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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

On Writ of Certiorari to the Court of Appeals
Appeal from Oconee County
Honorable R. Scott Sprouse, Circuit Court Judge

THE STATE,

Petitioner,

vs.

KENNETH STROTHER COLLINS,

Respondent.

APPENDIX

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Appeal from Oconee County

Honorable R. Scott Sprouse, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

KENNETH STROTHER COLLINS,

APPELLANT

APPELLATE CASE NO. 2017-002282

RECORD ON APPEAL

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APP'X 1

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 2 COUNTY OF OCONEE) IN THE COURT OF GENERAL SESSIONS

3
 4 THE STATE OF SOUTH)
 5 CAROLINA)
 6 -vs-) TRANSCRIPT OF RECORD
 7 KENNETH S. COLLINS,) 2015-GS-37-00349
 8) OCTOBER 17, 2017
 9) WALHALLA, SOUTH CAROLINA
 10 DEFENDANT.

(VOLUME II)

B E F O R E:

THE HONORABLE R. SCOTT SPROUSE, JUDGE. ; And a Jury.

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1 (PROCEEDINGS, OCTOBER 17, 2017)

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

3 Anything we need to put on the record before I
4 bring our jury back in?

5 MS. LANE: Yes, Your Honor.

6 I would like to put on the record the State's
7 offer. The State made an offer to Mr. Collins that expired
8 on October 2nd. The offer was thirty on the twenty and was
9 formally rejected by Mr. Collins.

10 THE COURT: Was that the correct offer, Ms.
11 Simmons?

12 MS. SIMMONS: Yes, Your Honor that offer was
13 extended to Mr. Collins and it was rejected and the case was
14 put on the trial docket on October 2nd without further
15 negotiations.

16 THE COURT: Okay. All right.

17 Do you want to question your client, Ms. Lane?

18 MS. LANE: No, Your Honor.

19 THE COURT: Well, let me just ask.

20 Mr. Collins, is that correct? You rejected the
21 State's offer?

22 THE DEFENDANT: Yes, sir, I did.

23 THE COURT: Okay. All right.

24 It's so noted for the record.

25 Let's bring our jury back in.

1 (The following takes place in the presence of the
2 jury panel)

3 THE COURT: Good morning, ladies and gentlemen.

4 JURY PANEL: (Collectively said good morning).

5 THE COURT: The first order of business would be,
6 Madam Clerk, would you swear our jury?

7 THE CLERK: Yes, sir.

8 Ladies and gentlemen, if you would please stand.
9 Raise your right hand.

10 You shall well and truly try and in true
11 deliverance make between the State of South Carolina and the
12 defendant whom you shall have in charge and a true verdict
13 give according to the law and evidence. I will?

14 JURY PANEL: (Collectively said I will).

15 THE COURT: Please be seated.

16 Ladies and gentlemen, before we start the case let
17 me explain our roles.

18 I am the judge of the law. You will apply the law
19 as I give it to you.

20 You are the judge of the facts. As the judge of
21 the facts you will have the duty to evaluate the evidence
22 that is presented during the trial.

23 Now, evidence is the sworn testimony from the
24 witness stand and any exhibits that are entered into
25 evidence.

1 Each attorney in just a moment is going to have an
2 opportunity to give an opening statement to you. The
3 opening statements will allow them to outline their
4 positions and what evidence that they intend to present to
5 you.

6 Keep in mind the statements of the attorneys are
7 not evidence, but merely tools they use to help you
8 interpret the evidence.

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

13 On the other hand, if the State meets its burden,
14 you will find the defendant guilty.

15 The defendant is presumed innocent and has no
16 burden of proof in this trial.

17 Now, a few more preliminary instructions. This is
18 not an endurance contest. This is not going to be a quick
19 trial, so we will take breaks as we go along. When I send
20 you out for your first break today you will have one order
21 of business, and that will be to elect a foreperson. I
22 think I mentioned that to you yesterday, but if you get in
23 distress and you need a break, let your bailiffs know and we
24 will do our best to accommodate you.

