two references
6 to two things that apparently are no longer good South
7 Carolina law. One is either expressed or implied in the
8 definition of attempted murder. The second is specific
9 intent to kill is not an element of attempted murder.

10 Both of those, from my understanding, are no
11 longer good South Carolina law.

12 MR. KING: Yes, Your Honor. The request to
13 charge, it does require a specific intent to kill based
14 on the State versus Rakeem King.

15 THE COURT: So I'll remove specific intent to
16 kill is an element of attempted murder, so strike the
17 rest of that. Intent means intending the result which is
18 not accidentally or involuntarily.

19 MR. WARING: Removing the general intent
20 portion?

21 THE COURT: Right.

22 MR. WARING: And, I guess, the top of page
23 two where it says either expressed or implied?

24 THE COURT: So I'll strike either expressed
25 or implied, so the last word would be malice

1 aforethought, last two words, malice aforethought.

2 MR. WARING: Sounds good, Your Honor.

3 THE COURT: You agree with that, Mr. Wehrman?

4 MR. WEHRMAN: Yes, Your Honor.

5 THE COURT: Okay. All right.

6 MR. WARING: Your Honor, the only last
7 question I had about jury charges was beyond a reasonable
8 doubt, whether or not you could charge both definitions.

9 THE COURT: Let me read y'all my reasonable
10 doubt charge, and -- it's much more involved than the
11 little preliminary definition I gave them at the start.

12 This is the charge: What is a reasonable
13 doubt in the law? A reasonable doubt is the kind of
14 doubt that would cause a reasonable person to hesitate to
15 act. Some of you may have served as jurors in civil
16 cases where you were told that it is only necessary to
17 prove that a fact is more likely true than not true, such
18 as by the greater weight or preponderance of the
19 evidence.

20 In criminal cases, the State's proof must be
21 more powerful than that and must be beyond a reasonable
22 doubt. Proof beyond a reasonable doubt is proof that
23 leaves you firmly convinced of the defendant's guilt.
24 There are very few things in this world that we know with
25 absolute certainty, and criminal cases alone does not

1 require proof that overcomes every possible doubt.

2 If, based on your consideration of the
3 evidence you are firmly convinced that the defendant is
4 guilty of the crime charged, you must find the defendant
5 guilty. If, on the other hand, you think there is a real
6 possibility that the defendant is not guilty, you must
7 give the defendant the benefit of the doubt and find him
8 not guilty.

9 A reasonable doubt may arise from the
10 evidence or lack of evidence. The defendant is entitled
11 to every reasonable doubt that may arise in the case. If
12 upon any issue of fact essential to a conviction or a
13 verdict of guilty of an offense, if you have any
14 reasonable doubt as to how that issue should be resolved,
15 it is your duty to resolve that doubt in favor of the
16 defendant. Suspicion, however strong, is not enough to
17 sustain conviction. The evidence presented by the State
18 must be substantial evidence to prove the guilt of the
19 defendant beyond a reasonable doubt.

20 That's my standard reasonable doubt charge.

21 MR. WARING: Sounds good, Judge.

22 MR. WEHRMAN: No objections.

23 THE COURT: Okay. All right. Let's get our
24 jury.

25 (In open court, jury present.)

1 All right, ladies and gentlemen. We're ready
2 to proceed. The State has finished its case.

3 Mr. Wehrman?

4 MR. WEHRMAN: Your Honor, the defense rests.

5 THE COURT: All right. Ladies and gentlemen:
6 The defense has rested as well. That concludes the
7 evidentiary part of this case. The next stage of the
8 trial will involve closing arguments by the attorneys, so
9 we will proceed with that.

10 Mr. Waring?

11 MR. WARING: Thank you, Your Honor. May it
12 please the Court: Ladies and gentlemen, I want to thank
13 you for paying attention during this trial. Closing
14 argument time: I want to put this matter to bed once and
15 for all.

16 At the beginning of the trial, I mentioned to
17 you the theme of choices, consequences, and
18 accountability. The time has come right now to hold
19 Mr. Washington accountable, but I want to take you back
20 through some of the evidence that actually proves he's
21 guilty.

22 Let's start off with the 911 calls. These
23 calls are incredibly damning to the defendant, kicking
24 the ball off with his mother on that call, you can
25 clearly hear the defendant asking where the gun is. He's

1 angry. You can hear him getting angrier and angrier. He
2 continues to yell out, asking where the gun is, and we
3 know that's the assault rifle that he's talking about.
4 That was proven by the victim and by his mother.

5 In the next call, the victim clearly stated,
6 Oh, you threaten to kill me and your mama? So the
7 defendant got mad because they took away his assault
8 rifle and wouldn't give it back to him, and what does he
9 do? He threatens to not only kill his mom, but also the
10 victim. Unfortunately for the victim, the defendant
11 acted on his threat. Of course, the victim testified
12 that he didn't know whether he was the 911 caller or not
13 and was otherwise being difficult, but it was clearly his
14 voice, so you know it was him.

15 (Audio played.)

16 As Officer Torres testified, he was literally
17 on the scene as this was unfolding, as this took place.
18 He saw the defendant talking with his mother out front.
19 Juvenile daughter was on scene as well out front when he
20 heard approximately six gunshots and had seen the
21 defendant walk around to the side of the house. He had
22 also noticed the victim who was all the way across the
23 street, near Oliver Rainey's house. Then he saw the
24 defendant running through the back yard right after the
25 shooting. Now, Tanisha told Officer Torres not to shoot

1 her son. That's important. The defendant was on scene.
2 He clearly did the shooting.

3 Now, I want to talk about the victim for a
4 second. This is an impossible situation for him, and I
5 understand that. If he cooperates with the State openly,
6 he's going to create problems, serious problems, with his
7 girlfriend, who is the defendant's mom, but make no
8 mistake: The defendant who shot him -- and didn't just
9 shoot him, but shot him three to five times, five times,
10 according to the victim. Now, yes, all of the gunshots
11 were to the legs, but as the EMS tech testified to, if
12 any one of those shots had hit him in that femoral artery
13 or any of those other arteries, he could have died.

14 Now, the victim, Timothy Haynes, said the
15 defendant shot him because he took the assault rifle away
16 from him, and he said the defendant threatened to kill
17 him. Now, of course, as we talked about, he got up on
18 the stand and was not very cooperative and changed his
19 story, but you heard the testimony from former victim
20 advocate Keyanna Young who talked about the victim had
21 told us that this defendant had done the shooting and had
22 shot him five times, and it was all over the chopper, the
23 assault rifle.

24 Let me talk for a second about Tanisha
25 Powell's story. Now, I don't envy her position either.

1 Neither her or the victim have an easy situation, and I
2 respect that. It could easily be explained that she
3 certainly does not want to help convict her son. I get
4 that, but that does not excuse her son of what he did.

5 Now, you heard what really happened from her.
6 They took the assault rifle away from the defendant. He
7 got mad, and he's the one that did the shooting. She
8 told that to Detective Bernard, and she admitted that
9 that is what she said. Detective Bernard clearly asked
10 her in her interview, who shot him? Jamaa.

11 Oliver Rainey, now, he testified that the
12 defendant, who he said he's seen a few times over the
13 years, had a haircut that was more or less similar to the
14 shooter. He said he heard the shots, and then the victim
15 limped through his back yard and said, That damn woman's
16 son shot me, referring to the house across the street,
17 which is the defendant's mom's house, [REDACTED] 8 Cambridge
18 Avenue, and, in the process, his own house got shot at.

19 Now, let's talk about the shell casings for a
20 second, the six shots. The defendant shot at the victim
21 six times, six shell casings found on scene where the
22 defendant had been standing, where Officer Torres had
23 seen him running around the side of the house. The EMS
24 witness, Diana Alvarez, stated that she saw three gunshot
25 wounds, but it's possible there could have been more, and

1 the victim said he got shot five times.

2 Either way, the defendant was able to hit the
3 victim three to five times from approximately 30 to 40
4 yards away, all the way across the street from a
5 different house to a different yard. Coupling that with
6 his earlier threat to kill the victim, clearly he
7 intended to kill the victim and actually attempted to
8 kill him. He had threatened beforehand to kill the
9 victim. He followed up on his threat and actually shot
10 him three to five times. That's attempted murder, plain
11 and simple.

12 Now, I want to talk about the chopper for a
13 minute. Both the defendant's mom's story and the
14 victim's story about the defendant being upset over him
15 not getting back his chopper, corroborated by the 911
16 calls where the defendant shouts out where's the gun, but
17 also actually because the actual chopper was located by
18 Oliver Rainey's house. His son Antwan turned it over to
19 the police. You heard from Antwan. This proves that
20 Tanisha Powell's and the victim's original stories were
21 true.

22 Right after the incident, right after the
23 shooting, the defendant fled and remained on the run for
24 over two weeks. After acting on his threat to kill the
25 victim by blasting him three to five times, he ran.

1 Now, there's a good question. Why run?
2 Well, because he knew he had just tried to kill his mom's
3 boyfriend and had succeeded in shooting him multiple
4 times. He didn't check on the victim to see if he was
5 okay, and why would he? He wanted the man dead. He knew
6 he was in deep trouble. Running proves he had a guilty
7 conscience.

8 Now, after being on the run for almost --
9 over two weeks, what did he do once he was pulled over
10 for that traffic violation? He gave a fake name, and
11 I'll ask you a similar question as I did regarding him
12 running away: Why give a fake name? Well, for the same
13 reason that he ran. He didn't want to get caught. He
14 knew he tried to kill the victim and almost succeeded, so
15 he was going to do anything he could to avoid capture.
16 Just like running away, he gave a fake name, and that
17 proves his guilt.

18 Video visitation videos, these are a gold
19 mine of incriminating evidence against the defendant. In
20 the first clip, the victim had visited the defendant and
21 told him he was going to try to drop the charges. In
22 response, the defendant says, All right. Thank you, man.

23 When the victim mentions that he could have
24 been gone, in other words, that he could have been
25 murdered, the defendant's response is, I just been making

1 dumb decisions sometimes. Are those the responses of
2 somebody who's innocent? Not a chance. In the second
3 clip, the defendant asked his mom if the police found the
4 chopper, and this corroborates both the victim's and
5 Tanisha Powell's stories that the whole case got started
6 over the chopper, and he tells his mom at the end of that
7 clip to make sure the charges get dropped.

8 Now, the defense made a big fuss about the
9 chopper and forensics and this not being done and that
10 not being done. Chopper is just the reason this whole
11 thing got started, but the .40 caliber handgun that was
12 never found, that was actually used, and there was
13 evidence that the defendant is the one that used that.

14 Now, on the third clip, the defendant is
15 desperately telling his mom, Tanisha Powell, to have the
16 victim change his story, to not answer questions by the
17 solicitor's office, and why does he want the victim to
18 change his story and why doesn't he want him to answer
19 any of our questions? Think about that.

20 In the fourth clip, he tells his mom she
21 needs to not only not show up for court, not show up for
22 trial, but she needs to change her story too, so he wants
23 the victim to change his story and his mom. Words of an
24 innocent man? Not a chance.

25 (Video played.)

1 Is that an innocent man talking? No way.
2 Now, at the beginning of the trial, I mentioned to you
3 the elements of attempted murder, and to move back on
4 that, attempted murder is when the defendant with intent
5 to kill attempted to kill the victim with malice
6 aforethought. Now, as I also mentioned, malice is
7 hatred, ill will, hellbent on mischief, wrongful intent
8 to injure another person indicating a wicked or depraved
9 spirit intent on doing wrong, and it's got to take place
10 just prior to and at the moment the bullets come out from
11 the gun, the minute he does the shooting.

12 Now, the evidence shows beyond a reasonable
13 doubt that the defendant acted with intent to kill when
14 he shot the victim. Malice he had towards that victim
15 began the moment the victim wouldn't give him back the
16 chopper. The defendant threatened to kill the victim,
17 and that malice continued until the moment of the
18 defendant squeezing off that sixth and final round,
19 striking the victim three to five times. That's by
20 definition attempted murder.

21 Now, regarding the gun charge, possession of
22 a weapon during commission of a violent crime, since
23 we've proven attempted murder, we've also proven the gun
24 charge because he possessed a deadly weapon during the
25 commission of a violent crime. At the beginning of the

1 trial, I mentioned that your duty to follow the law in
2 this case should outweigh any personal feelings you have
3 about whether we should be prosecuting the defendant when
4 the victim does not want to go forward with his case.

5 Your personal feelings regarding that are not
6 relevant to the defendant's guilt. I want you to
7 remember that you took an oath to follow the law, and
8 since the evidence exists beyond a reasonable doubt, in
9 other words, that evidence should leave you firmly
10 convinced of his guilt, we're asking you to find him
11 guilty of both attempted murder and the gun charge. He
12 made the choice to try to kill the victim. There's
13 consequences for that. Time has come right now, today,
14 this week, to hold him accountable. There should be only
15 one word that's on your minds right now, and that's
16 guilty.

17 THE COURT: Mr. Wehrman?

18 MR. WEHRMAN: Thank you, Your Honor, ladies
19 and gentlemen.

20 Excuse me: When we started this case I
21 talked to you about how the State is substituting
22 assumptions for evidence. After hearing everything the
23 State has to offer, there still isn't any actual
24 testimony from anyone on the witness stand that Jamaa
25 tried to kill Timothy Haynes. No one is disputing that

1 he came there looking for the rifle. I haven't put in
2 any arguments or testimony to suggest that that didn't
3 happen, but the State gets to choose their case. The
4 State gets to choose the charge. The State controls a
5 lot of the choices of the evidence, and they have chosen
6 this case and they have chosen this charge, attempted
7 murder, which requires you to find that Jamaa Washington
8 tried to kill, wanted Timothy Haynes dead.

9 They say that there was an argument. Timothy
10 got shot. Jamaa must have done it. Jamaa must have
11 wanted him dead, but, again, no one has said they
12 actually saw the shooter. No one even really saw Jamaa
13 with a gun. The officers didn't see anything. Officer
14 Torres told us he was on scene when it happened. He
15 didn't see the shooting. He watched Jamaa run for about
16 100 feet. He didn't see a gun in his hand. Keep in mind
17 Officer Steinbrunner was there as well. She didn't have
18 anything to add to that. Keep in mind that what they did
19 see we can't even really verify because we don't have any
20 body cam.

21 I remind you, Officer Torres acknowledged
22 there was a policy to deal with that situation, to deal
23 with using body cam, a policy that allows you to download
24 relevant information to a DVD. The policy was not
25 complied with, but the State still chose to go forward.

1 None of the eyewitnesses said they saw Jamaa do the
2 shooting or even saw Jamaa with the gun.

3 Oliver Rainey's story was interesting. He
4 seems to have been the only person who got a look at that
5 side of the house where the shots came from, but even he
6 didn't actually see a gun. He told you he looked like a
7 younger guy, but he can't tell one younger guy from
8 another. It doesn't really sound like he can see all
9 that well to begin with. He did describe this young guy
10 as being normal sized, though. He even described him as
11 being thin, and, I mean, Jamaa is a big guy. He stands,
12 you know, a good head over me, and he certainly is not a
13 thin guy, so part of Rainey's story doesn't even match.

14 Now, the State went back and forth with you
15 and Mr. Rainey about this haircut issue. Mr. Rainey, I
16 think, agreed it was a young person's haircut, but you
17 might have caught something. There was some debate about
18 whether it was short on the sides or long on the top.
19 Mr. Rainey said that's not what I said, that's what she
20 said.

21 So, you know, the State clearly has a street
22 it wants to go down. Of course they want everybody to
23 ignore Tanisha and Timothy, people who know Jamaa the
24 best. They want you to ignore what they said about that
25 family. They want you to ignore about what they would

1 say about Jamaa's intent, about why Jamaa would want to
2 kill Timothy Haynes. They try to make Tanisha and
3 Timothy look like liars: They're changing their story.
4 They're making this all up. It's pretty clear Tanisha
5 has been pretty consistent.

6 Now, Detective Bernard says at one point she
7 said Jamaa did it, but she admitted on the stand that she
8 might have said it. She admitted it might have been
9 speculation then, and she was right to identify it would
10 be speculation now. Detective Bernard said something
11 else. We made it clear, however, that we could settle
12 this whole dispute if we heard it, but the State chose
13 not to introduce that. The State chose not to introduce
14 a recorded interview.

15 It doesn't really make sense for the State to
16 say she saw the shooting anyway. According to Officer
17 Torres, she's beside him. He couldn't see the shooting.
18 His view was entirely blocked, so it's not clear to me
19 why they need her to see the shooting because they're
20 focussed on an idea. They're focussed on assumptions,
21 and they're not focussed on the actual evidence, and
22 that's, for Timothy, a little confusing there too, from
23 what I could gather. It sounded like the solicitor was
24 trying to say that Timothy had changed his story, and
25 there was certainly no evidence from anyone on the scene

1 that he told anyone he saw the shooting. It sounds like
2 he was shot in the back of the legs, so I don't see even
3 why you would have expected to have seen the shooting.
4 Officer Steinbrunner even mentioned he wasn't saying much
5 on the scene.

6 Instead, I think the solicitor is trying to
7 say Timothy changed his story during some conversation
8 that they had, almost a year-and-a-half ago in the lobby
9 of the solicitor's office, and the only witness to this
10 conversation is a Ms. Young from the victims advocate
11 office. The victims advocate office sounds like it's
12 supposed to help victims and support them. Oddly enough,
13 it turns out they actually work for the solicitor's
14 office. Turns out she was actually brought in here to
15 call Timothy Haynes a liar.

16 It's bad enough that they're doing that.
17 It's pretty clear where Ms. Young's loyalties lie, but
18 there's a big question here about that conversation in
19 the lobby of the office, and that question is, if this is
20 the only evidence they have that Timothy Haynes saw his
21 shooter and that shooter was Jamaa Washington, then
22 couldn't they have recorded this conversation in some way
23 rather than just the memory of someone who happened to
24 hear this in a lobby over a year ago? A voice recorder
25 probably runs 30 bucks on Amazon. They could have

1 recorded it. They could have had Mr. Haynes sign a
2 written statement, and Ms. Young could have just taken
3 notes. It's not ideal, but it's better than what we
4 have.

5 They haven't produced any of that. They
6 haven't produced an audio statement, written statement.
7 They haven't produced note from a victim advocate, so
8 they either don't have it or they don't like what it
9 says, and I think something similar seems to be happening
10 with these shell casings. These are the .40 caliber
11 shell casings found by the side of the house. Police
12 department sends these off in February of last year and
13 gets back high confidence correlation from SLED that
14 these are matching some other incidents. Same gun was
15 probably used, but they can't confirm it.

16 Now, I believe the detectives said they may
17 have had some uncooperative witnesses, but it doesn't
18 sound like there's any evidence that the witnesses or the
19 victims in those cases have linked it back, have linked
20 their cases back, to Jamaa Washington. Certainly doesn't
21 sound like Jamaa Washington was ever listed as a suspect
22 in any of the reports of those cases, so what does
23 NCPD do?

24 Well, they don't finalize the results. They
25 don't send the shell casings back for a final analysis

1 that would have confirmed the connection. They chose not
2 to follow up. They chose to leave what is designed as a
3 lead on a case hanging to dry, so in a case where the
4 police never actually find the weapon, no one ever
5 actually sees my client with the weapon, they have leads
6 that, who knows, might actually connect somebody to the
7 weapon, and they decide not to follow up on that. They
8 decide not to confirm that.

9 It's even worse with the rifle. They
10 apparently don't do any forensic testing on the rifle,
11 and I understand that the State's position seems to be,
12 well, the rifle existed, so we know that. You know, we
13 don't need to do any testing on it. Again, these are
14 assumptions. Just so I'm clear, the significance of the
15 rifle is in the motive, okay? The rifle is supposed to
16 be the motive for this whole thing. It's supposed to be
17 a motive that can sustain their allegation of specific
18 intent, specific intent to kill, that he had formed in
19 his mind, his specific desire that Timothy Haynes be
20 dead.

21 Now, we can understand from listening to
22 Tanisha, listening to Timothy, that it would take
23 something huge for him to throw away his family, to throw
24 away the people he loved the most, the people who have
25 always supported him to form that very specific intent,

1 but that's why I think the rifle is significant, because
2 we should know, we should want to know, what is so
3 significant about this rifle?

4 The leads were not pursued that could have
5 been. They could have done forensic testing on it. They
6 could have looked into all who might be connected with
7 this. How could Jamaa be connected to them? What would
8 be such a motive that would be so motivating to him to
9 kill a member of his family? Instead, they just assumed.
10 They assume it's there. Must be a powerful motive.

11 Instead, they want you to focus on and say,
12 well, you know, maybe no one saw the shooting. Maybe no
13 one saw Jamaa with the gun outside, but he ran away from
14 the scene, gave a fake name to the officer who pulled him
15 over, and he tried to get his family to drop the charges,
16 so he must be guilty.

17 Now, as far as running away, you heard
18 Ms. Powell testify to the problems they had in that
19 neighborhood. You heard her testimony about how Jamaa
20 was scared when he got there. You heard that he has been
21 shot before, in the head, no less, so running away from
22 gunshots does not seem all that strange to me. It seems
23 a rather rational reaction that I think a lot of people
24 would have.

25 As for the fake name, first of all, he was

1 driving illegally, so that's a possible explanation, but,
2 you know, so what if he doesn't want to get accused of
3 attempted murder? I wouldn't want to get accused of
4 attempted murder. Of course he wants to drop the
5 charges. He's terrified he's going to be thrown in
6 prison for trying to kill Timothy Haynes when he didn't
7 do it, but, again, this conjecture, these assumptions,
8 nothing can answer this motive. Nothing can answer why,
9 why Jamaa Washington would want to kill someone so close
10 to him.

11 You know, I believe the solicitor mentioned
12 that you can look at the clips. I would note, some of
13 those clips are spliced together, and that very specific
14 statement, that I do stupid stuff sometimes, I think
15 you'll find that there's a splice very shortly before
16 that. Now, they say, well, we've accurately depicted
17 what was on there, but, again, we just have to assume
18 that.