25 So with those instructions --

1 Oh, and there is one other thing. I get this
2 question. I do not allow note taking during jury trials.
3 That varies from judge to judge. I don't allow note taking
4 for the reason that some folks are good note takers and
5 others are not and your deliberations at the end should not
6 be a contest between who took good notes and who did not.

7 And, furthermore, sometimes the demeanor of a
8 witness, how a witness appears, is important and if your
9 head is buried in a note pad you may miss something that's
10 important during a trial, so that's the rationale why I
11 don't allow note taking.

12 So with that we are ready for opening statements.

13 Ms. Simmons?

14 MS. SIMMONS: Thank you, Your Honor.

15 May it please the court?

16 Counsel.

17 MS. SIMMONS: Good morning, ladies and gentlemen.

18 As I told you yesterday, my name is Lindsey
19 Simmons. I'm the deputy solicitor here in Oconee County. I
20 was born and raised here in Walhalla and came back and to
21 practice law in Oconee County in 2005.

22 So the idea of sitting on a jury in a case like
23 this is a daunting task to you at this point. I submit to
24 you that you brought with you today the most important thing
25 that you are going to need in the jury room - your common

1 sense. Your common sense will see you through this process.
2 If you use your common sense, you will find a guilty verdict
3 in this case.

4 The defendant in this case is charged with three
5 things:

6 Murder, which is the unlawful killing of another
7 person with malice aforethought.

8 Possession of a weapon during the commission of a
9 violent crime.

10 South Carolina law distinguishes murder as a
11 violent crime and the weapon in this case is a knife.

12 And kidnapping. Kidnapping is confining, carrying
13 away another person.

14 I'll tell you that kidnapping is not what you
15 probably think in your mind. Someone doesn't have to be
16 bound up and thrown in a truck and carried away. Kidnapping
17 can happen in an instant.

18 And it's my obligation to prove to you beyond a
19 reasonable doubt that this defendant committed these crimes.

20 The judge is going to charge you on reasonable
21 doubt. I would submit to you that reasonable doubt is the
22 kind of doubt that causes a reasonable person to act. It is
23 not beyond all doubt.

24 First of all, I want to tell you who the parties
25 in all of this are. It's going to be a little confusing,

1 but through the course of this case you will get used to
2 everybody.

3 First of all, there is the victim, Jeremy Little.
4 He was staying in an apartment complex in the City of
5 Walhalla called Walhalla Gardens. He was staying there for
6 a short period of time with two girls named Sarah Jaeger and
7 Ashley Settlemyre.

8 Kenneth Collins is the defendant. He is the --
9 was the boyfriend of Megan Crowe. He was staying at [REDACTED]
10 [REDACTED], which is very close to Walhalla
11 Gardens.

12 You are going to hear from multiple parties that
13 the defendant had been using methamphetamine on the day in
14 question and was particularly aggressive and hostile. He is
15 charged with murder.

16 You are going to hear from Megan Crowe. She lived
17 at [REDACTED] where the defendant was staying.
18 Megan has been charged with accessory after the fact of
19 murder for helping clean up the crime scene.

20 You are going to hear from Andy Cobb. Andy Cobb
21 was Megan's best friend since she was twelve years old. He
22 was living at Walhalla Gardens, the apartment complex, with
23 his family. He was charged with accessory after the fact as
24 well for helping to clean up the crime scene.

25 And another party is Chris Burrell. He's the

1 brother of the defendant. He was also staying at [REDACTED]
2 [REDACTED] that evening.

3 Megan and Andy will tell you that they met Jeremy
4 Little at Walhalla Gardens on January 12th of 2015. He was
5 a pretty unassuming figure. Megan will tell you that he was
6 strange and made her uneasy, but nothing in particular stood
7 out about him. He didn't say a whole lot.

8 The defendant bought some methamphetamine from
9 Jeremy. They talked about hanging out later and Jeremy
10 coming to Megan's house to get his money.

11 Jeremy Little did not know these were his final
12 hours. By the early morning hours of January 13th Jeremy
13 Little would be dead, stabbed in the back, beaten, bound
14 alive and shrouded in blankets, rugs, and ropes, lying in a
15 heap on the floor of [REDACTED] begging strangers
16 to help him.