19 Now, it's not clear to me that anyone tried
20 to kill Timothy Haynes. The physical evidence seems to
21 me he was shot in the legs, and if anyone was missing,
22 they were missing low. Officer Torres described to you
23 dust kicking up in the road. They determined that those
24 shots to Mr. Rainey's house were, in fact, ricochets.
25 The solicitor pointed out the holes in Mr. Rainey's house

1 are somehow indicative of aiming high, but it's pretty
2 clear from Officer Torres's testimony that those were
3 thought to be ricochets from the ground, but, again, not
4 of that really matters because we cannot possibly believe
5 that Jamaa would want to tear apart his family and to
6 kill Timothy Haynes.

7 This is someone he got along well with. This
8 is someone helped him, who cared for him. I think you
9 can see this is a loving family. Timothy is not just
10 Tanisha's boyfriend. Timothy was a part of Jamaa's life,
11 and the State just assumes he would throw that all away,
12 and they have chose this charge where you are asked to
13 assume the same thing.

14 They're asking you to basically read Jamaa's
15 mind and find beyond a reasonable doubt the specific
16 intent to kill. Reasonable doubt exists if you have any
17 hesitation, any hesitation, ladies and gentlemen, and
18 there's no way to overcome reasonable doubt in this case.
19 The State's case has too many assumptions and too little
20 evidence. You can't assume away reasonable doubt.

21 The worst part is when they had opportunities
22 to clear that doubt up, to get more evidence, to look
23 into the other shootings, to look into the rifle. They
24 made a choice to stick with assumptions, to push this
25 case forward against their own victim's wishes, to tear

1 this family apart, to throw a young man into prison, and
2 they think you'll just let them do it. They think you'll
3 go along with these assumptions. They think you won't
4 hold them accountable.

5 Truth and consequences go both ways. Our
6 country sets a high bar to prove someone guilty, to throw
7 them in prison, and that's proof beyond a reasonable
8 doubt. A proof that means you're so convinced you don't
9 hesitate to act. Ladies and gentlemen, there so many
10 reasons to hesitate to act in this case, and I ask you to
11 find the defendant not guilty.

12 Thank you.

13 THE COURT: Ladies and gentlemen: We've come
14 to the point in the trial where I instruct you on the
15 law. My instructions will be somewhat lengthy. They
16 will be in three parts: First, the instructions on the
17 general rules that define and control the jury's duties;
18 secondly, the instructions that state the rules of law
19 you must apply, what the State must prove to make its
20 case; and, lastly, some rules for your deliberations.

21 The general rules begin with your duties as
22 jurors. It is your duty to find the facts from the
23 evidence in the case. To those facts you must apply the
24 law as I give it to you. You shall not be concerned with
25 what the law shall be but what it is, and you should not

1 be influenced by any personal likes, dislikes, opinions,
2 prejudices, or undue sympathy. That means you must
3 decide the case solely on the evidence before you in
4 accordance with the law, the very thing you took an oath
5 at the beginning of the trial to do.

6 Last, it is your responsibility and yours
7 alone to determine the facts of this case. I would
8 therefore charge you that if during the course of this
9 trial or during this charge you have been given or left
10 with an impression or feeling that I have a personal
11 feeling about the facts of this case or that I favor one
12 side or the other, I would specifically instruct you to
13 disregard that impression. Under our constitution, I am
14 not allowed to have an opinion as to the facts of the
15 case.

16 You should not be influenced by any
17 objections or the Court's ruling on them. You and you
18 alone are the judges of the facts. You determine the
19 facts by evaluating or weighing the evidence that you
20 have heard during the trial. What is evidence? Evidence
21 is the sworn testimony from witnesses and any exhibits
22 that have been entered into evidence. The statements by
23 the attorneys are not evidence. What they have said in
24 opening statements, closing arguments, and at other times
25 is intended to help you interpret the evidence, but it is

1 not evidence.

2 There are two types of evidence which are
3 generally presented during a trial: Direct evidence and
4 circumstantial evidence. Direct evidence directly proves
5 the existence of a fact and does not require deduction.
6 Circumstantial evidence is a proof of a chain of facts
7 and circumstances indicating the existence of a fact.
8 Crimes may be proven by circumstantial evidence.

9 The law makes no distinction between the
10 weight or value to be given to either direct or
11 circumstantial evidence; however, to the extent that the
12 State relies on circumstantial evidence, all the
13 circumstances must be consistent with each other and,
14 when taken together, point conclusively to the guilt of
15 the accused beyond a reasonable doubt. If the
16 circumstances merely portray the defendant's behavior as
17 suspicious, then the proof has failed. The State has the
18 burden of proving the defendant guilty beyond a
19 reasonable doubt, and this burden rests with the State
20 regardless of whether the State relies on direct
21 evidence, circumstantial evidence, or some combination of
22 the two.

23 As the judges of the facts, you are the sole
24 judges of the credibility, that is, the believability of
25 the witnesses who have testified in this case. In

1 determining their credibility, you may take into
2 consideration many things, such as the appearance and
3 manner of the witness on the stand, sometimes referred to
4 as the demeanor of the witness; was the witness able to
5 see, hear, or know the things about which the witness
6 testified? How well was the witness able to recall and
7 describe those things? Did the witness have a cause or
8 reason to be biassed and prejudiced in favor of the
9 testimony he or she gave? How reasonable was the
10 witness's testimony considered in light of all the
11 evidence in the case? Was the witness's testimony
12 contradicted by what the witness had said or done at
13 another time or by the testimony of other witnesses or by
14 other evidence?

15 These are some of the factors that you may
16 consider in deciding whether to believe testimony. As
17 jurors, you have the right to believe all of the
18 testimony of a witness or none of the testimony of a
19 witness. You have a right to believe a portion of the
20 testimony of a witness and disregard the rest. You may
21 believe the testimony of one witness over many or many
22 over one. You do not determine the matter of credibility
23 or believability by simply counting up the number of
24 witnesses who may have testified on behalf of the parties
25 in the case.

1 What is a reasonable doubt in the law? A
2 reasonable doubt is the kind of doubt that would cause a
3 reasonable person to hesitate to act. Some of you may
4 have served as jurors in civil cases where you were told
5 that it is only necessary to prove that a fact is more
6 likely true than not true, such as by the greater weight
7 or preponderance of the evidence.

8 In criminal cases, the State's proof must be
9 more powerful than that. It must be beyond a reasonable
10 doubt. Proof beyond a reasonable doubt is the proof that
11 leaves you firmly convinced of the defendant's guilt.
12 There are very few things in this world that we know with
13 absolute certainty, and in criminal cases, the law does
14 not require proof that overcomes every possible doubt.
15 If based on your consideration of the evidence you are
16 firmly convinced that the defendant is guilty of the
17 crimes charged, you must find the defendant guilty. If,
18 on the other hand, you think there is a real possibility
19 that the defendant is not guilty, you must give the
20 defendant the benefit of the doubt and find him not
21 guilty.

22 A reasonable doubt may arise from the
23 evidence or from a lack of evidence. The defendant is
24 entitled to every reasonable doubt that may arise in a
25 case. If upon any issue of fact essential to a

1 conviction and a verdict of guilty for an offense, if you
2 have any reasonable doubt as to how that issue should be
3 resolved, it is your duty to resolve that doubt in favor
4 of the defendant. Suspicion, however strong, is not
5 enough to sustain a conviction. The evidence presented
6 by the State must be substantial evidence that tends to
7 prove the guilt of the defendant beyond a reasonable
8 doubt.

9 The defendant has pled not guilty to these
10 indictments, and that plea puts the burden on the State
11 to prove the defendant guilty. A person charged with
12 committing a criminal offense is never required to prove
13 himself innocent. I charge you that it is an important
14 rule of the law that the defendant in a criminal trial,
15 no matter what the seriousness of that charge may be,
16 will always be presumed to be innocent of the crime for
17 which the indictment was issued unless guilt has been
18 proven by evidence satisfying you of that guilt beyond a
19 reasonable doubt.

20 The presumption of innocence does not end
21 when you begin your deliberations, but it accompanies the
22 defendant throughout the trial until you reach a verdict
23 of guilt based on evidence satisfying you of that guilt
24 beyond a reasonable doubt. The presumption of innocence
25 is like a robe of righteousness placed about the

1 shoulders of the defendant which remains with the
2 defendant until it has been stripped from the defendant
3 by evidence satisfying you of the defendant's guilt
4 beyond a reasonable doubt.

5 The presumption of innocence is not a mere
6 legal theory. It's not just a legal phrase. It is a
7 substantial right to which every defendant is entitled to
8 unless you, the jury, are satisfied from the evidence of
9 the defendant's guilt beyond a reasonable doubt.

10 In order to establish criminal liability,
11 criminal intent is required. For example: The mental
12 state required to be proven by the State for a particular
13 crime might be purpose, intent, knowledge, recklessness,
14 or criminal negligence. Criminal intent must be proven
15 by the State beyond a reasonable doubt. Criminal intent
16 is always a matter that must be determined by the jury
17 from the circumstances surrounding the situation.

18 There's no way to prove intent to a
19 mathematical certainty. There's no way medical science
20 can dissect a person's brain and determine what that
21 person had in mind so that the law says criminal intent
22 may be inferred from the circumstances shown to have
23 existed. This is how you make a determination of whether
24 or not the element requiring intent was present. It is
25 not necessary to establish intent by direct and positive

1 evidence, but intent may be established by inference in
2 the same way as any other fact, by taking into
3 consideration the acts of the parties and all the facts
4 and circumstances of the case.

5 Criminal intent is a mental state, a
6 conscious wrongdoing. It is up to you to determine what
7 the defendant intended to do based on the circumstances
8 shown to have existed. Criminal intent can arise from
9 actions or a failure to act. It may arise from
10 negligence, recklessness, or an indifference to duty or
11 consciousness which is considered by the law to be the
12 equivalent of criminal intent.

13 The indictments charge the defendant with
14 attempted murder and possession of a weapon during the
15 commission of a violent crime. I remind you that the
16 fact the defendant was arrested, charged, and indicted in
17 this case is not evidence in this case and cannot be
18 considered by you as evidence of guilt in this case, nor
19 does it create any presumption or inference of guilt.
20 These documents are simply the formal written instruments
21 which contain the charges made against the defendant.
22 They're the formal documents by which this case is
23 brought into court.

24 An attempt is an effort to accomplish a crime
25 which does not succeed. An attempt includes a specific

1 intent to do a particular criminal act along with an act
2 falling short of the act intended. The State must show
3 more than mere preparation of intent. There must be some
4 overt act committed in attempt to commit the crime.

5 Intent means intending the result which actually occurs,
6 not accidentally or involuntarily. Intent may be shown
7 by acts and conduct by the defendant and other
8 circumstances from which you may naturally and reasonably
9 infer intent.

10 The defendant is charged with attempted
11 murder. In order to prove this crime, the State must
12 prove that the defendant attempted to kill another person
13 with malice aforethought. Malice is hatred, ill will, or
14 hostility toward another person. It is the intentional
15 doing of a wrongful act without just cause or excuse and
16 with an intent to inflict an injury or other
17 circumstances that the law will infer evil intent.
18 Malice aforethought does not require malice exists for
19 any particular time before the act is committed, but
20 malice must exist in the mind of the defendant just
21 before and at the time the act is committed. Therefore,
22 there must be a combination of the previous evil intent
23 and the act.

24 Malice aforethought may be expressed or
25 inferred. These terms expressed and inferred do not mean

1 different kinds of malice, but merely the manner in which
2 the malice may be shown to exist; that is, either by
3 direct evidence, by inference from the facts or
4 circumstances which are proved. Express malice is shown
5 when a person speaks words which express hatred or ill
6 will for another or when a person prepared beforehand to
7 do the act which was later accomplished, for example,
8 lying in wait for a person, or any other acts or
9 preparation going to show that the deed was within the
10 defendant's mind would be express malice. Malice may be
11 inferred from conduct showing a total disregard for human
12 life.

13 If the facts are proved beyond a reasonable
14 doubt sufficient to raise an inference of malice to your
15 satisfaction, this inference would simply be an
16 evidentiary fact to be considered by you, the jury, along
17 with any other evidence in the case, and you may give it
18 the weight that you decide it should receive. A specific
19 intent to kill is an element of attempted murder. Intent
20 means intending a result which actually occurs, not
21 accidentally or involuntarily. Intent may be shown by
22 acts and conduct of the defendant and other circumstances
23 from which you may naturally and reasonably infer intent.

24 Evidence of the character of the act, the
25 character of the instrument used, the manner in which it

1 was used, the purpose to be accomplished and the
2 resulting wounds or injuries may be considered in
3 determining the intent which the act was committed.

4 Intent may also be inferred when it is demonstrated that
5 the defendant voluntarily and willfully commits an act
6 the natural tendency of which is to destroy another's
7 life.

8 The defendant is also charged with possession
9 of a weapon during the commission of or attempt to commit
10 a violent crime. The State must prove beyond a
11 reasonable doubt that the defendant was in possession of
12 a firearm or visibly displayed what appeared to be a
13 firearm during the commission of a violent crime. A
14 firearm means any machine gun, automatic rifle, revolver,
15 pistol, or any weapon which is designed to or may readily
16 be converted to expel a projectile. In order to find the
17 defendant guilty of possession of a weapon during the
18 commission of a violent crime, you must first find the
19 defendant guilty of either committing a violent crime or
20 attempting to commit a violent crime. Attempted murder
21 is a violent crime. The State must prove beyond a
22 reasonable doubt that the weapon further advanced or
23 helped in the commission of the crime.

24 An issue in this case is the identification
25 of the defendant as the person who committed the crime

1 charged. The State has the burden of proving identity
2 beyond a reasonable doubt. You must be satisfied beyond
3 a reasonable doubt of the accuracy of the identification
4 of the defendant before you may convict the defendant.

5 Identification testimony is an expression of
6 belief or impression by a witness. You must determine
7 the accuracy of the identification of the defendant. You
8 must consider the believability of each identification
9 witness in the same way as any other witness. You may
10 consider whether the witness had the opportunity to
11 observe the offender at the time of the offense. This
12 will be affected by things like how long or short of time
13 was available; how far or close the witness was; the
14 lighting conditions and whether the witness had the
15 chance to see or know the person in the past.

16 Once again, I instruct you the burden of
17 proof on the State extends to every element of the crime
18 charged, and this specifically includes the burden of
19 proving beyond a reasonable doubt the identity of the
20 defendant as the person who committed the crime. If
21 after examining the testimony you have a reasonable doubt
22 as to the accuracy of the identification, you must find
23 the defendant not guilty.

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

1 considered by you in any way in your deliberation and in
2 your consideration on the question of guilt or innocence
3 of the defendant. It must not be considered by you in
4 any manner whatsoever. A defendant has the
5 constitutional right to remain, silent and the assertion
6 of this right must not be considered by you in your
7 deliberations.

8 I repeat, under your oath you are to draw no
9 conclusion whatsoever from the fact that the defendant
10 did not testify. The fact that this defendant did not
11 testify should not even be discussed in the jury room.
12 The burden of proof, as I have stated to you, is on the
13 State. The defendant is not required to prove his
14 innocence. The burden of proof remains on the State to
15 prove guilt beyond a reasonable doubt.

16 Ladies and gentlemen: We're almost to the
17 point where I send you to the jury room. This has been a
18 long instruction on the law, but I want to leave you with
19 some final thoughts. You were chosen as jurors because
20 both sides believe that you could be fair and impartial
21 in deciding this case. I instruct you to make use of
22 your life experiences, your good, common sense, and your
23 sense of logic and reason in evaluating the evidence in
24 this case.

25 You are not participants nor advocates for

1 either side. You have no friends to reward nor any
2 enemies to punish. You are the judges of the facts.
3 Your sole interest is to determine whether the State has
4 proven its case beyond a reasonable doubt. Be courteous
5 with one another. Listen to the views of your fellow
6 jurors. Take the amount of time necessary for you to
7 thoroughly evaluate the evidence in this case. This case
8 is important to both sides, as this is their day in
9 court.

10 Now, Madame Forelady, I want to go over the
11 verdict form with you. It's a two-page verdict form, and
12 it has on the first page, it lists the first indictment,
13 attempted murder, and it says we the jury unanimously
14 find on the indictment number 2017-GS-10-06451 that the
15 defendant, Jamaa Ato Washington, Jr. is, and it gives you
16 two options: First option is not guilty of attempted
17 murder. The second option is guilty. You will check the
18 appropriate box once the jury has reached its decision.

19 Second page is in the second indictment. We,
20 the jury, unanimously find on indictment
21 No. 2017-GS-10-06450 that the defendant, Jamaa Ato
22 Washington is, and it gives you the same choices for
23 possession of a weapon during the commission of a violent
24 crime: Not guilty or guilty. You may not find the
25 defendant guilty of the weapons charge if you have found

1 him not guilty of the attempted murder charge.

2 Now, Madame Forelady, when the jury has
3 reached a verdict on the charges, there is a line for you
4 to sign on the second page. You'll date and sign it and
5 knock on the door and let the bailiff know you have
6 reached a verdict. Your verdict must be unanimous.

7 So what I'm going to do is have you go to the
8 jury room now. Do not begin your deliberations until I
9 send the verdict form and the exhibits back with an
10 instruction that you can begin. So, Mr. Bailiff, will
11 you take our jury to the jury room.

12 (3:49 p.m., jury leaves the courtroom.)

13 THE COURT: All right. Any exceptions from
14 the State?

15 MR. WARING: No, Your Honor.

16 THE COURT: Any exceptions from the defense?

17 MR. WEHRMAN: No, Your Honor.

18 THE COURT: All right. I need each attorney
19 to come forward. I need you to count the exhibits, make
20 sure they're all there before we send them back. Now, if
21 we're going to send this rifle back, is there -- I want
22 the clip removed from it.

23 MR. WARING: Yes, Your Honor. I know they've
24 got a -- some form of locking device in there.

25 THE COURT: Well, I'm very, very nervous

1 about that firearm, and if they want to see the clip, you
2 can send that back separately with someone holding it for
3 them because I don't want a clip, especially with
4 ammunition, sent back with the rifle.

5 Leave the rifle here. If they want to see
6 it, they can come bang in. It doesn't sound like there's
7 a locking mechanism that is bulletproof.

8 MR. WARING: Yes, Your Honor.

9 THE COURT: All right. Take the exhibits
10 back and the verdict form. Send the alternate back in
11 here.

12 (At 3:51 p.m., the jury begins
13 deliberations.)

14 (In open court, alternate present.)

15 THE COURT: Madame Alternate: That concludes
16 your duty on the case. You're welcome to stay, if you
17 want to, to see how it turns out. If you have to go,
18 you're certainly welcome to do so, but you need to call
19 that number tonight after 6:00. Thank you for your
20 service.

21 Okay. We'll go into recess.

22 (4:45 p.m., in open court, jury not present.)

23 THE COURT: We have a question from the jury.
24 They want the definition of attempted murder again, so
25 I'll read them the charge again.

1 Would you get our jury, please.

2 (In open court jury present.)

3 THE COURT: Thank you. All right. Madame
4 Forelady: I have received your note asking for the
5 definition of attempted murder, so I'm going to read this
6 to you again.

7 The defendant is charged with attempted
8 murder. In order to prove this crime, the State must
9 prove the defendant attempted to kill another person with
10 malice aforethought. Malice is hatred, ill will, or
11 hostility toward another person. It is the intentional
12 doing of a wrongful act without just cause or excuse and
13 with an intent to inflict injury or under circumstances
14 that the law will infer an evil intent.

15 Malice aforethought does not require that
16 malice exist for any particular time before the act is
17 committed, but malice must exist in the mind of the
18 defendant just before and at the time that the act is
19 committed; therefore, there must be a combination of
20 previous evil intent and the act.

21 Malice aforethought may be express or
22 inferred. These terms, express and inferred, do not mean
23 different kinds of malice but merely the manner in which
24 the malice may be shown to exist; that is, either by
25 direct evidence or by inference from the facts and

1 circumstances which are proved. Express malice is shown
2 when a person speaks words with express hatred or ill
3 will toward another or when a person prepared beforehand
4 to do the act which was later accomplished, for example,
5 lying in wait for a person or any other acts of
6 preparation going to show that the deed was within the
7 defendant's mind with express -- would be express malice.
8 Malice may be inferred from conduct showing a total
9 disregard for human life.

10 If facts are proved beyond a reasonable doubt
11 sufficient to raise an inference of malice to your
12 satisfaction, this inference would simply be an
13 evidentiary fact to be considered by you, the jury, along
14 with the other evidence in the case, and you may give it
15 the weight that you decide it should receive.

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

1 Intent may also be inferred when it is
2 demonstrated that the defendant voluntarily and willfully
3 commits an act the natural tendency of which is to
4 destroy another's life. That is the definition of
5 attempted murder.

6 So with that, Madame Forelady I'm going to
7 send you back to the jury room. You may resume your
8 deliberations.

9 (4:50 p.m., jury resumes deliberations.)

10 Anything in for the record from the State?

11 MR. WARING: No, Your Honor.

12 THE COURT: Anything for the record from the
13 defense?

14 MR. WEHRMAN: No, Your Honor.

15 THE COURT: Okay. We'll go back in recess.

16 (4:51 p.m., jury resumes deliberations.)

17 (5:57 p.m., in open court, jury present.) I.

18 THE COURT: I asked the clerk to inquire
19 whether the jury was making progress, and they indicated
20 a desire to go home and come back tomorrow. They've not
21 been able to reach an agreement, so I'm going to let them
22 go home. I'm going to bring them in and give them their
23 instructions again about what they cannot do, but we will
24 need to bring him in first.

25 (6:08 p.m., in open court, jury present.)

1 Thank you, sir.

2 All right. Madame Forelady: I have received
3 your note in which the jury has indicated that they would
4 rather go home and resume deliberations in the morning.

5 THE FORELADY: Yes.

6 THE COURT: Which I'm going to allow you to
7 do that. I realize the hour is getting late, and I
8 certainly want you fresh to continue your work as a
9 deliberating jury.