17 Sometime after one a.m. Jeremy arrived at [REDACTED]
18 [REDACTED]. Megan and Andy will tell you things seemed okay.
19 They went outside to a building on the property. When they
20 came back in the house the defendant was in a rage. He was
21 in the kitchen area brandishing a large knife that you are
22 going to see. They will tell you that Jeremy looked scared.
23 The defendant was accusing him, Jeremy, of being a snitch, a
24 law enforcement informant, and threatening to kill him.

25 Megan will tell you she jumped between them,

1 intervened, pulled -- had Jeremy pull up his shirt to show
2 he wasn't wearing a wire. That didn't work and the
3 defendant's rage continued.

4 Andy and Megan will tell you at this point Jeremy
5 ran for the front door to get out of the house and get away.
6 The defendant ran after him. And as Jeremy reached the door
7 the defendant stabbed him in the upper back near his neck.
8 Jeremy fell to the floor screaming he was paralyzed. Megan
9 grabbed him to help. Jeremy told him he had kids. He kept
10 saying he was paralyzed.

11 The defendant walked away briefly and he returned.
12 The rage continued. Both Andy and Megan will tell you that
13 he kicked Jeremy, he stomped his face, and he yelled at him
14 that he was going to die. His blood splattered on the walls
15 and on Megan, who was in the floor with him.

16 Megan was hit in the head and face by the
17 defendant and threatened when she tried to help him.

18 Quite frankly, Andy cried and went and hid in the
19 bathroom.

20 The defendant stabbed the victim in the back again
21 as he lay on the floor and Megan looked on. That wound is
22 in the middle of the back and that was the fatal wound.

23 Dr. Brent Woodard is going to testify to you about
24 the victim's injuries. He's going to tell you that Jeremy
25 did not immediately die.

1 Megan and Andy will also tell you they were
2 subsequently threatened by the defendant, if they didn't
3 help him clean up the crime scene and deal with the body,
4 things were going to be bad for them. They will tell you
5 the defendant made statements to them that made them feel
6 like their lives were in danger.

7 I'm not going to mislead you. There is going to
8 be discrepancies in people's stories. People remember
9 things differently. People perceive things differently.
10 Everyone in this equation was involved in drug activity.
11 What will not be lost is the fact that the defendant
12 murdered Jeremy Little. Megan and Andy will be clear on the
13 point that Jeremy was stabbed by the defendant as he was
14 attempting to flee behind.

15 The evidence you will see, and there is photos
16 that are going to make you uncomfortable, will show you that
17 Jeremy was stripped, blindfolded, gagged and bound and
18 stuffed inside rugs and other materials.

19 They attempted to clean the crime scene.

20 Dr. Brent Woodard is going to tell you that Jeremy
21 was alive after he was bound.

22 The defendant directed that they would hid
23 Jeremy's body in the attic, a task that was never completed
24 because law enforcement arrived.

25 Why did law enforcement get there? Chris Burrell

1 actually fled the scene during all of this, the defendant's
2 brother, and he went to Ashley Settlemyre's house and called
3 911.

4 You are going to hear from Ashley Settlemyre.
5 She's also going to tell you that Sara Jaeger, that was
6 living at her house, made a second 911 call.

7 Megan and Andy are going to clearly tell you that
8 there was never any aggression by Jeremy Little towards them
9 or the defendant. He never brandished a weapon. He never
10 threatened anyone. They are going to tell you that the only
11 time they saw a weapon on the victim was when the defendant
12 pulled a gun off of the victim while he was stripping his
13 clothes of him out of his pocket.

14 You are going to hear from law enforcement. The
15 evidence will show you that they went to [REDACTED] after
16 the 911 call, after the first call. They found nothing on
17 arrival. The lights were dark, the windows shuttered. They
18 had no reason to enter the home.

19 Then the second 911 call came in that was more
20 specific. They went back with the Oconee County Sheriff's
21 Office. They were able to peek through a small hole in the
22 window and they saw blood, and at that point they did force
23 entry. They found Jeremy's body at the bottom of the attic
24 stairs, which had been pulled down.

25 One of the officers was wearing a body camera, and

1 so you are going to be able to see those events through his
2 eyes today.