10 I'm going to reiterate my instructions from
11 earlier in the case. You are prohibited from talking to
12 third parties about the case. Anyone tries to talk to
13 you about the case, you tell them you cannot talk about
14 it. If anyone, third party comes up to you to try to
15 influence you or talk about the case, you are to
16 immediately let the staff know, and that should be called
17 to the Court's attention, to me.

18 You are prohibited from doing independent
19 research. Do not get on the Internet and try to access
20 the media about the law or the facts or anything to
21 supplement what you have heard in the courtroom because
22 you're to base your decision solely on the evidence that
23 is before you; and, lastly, you cannot deliberate with
24 each other separately tonight. Even though you're in
25 deliberations now, you're to only deliberate in the room

1 when you get back here in the morning as a body,
2 together. Now, I'm going to ask you in the morning if
3 anyone has violated this, so be sure to keep these
4 restrictions in mind.

5 Be back in the jury room at 9:00 tomorrow
6 morning, okay? So I hope everyone has a good evening,
7 and we will see you in the morning.

8 (Jury recessed.)

9 THE COURT: Okay. Anything for the record
10 before we rest, from the State?

11 MR. WARING: Nothing from the State.

12 THE COURT: Anything from the defendant?

13 MR. WEHRMAN: Nothing from the defense.

14 THE COURT: Okay. We'll be in recess until 9
15 o'clock tomorrow morning.

16 MR. WARING: Thank you, Judge.

17 (Recess taken.)

18 (May 15, 2019.)

19 (In open court, jury present.)

20 THE COURT: Thank you. Good morning, ladies
21 and gentlemen.

22 Before we get started, I was going to ask
23 you, did anybody talk to third parties? Anybody
24 deliberated? Anybody done any independent research? Let
25 the record reflect that there were no positive responses.

1 I'm going to send you back to the jury room, and you may
2 resume your deliberations.

3 Mr. Clerk, are the exhibits already back
4 there? The exhibits are in the jury room, so, Madame
5 Forelady, take your jury back and resume your
6 deliberations.)

7 (At 9:13 a.m., jury resumes deliberations.)

8 Okay. Anything from the State before we go
9 into recess?

10 MR. WARING: No, Your Honor.

11 THE COURT: Anything from the defendant?

12 MR. WEHRMAN: No, Your Honor.

13 THE COURT: All right. We'll be back in
14 recess in this case.

15 MR. WARING: Thank you, Judge.

16 (Recess taken.)

17 (At 9:35, in open court, jury present.)

18 THE COURT: Madame Forelady, has the jury
19 reached a verdict?

20 THE FORELADY: Yes, sir.

21 THE COURT: Would you hand that to the
22 bailiff, please.

23 THE CLERK: The case of South Carolina vs.
24 Jamaa Washington, we the jury unanimously find the
25 defendant on indictment number 2017-GS-10-0651 the

1 defendant, Jamaa Washington, guilty.

2 On indictment number 2017-GS-10-0650, we the
3 jury unanimously find the defendant on indictment numbers
4 2017-GS-10-0650 that defendant, Jamaa Washington, guilty
5 of possession of a weapon during the commission of a
6 violent crime, and it's signed and dated by the
7 foreperson.

8 THE COURT: Poll the jury, please.

9 Ladies and gentlemen, if that accurately
10 reflects your verdict, please raise your right hand.

11 Thank you.

12 (All jurors comply.)

13 Is there anything from either side before I
14 dismiss the jury?

15 MR. WARING: No, Your Honor.

16 MR. WEHRMAN: Your Honor, I would ask that
17 they be individually polled.

18 THE COURT: All right. If you will poll
19 them.

20 THE CLERK: Ms. Foreperson, ladies and
21 gentlemen of the jury, if this is your verdict, please
22 raise your right hand, and I'm going to ask you two
23 questions. Ladies and gentlemen, I'm going to ask you
24 each two questions: Is this your verdict, and is it
25 still your verdict? Please answer each question.

1 appropriately, also please stand when I call your name.

2 (Whereupon, all jurors were polled and
3 indicated their agreement with the verdicts.)

4 THE COURT: All right. Anything further for
5 the jury?

6 MR. WARING: Nothing from the, State Your
7 Honor.

8 MR. WEHRMAN: No, Your Honor.

9 THE COURT: Ladies and gentlemen: Thank you
10 for your service. That will conclude your service as
11 jurors this week. If you have any questions about work
12 excuses or anything else regarding your service, you can
13 go by the clerk's office and they'll provide you with
14 that documentation. Jury service is a very important
15 part of our system. Our judicial system could not
16 function without our citizens serving, and your service
17 is appreciated. You're now excused.

18 Let the State prepare a sentencing sheets,
19 and I'll then hear from anything from the State. I
20 understand he said he didn't want to participate, but the
21 victim has a right to be heard if he would like to.

22 MR. WARING: I don't believe he's here, Your
23 Honor.

24 THE COURT: I'll be happy to hear anything
25 he'd like to say. Again, he has the right not to

1 participate, but he does have a right to be heard, and
2 then I'm going to turn it over to Mr. Wehrman and
3 anything the defense would like to present.

4 Let's just take a break while you collect
5 your thoughts and anything you'd like to put down.

6 MR. WARING: Thank you, Judge.

7 (Recess taken.)

8 THE COURT: All right. Are we ready?

9 MR. WARING: Yes. Would you like the
10 sentencing sheets?

11 THE COURT: Yes.

12 All right. If you would stand and come
13 forward. Let me hear from the State first, prior record,
14 any other aspects of the case that you'd like to mention,
15 any -- again, any input from the victim, if there is any.

16 MR. WARING: Yes, Your Honor. For starters,
17 he does have a juvenile record which does contain false
18 information to police, some burglary, other miscellaneous
19 crimes, Your Honor; petit larceny on there.

20 Adult record, disturbing schools, false
21 information, which stemmed from this incident when he got
22 pulled over a few weeks later and gave a fake name, and
23 then the violation of the beginner's permit, Your Honor.
24 He does have an additional pending unlawful carry of a
25 pistol after he got picked up on this in July of 2017.

1 He was arrested a few months later in October for
2 unlawful carry of a pistol, so that is still pending,
3 Your Honor.

4 Regarding the case itself, I think those
5 videos were kind of telling in that they don't indicate
6 any remorse for what was done to the victim in this case.
7 He did everything he could to make sure that that victim
8 did not get his day in court, that he changed his story
9 or otherwise did not answer questions, did everything to
10 influence his mother to make sure that she didn't testify
11 truthfully or otherwise didn't show up for court, and,
12 again, as I stated in trial, I don't envy the mother's
13 position, the victim's position. It's a tough case all
14 around for everybody, and I don't fault anybody for the
15 way they acted.

16 Your Honor, there was never any concern for
17 the actual victim's concerns. He was -- and in the most
18 impossible position. There was never any concern for his
19 feelings, his safety; it was more of how can I get out of
20 this situation, not about what can I do to, you know,
21 repay my debt to you? How can I make this up to you?

22 Your Honor, the defense during the trial
23 tried to suggest that these other shootings with the gun
24 that was linked to these other shell casings that somehow
25 somebody else did those and therefore that individual or

1 somebody else probably did the shooting too. I would
2 argue that at this moment now that he's been convicted
3 for possessing that gun that that high correlation
4 confidence means that he's probably the most number one
5 suspect for those shootings at this time.

6 Your Honor, he was offered a reasonable deal
7 of ABHAN with ten years on this. I get no pleasure in
8 asking for a sentence like this, but I think, you know,
9 the defense brought up that area is a dangerous area.
10 There's lots of shootings, a lot of bad guys. He even
11 brought up, defense brought out, the defendant was
12 hanging out with a guy who shot him in the head, and his
13 friend had got shot the week prior or sometime leading up
14 to the incident.

15 I think this should serve as a message to the
16 streets, that you can't do that, and, Your Honor, we'd
17 ask for a sentence somewhere in the range of 15 to
18 25 years because I think -- he almost killed the victim.
19 There needs to be some repercussions for that. There
20 needs to be a message to the streets that you can't do
21 that and get away with it, strong arm victims into not
22 testifying.

23 THE COURT: Okay. Thank you, Mr. Waring.
24 Any other persons on behalf of the State?

25 MR. WARING: No, Your Honor. The victim --

1 THE COURT: I heard what he said earlier. I
2 just ask that for the record, he does have a right to be
3 here.

4 MR. WARING: Understood.

5 THE COURT: All right. Mr. Wehrman?

6 MR. WEHRMAN: Thank you, Your Honor.

7 I have to take some issue with a few things
8 said by the State off the bat, Your Honor, and first is
9 the suggestion that we have strong armed Timothy Haynes
10 into anything. I mean, he has not wanted to pursue this
11 charge since October 26, 2017, and probably before that.
12 That's when his drop charge form was signed. Many of
13 those videos were from -- postdating that time, and the
14 conversation you saw on those videos, I didn't get the
15 sense that -- Jamaa wasn't saying anything at all. He
16 was sort of hanging his head and being very solemn is.
17 And we know there have to be consequences for a verdict,
18 and we did disagree with the verdict. Under the State's
19 view of the facts, I still don't think that shows no
20 remorse. I think that, you know, even under that view of
21 the facts, that was a pretty solemn conversation between
22 those two, so I think the idea of victim intimidation
23 from our side is quite the opposite. I think the State
24 put the victim through the trial. We did not try to put
25 anyone through a trial here.

1 We were offered ten. It was a negotiated
2 ten, Your Honor, and we never thought that was
3 appropriate, largely because of the family dynamic,
4 largely because of the victim's wishes, and largely
5 because, as far as protecting society, you know, I don't
6 know that 10 years or 15 years or 20 years in an adult
7 facility is going to make Jamaa, you know -- it's going
8 to do much to protect society.

9 I mean, we talk about rehabilitation and that
10 sort of thing, and we think he's got a long life ahead of
11 him. We think he's got some strong family support, and
12 we think there were some influences on any activity he
13 might have been engaged in. We did have an evaluation
14 done that outlines some of his influences, if I might
15 submit that to the Court as a Court's exhibit, and, Your
16 Honor, I highlight influence is not excuses, but flags
17 that there is opportunity for renewal and opportunity for
18 reform and opportunity to restore this person to the
19 person we know he can be. I think we've seen he has a
20 great family and great family support. I think we've
21 heard testimony that suggests that whatever is going on
22 in North Charleston, he didn't want to be a part of that.

23 He was asking his mom to leave North
24 Charleston, and under the State's view and under the
25 jury's view, he did make some choices that were certainly

1 not ideal, but I think he is someone that, given
2 different circumstances, if given another chance, can
3 turn it around, and so I think that those influences,
4 while, again, not excuses, under the jury's view of the
5 facts, are opportunities, and they show that this is not
6 who he is, Your Honor, and while we understand they can't
7 go any less than five, we would ask for less than ten.

8 I think, psychologically speaking, the
9 evaluation showed that there was a lot going on. We
10 talked about him getting shot before. We talked about
11 him trying to get out of it, and I think that he is
12 someone who can turn this around, and I think punishment
13 on him is going to be felt by both him and the victim and
14 the family, and I really do think that retributive
15 justice is not a concern here because of the victim's
16 decision, and restorative, rehabilitative justice can be
17 accomplished with a sentence of less than ten years, Your
18 Honor, and I would suggest closer to five, five-year
19 minimum. And it's a day-for-day five, I would point out,
20 given it's the possession charge that pretty much says
21 it's not a day less, not a day more.

22 THE COURT: Do you have any family members,
23 anyone that wishes to speak on behalf of the defendant?

24 MR. WEHRMAN: I would ask Ms. Powell to
25 speak. I can also tell you he's done 600 days.

1 THE COURT: That was going to be my next
2 question, how much time has he served.

3 Yes, ma'am, if you want to come forward so we
4 can hear you. State your name for the record.

5 THE WITNESS: I'm Tanisha Powell, Jamaa's
6 mom. First and foremost, him and Timothy, he's not here,
7 but can he speak, or can he call or whatever and give his
8 input before --

9 THE COURT: Well, ma'am, that's why I was
10 asking the solicitor. This is his opportunity now to
11 speak. If there is any letter or message he sent, I'll
12 be happy to look at it, but I have to look at it now.

13 THE WITNESS: I can call him. He just missed
14 work so --

15 THE COURT: I heard what he had to say in his
16 testimony.

17 THE WITNESS: But I mean as, like, ending
18 remarks.

19 THE COURT: Well, is there anything you would
20 like to relay on his behalf?

21 THE WITNESS: He doesn't want Jamaa
22 sentenced. Like he said in the video, he was given a
23 second chance, and I know you guys don't know my son, but
24 he's not, you know, an animal. Half of the video that
25 the solicitors show, like the 911 call, he didn't even

1 finish the video where Jamaa calmed down, so it looked
2 like I'm going to stop the video at the point where he
3 was yelling.

4 The rest of it, I never hung up the phone
5 until the end. I never hung up the phone until after the
6 shots were fired or whatever, but he's 20. This,
7 happened, so-called, when he was 18, and I still think he
8 has a chance. He's always had family support. He has
9 his friends back there. His dad is back in his life. He
10 has a sister and another sister, and he's not a bad
11 person. And, like I said, y'all wouldn't know that
12 because you have to listen to both sides. He was on the
13 say to graduating high school. He asked me to move. I
14 couldn't do it. You know, I couldn't do it, so like Mr.
15 Wehrman said, if you can show mercy and give him the
16 least amount of time, get him rehabilitated, let him
17 finish school or whatever it is he has to do.

18 MR. WEHRMAN: Your Honor, one more point of
19 concern. As far as these other shootings and unproven
20 cases, I do think it would be inappropriate to elevate
21 his sentence based upon what is not even probable causes
22 in some of these cases because they haven't been brought
23 and what is at most probable cause in a case that hasn't
24 resulted in a conviction yet, so if the State wants to
25 pursue those charges, I'm sure that's something that they

1 are able to do, but at this point, I don't think that
2 it's appropriate to enhance his sentence, and I do feel
3 that anything over ten, since that was negotiated, would
4 be sort of a punishment for taking this to trial and
5 exercising these rights, so those are some other
6 concerns, but I do think the main concern is this family
7 dynamic that we've heard so much about.

8 As far as statements from Timothy Haynes, I
9 don't know if it went into evidence, but I could also
10 submit as a Court's exhibit just his statement, his
11 written drop charge form. I think --

12 MR. WARING: We've already seen it.

13 THE WITNESS: And he felt like the
14 solicitor's office intimidated, or tried to intimidate
15 him more than Jamaa, like.

16 THE COURT: Now, tell me about the gunshot
17 wound that he suffered.

18 THE WITNESS: He suffered a gunshot wound in
19 the back of the head. I rushed him to the hospital, and
20 they had to put staples in the back,,and I remember him
21 telling me after that happened he changed. Like, I
22 remember him telling me it changed him, and I don't know
23 how, maybe PTSD, and I just remember him telling me at
24 that time -- I know he was in a lot of pain, and I know
25 when they did the staples, they didn't give him any

1 numbing medication or anything, but he told me maybe
2 months -- maybe about six months later that it changed
3 him, and I don't know if he could explain what that
4 change was, but he told me that at the time.

5 THE COURT: Thank you, ma'am.

6 THE WITNESS: You're welcome.

7 THE COURT: All right. Mr. Washington, you
8 are facing significant jail time here on these two
9 charges. I want to hear from you. I want to know what
10 happened here. So, you were convicted, so I want to
11 know, from you, why you were in this position. What was
12 going on?

13 THE DEFENDANT: Just --

14 MS. POWELL: I feel like he was threatened, I
15 really do, because he never knew -- he never disrespected
16 me, you know, growing up. You have little arguments with
17 your children, but as far as him yelling or whatever, I
18 just feel like he was threatened and didn't want to tell
19 me, and the person on the video whose gun he said it was,
20 he's dead. He's dead now, and I just feel like he was
21 threatening, and I don't think he wanted to tell me that
22 as his mom because he's the man now or whatever.

23 THE COURT: Well, apparently you were very
24 concerned about that gun.

25 MS. POWELL: Yes.

1 THE COURT: And the person that owned it is
2 dead?

3 MS. POWELL: Yes, he's dead.

4 THE COURT: Mr. Washington, how did you get
5 mixed up with these people?

6 THE DEFENDANT: Through the neighborhood.

7 THE COURT: And what were you going to do
8 with that gun?

9 MS. POWELL: Return it. It wasn't even his
10 gun --

11 THE COURT: I want to hear from
12 Mr. Washington. What were you going to do with a gun?

13 THE DEFENDANT: I was going to give it back.

14 THE COURT: And I saw it in the report. Now,
15 you were about to graduate. How much further did you
16 have to go?

17 THE DEFENDANT: I was in 11th grade.

18 THE COURT: So you had another year of high
19 school?

20 THE DEFENDANT: Yes.

21 THE COURT: Okay. And you're about to turn
22 21?

23 THE DEFENDANT: Yes, in August.

24 THE COURT: What is your plan? When you get
25 whatever time you get out of this, when you get that

1 finished, what is your plan? What do you want to do with
2 your life?

3 THE DEFENDANT: Work, for the rest of my
4 life -- I just want to be passing.

5 MS. POWELL: He thought about Job Corps.

6 THE COURT: And your little sister was six
7 years old at this time?

8 THE DEFENDANT: Yes.

9 MS. POWELL: She loves him. She really --

10 THE COURT: I'm sure you love your little
11 sister too, but a child in the middle of all of those
12 things -- what if one of those bullets had ricocheted
13 and hit your sister? I shudder to think what could have
14 happened here. You had other people around.

15 Now, I looked in the report. You worked --
16 it's some restaurant jobs. What kind of work do you plan
17 on doing? What do you want to do for your career?

18 THE DEFENDANT: I want to be a mechanic of
19 some sort.

20 MS. POWELL: Like Timothy. He talked about
21 welding, and he likes computers also, and as far as that
22 gun goes, somebody else came to the house and confronted
23 him, but --

24 MR. WEHRMAN: Your Honor, I can say that we
25 have real concerns of explanations, of going into things

1 too much that are maybe not in his best interest, even
2 if --

3 THE COURT: I understand, and, again, I'm not
4 giving any weight or any consideration to potential other
5 charges because he hasn't been charged with anything, and
6 there hasn't been anything definite there. So I'm
7 certainly not going to punish him for something that
8 there may be some innuendo out there, so I'm basing it --
9 we got a gun in evidence that was not used in this
10 incident but obviously was the source of this whole
11 dispute, and that was the person is dead that owned this
12 weapon?

13 MR. WARING: My understanding is the person
14 that owned that gun has multiple pending charges and is
15 alive.

16 MR. WEHRMAN: Your Honor, I can clarify this,
17 but I would like to do it off the record.

18 THE COURT: Okay. From what I heard, the
19 testimony, the gun was not stolen?

20 MR. WARING: That's correct, Your Honor.

21 THE COURT: Okay.

22 MR. WARING: Your Honor, if we can approach,
23 I think I can make a little bit of clarification.

24 THE COURT: Okay. I'll be happy to hear from
25 the attorneys.

1 (Discussion held at sidebar.)

2 THE COURT: Mr. Washington, is there anything
3 else you would like to tell me?

4 THE DEFENDANT: Can we call the victim to say
5 something?

6 THE COURT: He's already declined to be here
7 today, but I'm taking note that he did not want this
8 charge pressed. He also testified that you and he have a
9 good relationship, and is there anything else that he's
10 relayed to you?

11 MS. POWELL: He just said he doesn't want any
12 charges, you know. He feels like Jamaa is a good person
13 and that he can do good when he gets out, and, like I
14 said, he was one of the people that suggested Job Corps
15 and taking up a trade with him and getting a job where he
16 is and so on and so forth because he's young.

17 THE COURT: Okay. Okay. Anything else,
18 Mr. Washington?

19 THE DEFENDANT: No, sir.

20 THE COURT: Okay.

21 Mr. Washington, I've taken into account your
22 age, taken into account the circumstances and also the
23 wishes of the victim; however, I also have to take into
24 account the seriousness of the crime you committed and
25 the potential danger to the community and to your family

1 members. Firearms get discharged, children are around,
2 and parents and neighbors, and it's a serious matter, but
3 I am taking into account all of the circumstances, and
4 you are facing a tremendous amount of time.

5 So this is what I'm going to do: On
6 2017-GS-10-06451, the defendant will be confined to the
7 Department of Corrections for a term of seven years, and
8 on 2017-GS-10-06450, you'll be confined to the Department
9 of Corrections for a term of five years consecutive. He
10 gets credit for 600 days time served.

11 So serve your time. Make use of the time
12 that you're in the Department of Corrections. You're a
13 young man. You've got your life ahead of you. Get your
14 GED while you're in the Department of Corrections so that
15 when you get out you'll have a skill, you'll have a
16 marketable skill. They'll train you, and it's only if
17 you make use of it. You'll still be a relatively young
18 man when you get out.

19 Obviously, your mama loves you very much.
20 She wouldn't be here if she did not. This is a very
21 unpleasant place to be, as you can see, and no parent
22 wants to go through what your mother has gone through
23 this week. This is a tragic thing, so take advantage of
24 the time. And you're at a crossroads in your life, so
25 just choose the right path next time.

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Good luck to you.

- - -

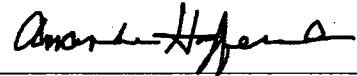
(Whereupon, the proceedings were concluded.)