3 What they didn't find was Megan, Andy, or the
4 defendant at the scene. They cleared every room. They
5 peeked into the attic, looked around, couldn't find anybody.
6 They went about processing the crime scene and identifying
7 suspects.

8 You are going to see the photographs they took
9 from the scene and what evidence they took, but you will
10 also learn that several hours later, during the afternoon of
11 January 13th, as they cleaned up the crime scene, law
12 enforcement made a shocking discovery. Megan fell through
13 the ceiling as she was attempting to climb across the
14 ceiling and get out.

15 Megan will tell you the defendant had agreed to
16 let her go if she would tell law enforcement that she acted
17 alone and stabbed Jeremy after he made sexual advances.
18 Presumably the defendant would escape after Megan took the
19 rap. Megan will tell you she initially told the story to
20 law enforcement, but then later told the truth.

21 The defendant, Megan, and Andy had been hiding
22 under insulation and out of the corner of the attic for
23 several hours.

24 The defendant came down from the attic last. He
25 was armed with Jeremy Little's gun and had it cocked inside

1 his mouth as he went down the attic stairs. He reached for
2 the gun but was ultimately apprehended by law enforcement.
3 He was charged with murder, and then Megan and Andy were
4 charged with accessory.

5 Later that day the defendant was advised of his
6 Miranda Rights and made oral statements to Chief Ronald
7 Wilbanks and Investigator Scott Arnold. They are going to
8 tell you that he made conflicting statements. First of all
9 he said "Jeremy pulled a gun on me, so I stabbed him."

10 Then he said "no, Jeremy pulled a gun on Megan, so
11 I stabbed him."

12 And then he further said after he stabbed Jeremy,
13 Jeremy was making noises and moaning, so he bound him,
14 gagged him and stripped him looking for a wire.

15 He also admitted shrouding him in blankets, rugs,
16 and ropes and dragging him across the house.

17 He concluded his statement to law enforcement by
18 saying he hated snitches and the police. They were one in
19 the same with him.

20 Throughout the evidence I want you to focus on the
21 victim's wounds and where they are, the condition of the
22 body, and the evidence that's presented to you.

23 I anticipate the defense is going to talk to you
24 about self-defense. Once you simply examine the victim's
25 injuries, the defendant's conduct, the defendant's statement

1 and the witness testimony, I'm certain that you will not
2 find this is a case of self-defense.

3 There is only one verdict in this case and only
4 one verdict makes sense and it's guilty.

5 I'm going to have the opportunity at the end of
6 the case to come back to you, talk to you about the law and
7 talk to you about the evidence.

8 And, again, I thank you for your service and thank
9 you for your attention.

10 THE COURT: Ms. Lane.

11 MS. LANE: Good morning, ladies and gentlemen.
12 I'm Angela Lane, attorney for Kenneth Collins, and I'm going
13 to refer to him as Kenny.

14 I too live in Oconee County, native. I don't live
15 here now, but I used to live in Seneca, grew up in Seneca,
16 went to Seneca High School.

17 There is no doubt a difficult trial to sit
18 through. You are going to see things that are touch to see,
19 but I would like for you to keep in mind that out of all the
20 things that you will hear, you will see that the statements
21 were inconsistent, that everyone in this case acted in a way
22 that was perhaps irrational on the night of January 13th.

23 You are going to see, you are going to listen and
24 you are going to understand that Megan Crowe confessed
25 multiple times to killing Jeremy Little. You are going to

1 hear that even after she was away from Kenny Collins, she
2 continued to tell the story that she stabbed Jeremy Little.

3 You are going to see evidence and you are going to
4 understand how the investigation carried out. You will
5 learn that Jeremy Collins (sic) -- I'm sorry, Jeremy Little,
6 was armed when he went to [REDACTED] that
7 night. You will find that that gun was not tested, that we
8 don't know for certain whether that gun was fired.

9 You are going to learn that Megan cleaned the
10 crime scene.

11 You are going to hear that Megan was actually the
12 one who thought that Jeremy Little was a snitch or a
13 confidential informant for the police officer.

14 You are going to hear from Chris Burrell, who will
15 tell you that his brother did absolutely act in
16 self-defense, only after a gun was pulled on him.