- - -

I, the undersigned, Amanda Kelly Haffenden, RPR, CRR, Circuit Court Reporter for the Ninth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Circuit Court for Charleston County, South Carolina, on the 14th and 15th of May 2019.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

August 18, 2019



Circuit Court Reporter

330

Charleston County EMS

Patient Care Record

Name: HAYNES, TIMOTHY

Incident #: 17-0042339

Date: 06/27/2017

Patient 1 of 1

Patient Information				Clinical Impression			
Last	HAYNES	Address	ELBA DR	Primary Impression	Traumatic injury		
First	TIMOTHY	Address 2		Secondary Impression			
Middle	T	City	N CHARLESTON	Protocol Used	Multiple Trauma		
Gender	Male	State	SC	Anatomic Position	Extremity-Lower		
DOB		Zip	29418	Chief Complaint	GSW		
Age	34 Yrs, 10 Months, 6 Days	Country	US	Duration	10	Units	Minutes
Weight	260.0lbs - 117.9kg	Tel		Secondary Complaint			
Pedi Color		Physician		Duration		Units	
SSN		Ethnicity	Not Hispanic or Latino	Patient's Level of Distress	Moderate		
Race	Black or African American			Signs & Symptoms	Wound - Leg		
Advance Directive	None			Injury	Firearm Injury (Assault) - Firearm Injury (Assault) - Home - 06/27/2017		
Resident Status				Medical/Trauma	Trauma		
				Barriers of Care	None		
				Alcohol/Drugs	None		
				Pregnancy			

Medication/Allergies/History	
Medications	Denies
Allergies	Aspirin
History	Other

Vital Signs															
Time	AVPU	Side	POS	BP	Pulse	RR	SPO2	ETCO2	CO	BG	Temp	Pain	GCS(E+V+M)/Qualifier	RTS	PTS
09:00	A		Stand	/	100 R	24 R	98 Rm					8	15=4+5+6		
09:09	A		Lay	149/74 A	87	17 R	97 Rm					8			
09:17	A		Lay	147/87 A	78	17 R	97					4	15=4+5+6	12	

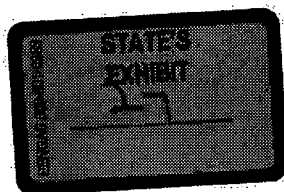
ECG		
Time	3-Lead ECG	12-Lead ECG
09:09	Sinus Rhythm	
09:17	Sinus Rhythm	

Flow Chart			
Time	Treatment	Description	Provider
09:04	IV Therapy	18 ga; Antecubital-Right; Normal Saline; Total Fluid 10 ml; Patient Response: Improved; Successful;	ALVAREZ, DIANE
09:06	IV Bolus	Antecubital-Right; Normal Saline; Total Fluid 250 ml; Patient Response: Improved; Successful;	ALVAREZ, DIANE
09:10	Fentanyl	150 mcg; Intravenous; Patient Response: Improved;	ALVAREZ, DIANE

Initial Assessment			
Category	Comments	Abnormalities	
Mental Status		Mental Status	+ Event Oriented, Person Oriented, Place Oriented, Time Oriented
Skin		Skin	Not Assessed
HEENT		Head/Face	Not Assessed
		Eyes	Not Assessed
		Neck/Airway	Not Assessed
Chest		Chest	Not Assessed
		Heart Sounds	Not Assessed
		Lung Sounds	Not Assessed
Abdomen		General	Not Assessed
		Left Upper	Not Assessed
		Right Upper	Not Assessed
		Left Lower	Not Assessed
		Right Lower	Not Assessed
Back		Cervical	Not Assessed
		Thoracic	Not Assessed
		Lumbar/Sacral	Not Assessed
Pelvis/GU/GI		Pelvis/GU/GI	Not Assessed

Hospital Chart Number: 1105619106

Page 1 of 6



06/27/2017 18:52:16
 PCRID: b2f436a4-7c92-40f4-8d5c-a79f0097bab4
 Electronically Signed by: ALVAREZ, DIANE
 Template Version: PCR-WEB-1.1.8
 Data Version: 00223-00000000A33D90D0



Name: HAYNES, TIMOTHY

Incident #: 17-0042339

Date: 06/27/2017

Patient 1 of 1

Initial Assessment			
Category	Comments	Abnormalities	
Extremities		Left Arm	Not Assessed
		Right Arm	Not Assessed
		Left Leg	+ Edema, Other
		Right Leg	+ Edema, Other
		Pulse	Not Assessed
		Capillary Refill	Not Assessed
Neurological		Neurological	Not Assessed

Assessment Time: 06/27/2017 08:58:00

Narrative	
Medic 2 dispatched to residential area for 34yr/o male with CC: GSW.	
Pt found being ambulating with much assistance (by others) from backyard down the driveway toward ambulance with family members, friends, and law on scene.	
Pt states he was trying to mentor significant other's son but when he turned to walk away he was shot in the back. Pt insists in laying in prone position for position of comfort which allows EMS to apply direct pressure with trauma dressings. Pt appears to have three GSWs - two in left thigh and one in right thigh. There does not appear to be any exit wounds. Pt describes pain as 8/10. Pt denies any other injuries. Pt denies LOC, neck or back pain after being shot. Pt is prepared for transport to MUSC.	
Objective: GCS-15, respirations-20, HR-100.	
Assessment: traumatic injury.	
Protocols/guidelines; vitals, IV; fluid bolus; bleeding control, fentanyl.	
Pt care report given to RN, Pt moved to ER bed via 5-person drawsheet, Pt care transferred without incident.	
7/2/2017 06:55:47 AM ALVAREZ, DIANE. As noted in the flow chart, Pt was to be administered (max dose of) 150 mcgs of Fentanyl for pain management (i.e. in two administrations). However, Pt was only administered 75 mcgs of Fentanyl. Thus, it should be noted that only 25 mcgs of Fentanyl was wasted by Erica, Rn at MUSC, not 50mcgs.	

Specialty Patient - Spinal Immobilization					
Immobilization Recommended?	Altered Mental Status	Evidence of Alcohol/Drug Impairment	Distracting Injury	Neurologic Deficit	Spinal Pain/Tenderness
Yes	No	No	Yes	No	No

Incident Details		Destination Details		Incident Times	
Location Type	Other Specified Place	Disposition	Transported Lights/Siren	PSAP Call	
Location		Transport Due To	Protocol	Dispatch Notified	
Address		Transported To	MEDICAL UNIVERSITY HOSPITAL	Call Received	08:52:59
Address 2		Requested By	Family	Dispatched	08:53:26
		Destination	Hospital ER	En Route	08:53:26
City	North Charleston			Resp on Scene	
County	Charleston	Address	169 Ashley Ave	On Scene	08:55:16
State	SC	Address 2		At Patient	08:58:00
Zip	29405	City	Charleston		
Medic Unit	M02	County	Charleston	Depart Scene	09:08:07
Medic Vehicle	01549	State	South Carolina	At Destination	09:20:53
Run Type	911 Response	Zip	29425	Pt. Transferred	09:23:00
Priority Scene	Lights/Sirens	Zone	District 01	Call Closed	09:50:40
Shift	C Shift	Condition at Destination	Improved	In District	
Zone	District 12	Destination Record #			
Level of Service	Advanced Life Support	Trauma Registry ID			
EMD Complaint	Traumatic Injury	STEMI Registry ID			
EMD Card Number		Stroke Registry ID			

Crew Members		
Personnel	Role	Certification Level
ALVAREZ, DIANE	Lead	Paramedic (South Carolina) - SC034134
Mitchell, Juanita	Driver	EMT (South Carolina) - SC009197

Insurance Details			
Insured's Name	Primary Payer	Dispatch Nature	
Relationship	Medicare	Response Urgency	

Hospital Chart Number: 116519106

Page 2 of 6

06/27/2017 18:52:16

PCRID: b2f436a4-7c92-40f4-8d5c-a79f0097bab4

Electronically Signed by: ALVAREZ, DIANE

Template Version: PCR-WEB-1.1.8

Data Version: 00223-00000000A33D90D0

332



Charleston County EMS

Patient Care Record

Name: HAYNES, TIMOTHY.

Incident #: 17-0042339

Date: 06/27/2017

Patient 1 of 1

Insurance Details

Insured SSN		Medicaid		Job Related Injury	
Insured DOB		Primary Insurance		Employer	
Address1		Policy #		Contact	
Address2		Group #		Phone	
Address3		Secondary Ins			
City		Policy #			
State		Group #			
Zip					
Country					

Mileage		Delays		Additional Agencies
Scene	1.0	Category	Delays	North Charleston Fire Dept
Destination	7.1	Dispatch Delays	None	
Loaded Miles	6.1 geo-verified	Response Delays	None	
Start		Scene Delays	None	
End		Transport Delays	None	
Total Miles		Turn Around Delays	Decontamination	

Personal Items

Item	Given To	Comment
Purse/Wallet		

Patient Transport Details

How was Patient Moved to Ambulance	Assisted/Walk	How was Patient Moved From Ambulance	Stretcher
Patient Position During Transport	Prone	Condition of Patient at Destination	Improved

Transfer Details

PAN		Sending Physician	
PCS		Sending Record #	
ABN		Receiving Physician	
CMS Service Level	ALS, Level 1	Condition Code	
ICD-9 Code		Condition Code Modifier	
Transfer Reason			
Other/Services			
Medical Necessity			

Billing Authorization

Authorization

Billing Authorization

Section I - Patient / Parent of Minor Authorization Signature:

HIPAA and Privacy Practices Acknowledgment: by signing below, the signer acknowledges Charleston County EMS provided a copy of its Notice of Privacy Practices to the patient or other party with instructions to provide the Notice to the patient. *A copy of this form is valid as an original* The patient must sign here unless the patient is physically or mentally incapable of signing. NOTE: if the patient is a minor, the parent or legal guardian should sign in this section. I authorize the submission of a claim to Medicare, Medicaid, or any other payer for any services provided to me by Charleston County Emergency Medical Services now, in the past, or in the future, until such time as I revoke this authorization in writing. I understand that I am financially responsible for the services and supplies provided to me by Charleston County Emergency Medical Services; regardless of my insurance coverage; and in some cases, may be responsible for an amount in addition to that which was paid by my insurance. I agree to immediately remit to Charleston County Emergency Medical Services any payments that I receive directly from insurance or any source whatsoever for the services provided to me and I assign all rights to such payments to Charleston County Emergency Medical Services. I authorize Charleston County Emergency Medical Services to appeal payment denials or other adverse decisions on my behalf. I authorize and direct any holder of medical, insurance, billing or other relevant information about me to release such information to Charleston County Emergency Medical Services and its billing agents, the Centers for Medicare and Medicaid Services; and/or any other payers or insurers, and their respective agents or contractors, as may be necessary to determine these or other benefits payable for any services provided to me by Charleston County Emergency Medical Services, now, in the past, or in the future. I also authorize Charleston County Emergency Medical Services to obtain medical, insurance, billing and other relevant information about me from any party, database or other source that maintains such information.

Signature



Signed On	06/27/2017 09:28:56
Notice of Privacy Practices Provided	
Printed Parent Name	
Billing Authorization	PT Unable to Sign
HIPAA Acknowledgement	PT Unable to Sign

Section II - Authorized Representative Signature

Complete this section only if the patient is physically or mentally unable to sign.
 Authorized representatives include only the following: (Check one)

☐ Patient's Legal Guardian
☐ Patient's Medical Power of Attorney
☐ Relative or other person who receives benefits on behalf of the patient
☐ Relative or other person who arranges treatment or handles the patient's affairs
☐ Representative of an agency or institution that provided care, services or assistance to patient

I am signing on behalf of the patient to authorize the submission of a claim for payment to Medicare, Medicaid, or any other payer for any services provided to the patient by the transporting ambulance service now or in the past or in the future. By signing below, I acknowledge that I am one of the authorized signers listed below. **My signature is not an acceptance of financial responsibility for the services rendered.**

Signature

Signed On	
Notice of Privacy Practices Provided	
Printed Name	
Reason unable to sign	

**Section III - EMS Personnel and Facility Signatures**

Complete this section if the patient was mentally or physically incapable of signing, and no Authorized Representative (section II) was available or willing to sign on behalf of the patient at the time of service.

EMS Personnel Signature

My signature below indicates that, at the time of service, the patient was physically or mentally incapable of signing, and that none of the authorized representatives listed in Section II of this form were available or willing to sign on the patient's behalf. My signature is not an acceptance of financial responsibility for the services rendered.

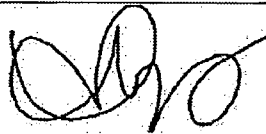
Signed On	
Printed Name	
Reason unable to sign	

Facility Representative Signature

The patient named on this form was received by this facility on the date and at the time indicated and this facility furnished care, services or assistance to the patient. My signature is not an acceptance of financial responsibility for the services rendered.

Signed On	
Notice of Privacy Practices Provided	
Printed Name	
Title of Representative	

Facility Signatures

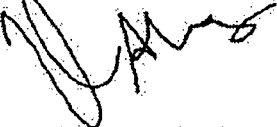
	

Signed On	06/27/2017 09:26:56
Receiving	erica

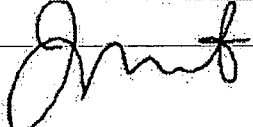
Signed On	
Paperwork Received	

Signed On	
Airway Confirmation	

Provider Signatures



Lead Provider	ALVAREZ, DIANE	Certification Level	Paramedic (South Carolina) - SC034134

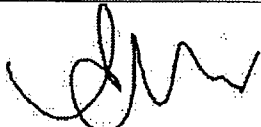


Provider	Mitchell, Juanita	Certification Level	EMT (South Carolina) - SC009197

Provider		Certification Level	

Provider		Certification Level	

Witness To Waste Signatures - 1



Witness Name	erica	Witness Title		Medication	Fentanyl	Amount	50mcgs

TRW/0332474
WITNESSES

North Charleston Police Department

AGENCY CASE NUMBER
2017-019104

ARREST WARRANT NUMBER
2017A1021000494

DATE OF ARREST

07/15/2017

ACTION OF GRAND JURY
TRUE BILL

Foreperson of Grand Jury *W. B. By* NOV 07 2017

VERDICT

Berzina allegne 5/15/19
Foreperson of Petit Jury Date:

DOCKET NO. 2017-GS-10-06450

The State of South Carolina
County of Charleston

COURT OF GENERAL SESSIONS
NOVEMBER TERM 2017

THE STATE

VS.

JAMAA ATO WASHINGTON, JR
B/M DOB: [REDACTED]

Indictment for

POSSESSION OF A WEAPON DURING
THE COMMISSION OF A VIOLENT
CRIME

SC Code: § 16-23-0490
CDR Code: 0549

RECEIVED
MAY 20 2019
SC Court of Appeals

ATTEST: A TRUE COPY
JULIE J. ARMSTRONG (SEAL)
CLERK, C.P., G.S. & P.C.
By *[Signature]*
DEPUTY CLERK

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

INDICTMENT

At a Court of General Sessions, convened November 2017, the Grand Jurors of Charleston County present upon their oath:

POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME

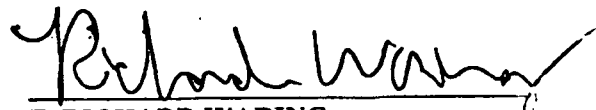
That in Charleston County, South Carolina, on or about June 27, 2017, the Defendant, Jamaa Ato Washington Jr, did possess a firearm or did visibly display what appeared to be a firearm or did visibly display a knife during the commission of or attempted commission of a violent crime, to wit: Attempted Murder, in violation of Section 16-23-490, Code of Laws of South Carolina, (1976, as amended).

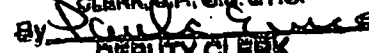
RECEIVED

MAY 20 2019

SC Court of Appeals

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


T. RICHARD WARING
ASSISTANT SOLICITOR

ATTEST: A TRUE COPY
JULIE J. ARMSTRONG (SEAL)
CLERK, S.P., C.S. & F.C.
By 
DEPUTY CLERK

TRW/0332474
WITNESSES

North Charleston Police Department

AGENCY CASE NUMBER
2017-019104

ARREST WARRANT NUMBER
2017A1021000495

DATE OF ARREST

07/15/2017

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

NOV 07 2017

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2017-GS-10-06451

The State of South Carolina
County of Charleston

COURT OF GENERAL SESSIONS
NOVEMBER TERM 2017

THE STATE

VS.

JAMAA ATO WASHINGTON, JR
B/M DOB: [REDACTED]

Indictment for

ATTEMPTED MURDER

SC Code: § 16-03-0029
CDR Code: 3410

FILED

11/8/2017 3:03:46 PM
JULIE J. ARMSTRONG
CLERK OF COURT

RECEIVED

MAY 20 2019

SC Court of Appeals

ATTEST: A TRUE COPY
JULIE J. ARMSTRONG (SEAL)
CLERK, C.P., O.B. & P.C.
By [Signature]
DEPUTY CLERK

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

INDICTMENT

At a Court of General Sessions, convened November 2017, the Grand Jurors of Charleston County present upon their oath:

ATTEMPTED MURDER

That in Charleston County, South Carolina, on or about June 27, 2017, the Defendant, Jamaa Ato Washington Jr, did, with intent to kill and malice aforethought, attempt to kill Timothy Haynes. This is in violation of Section 16-3-29 of the South Carolina Code of Laws (1976) as amended.

RECEIVED

MAY 20 2019

SC Court of Appeals

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



T. RICHARD WARING
ASSISTANT SOLICITOR

ATTEST: A TRUE COPY
JULIE J. ARMSTRONG (SEAL)
CLERK, C.P., G.S. & F.C.
By 
DEPUTY CLERK

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF CHARLESTON
STATE VS.**RECEIVED**INDICTMENT/CASE#: 2017-GS-10-06450
A/W: 2017A1021000494
Date of Offense: 06/27/2017
S.C. Code §: 16-23-0490
CDR Code #: 0549

MAY 20 2018

SC Court of Appeals

SENTENCE SHEET

AKA: JAMAA ATO WASHINGTON, JR

Race: Black/African American Sex: M

DOB: [REDACTED]

Address: [REDACTED]

City, State, Zip: Charleston, SC 29405-7697

DL# 103371256

SID# [REDACTED]

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

☒ CONVICTED OF or☐ PLEADS

TO: Possession Of A Weapon During The Commission Of A Violent Crime

In violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code # 0549

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-...(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 ...)The plea is: ☒ Without Negotiations or Recommendation,☐ Negotiated Sentence,☐ Recommendation by the ...

ATTEST:

T. Richard Waring, Assistant Solicitor SC Bar # 100465

Defendant

Attorney for Defendant

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 Service standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☒ CONSECUTIVE to sentence on: 2017 GS -10-06451☐ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on 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 _____ days/hours Public Service Employment

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____ Obtain GED ☐☐ Set by SCDPPPS _____

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: _____

Recipient: _____

*Fine: _____ \$ _____

§14-1-206 (Assessments 107.5%) \$ _____

§14-1-211 (A)(1)(Conv. Surcharge) \$100 \$ 100.00

§14-1-211 (A)(2)(DUI Surcharge) \$100 \$ _____

§56-5-2995 (DUI Assessment) \$12 \$ _____

§56-1-286 (DUI Breath Test) \$25 \$ _____

Proviso (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/ca \$ _____

3% to County (if paid in installments) \$ \$ 3.75TOTAL \$ 128.75☐ Appointed PD or appointed other counsel,

Proviso requires \$500 be paid to Clerk

during probation and shall be collected before any other fees.

Clerk of Court/Deputy Clerk: MillerCourt Reporter: Amanda HaffnerPresiding Judge: [Signature]Judge Code: 2752Sentence Date: 5-15-19

ATTEST: A TRUE COPY

JULIE J. ARMSTRONG (SEAL)

CLERK, C.P., G.S. & F.C.

By [Signature]
DEPUTY CLERK

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF CHARLESTON

STATE VS.

JAMAA ATO WASHINGTON, JR**RECEIVED**
 INDICTMENT/CASE#: 2017-GS-10-06451
 A/W: 2017A1021000495
 Date of Offense: 06/27/2017
 Code #: 16-03-0029
 CDR Code #: 3410

AKA:

Race: Black/African AmericanSex: M

MAY 20 2019

DOB: [REDACTED]SS#: [REDACTED]Address: [REDACTED]City, State, Zip: N Charleston, SC 29405-7697DL# [REDACTED]SID# SC02216781**SC Court of Appeals****SENTENCE SHEET***CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

☒ CONVICTED OF or☐ PLEADSTO: Attempted MurderIn violation of § 16-03-0029 of the S.C. Code of Laws, bearing CDR Code # 3410☐ NON-VIOLENT☒ VIOLENT☐ SERIOUS☒ MOST SERIOUS☐ Mandatory GPS(CSC w/minor 1st or CSC w/minor 2nd)

The charge is:

☒ As indicted,☐ Lesser Included Offense,☐ Defendant Waives Presentment to Grand Jury,

The plea is:

☒ Without Negotiations or Recommendation,☐ Negotiated Sentence,☐ Recommendation by the State.

ATTEST

 T. Richard Waring, Assistant Solicitor
 SC Bar # 100465

Defendant

Attorney for Defendant

SC Bar # 100

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center, for a determinate term of 7 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 Service standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections. 600 days 715☐ 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 EmploymentPayment Terms: Obtain GED ☐☐ Set by SCDPPPS 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 FundOther: Recipient:

*Fine:

§14-1-206 (Assessments 107.5%)

\$

§14-1-211 (A)(1)(Conv. Surcharge)

\$ 100

§14-1-211 (A)(2)(DUI Surcharge)

\$ 100.00

§56-5-2995 (DUI Assessment)

\$ 12

§56-1-286 (DUI Breath Test)

\$ 25

Proviso (Public Def/Probation)

\$ 500

§14-1-212 (Law Enforce. Funding)

\$ 25.00

§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**\$ 128.75Clerk of Court/Deputy Clerk: [Signature]Court Reporter: Amadea HuffmanPresiding Judge: [Signature]Judge Code: # 2752Sentence Date: 5-6-19

ATTEST: A TRUE COPY

JULIE J. ARMSTRONG (SEAL)

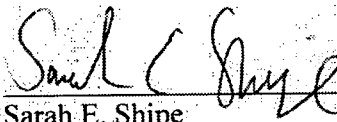
CLERK C.P., G.S. & F.C.

BY [Signature]
DEPUTY CLERK

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,



Sarah E. Shipe
Appellate Defender

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

ATTORNEY FOR APPELLANT

This 3rd day of February, 2020.

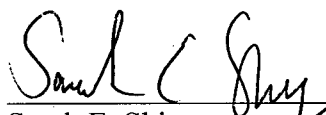
CERTIFICATE OF COUNSEL FOR APPELLANT

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,

RECEIVED

FEB 03 2020


Sarah E. Shipe
Appellate Defender

SC Court of Appeals

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

ATTORNEY FOR APPELLANT

This 3rd day of February, 2020.