17 You will learn a lot of things over the course of
18 this trial, ladies and gentlemen, and I hope that you will
19 take a look at all of the evidence and think that drug use,
20 substance abuse, is not in and of itself a reason to convict
21 someone of murder.

22 I understand that you are going to see all this.
23 I understand that Mr. Collins as -- I'm sorry -- I
24 understand that all of the folks in that house that night
25 had been on drugs. Everyone. Everyone acted irrationally,

1 but what we will see is changed statements through the
2 course of the investigation where everyone points the finger
3 at Kenneth Collins. No one wants to assume responsibility.
4 Everyone wants to point the finger.

5 Take a look at it all, ladies and gentlemen. Take
6 a look at all the evidence, all of the statements. Listen
7 carefully to these witnesses. See what happened throughout
8 the investigation. And I believe when you do that, yes, you
9 will see that this is a case of self-defense. You will see
10 that there was no kidnapping. You will see that Mr. Little,
11 as he approached the door, turned around and drew a weapon
12 after an argument with Kenny Collins. That's what happened
13 that night.

14 Jeremy Little voluntarily went to [REDACTED]
15 [REDACTED] with the hope of continuing to do drugs with Kenny
16 Collins, Megan Crowe, Andy Cobb, and Chris Burrell.

17 You will learn that Andy Cobb and Megan at some
18 point were outside of the house; that during the time they
19 were outside of that house they don't know what happened.
20 They know that when they returned an argument was going on
21 between Kenny Collins and Jeremy Little. You will learn
22 that a fight broke out and at that point Megan stepped
23 between the two gentlemen. Chris Burrell comes up the hall.
24 Jeremy Little heads for the door. Kenny Collins turns
25 around and realizes that Jeremy Little has a gun in hand,

1 points it in his direction. So it was at that time that he
2 grabbed the knife and delivered the stab wound to the upper
3 back.

4 Kenny Collins has maintained from the beginning
5 that he delivered that stab wound. He's also maintained
6 from the beginning that he did not deliver the fatal stab
7 wound.

8 At some point after the first stab wound, the
9 nonfatal stab wound, Kenny Collins went outside of the
10 house. Megan Crowe and Andy Cobb remained inside the house
11 with Jeremy Little.

12 All of this cleaning takes place, bloody clothes
13 being bagged up, but the story that Andy Cobb and Megan
14 Crowe tells is that Kenny Collins made us do all of this,
15 despite the fact that they had the opportunity to leave that
16 house when he wasn't present.

17 When Megan Crowe fell through the ceiling and
18 confessed to stabbing someone, to killing someone in
19 self-defense, she was in the presence of law enforcement.
20 She could have been protected. If she was truly -- if she
21 were truly afraid, that was the time to let someone know
22 that you are being threatened. She did not do that, but she
23 continued to tell the story.

24 When Megan Crowe got to the Oconee Law Enforcement
25 Center she told this story again to two cellmates. She

1 continued this story until sometime later. And, of course,
2 now the story has changed and Kenny Collins did everything.

3 Beyond a reasonable doubt, ladies and gentlemen.
4 After a thorough investigation, if you concede that perhaps
5 Kenny Collins did not deliver that fatal stab wound, and if
6 you concede the stab wound that he did deliver was in
7 response to a weapon, a loaded weapon, being drawn on him,
8 that you will return a verdict that is consistent with
9 self-defense.

10 And you will understand that kidnapping didn't
11 happen. Jeremy Little was not held there against his will.
12 A fight happened. He was upset. He was still angry,
13 perhaps, from that fight, and instead of cooling off and
14 going on, he turned around and brandished the weapon. There
15 is not a whole lot that you can do at that point besides
16 protect yourself, and that's what this case is about.
17 That's what defense hopes that you will see.

18 Thank you, ladies and gentlemen.

19 THE COURT: Ms. Simmons, call your first witness.

20 MS. SIMMONS: The State calls Officer Robbie
21 Johnson.

22 OFFICER ROBBIE JOHNSON, having been first duly
23 sworn, testified as follows:

24 THE WITNESS: I do, ma'am.

25 THE CLERK: Please be seated.

1 DIRECT EXAMINATION BY MS. SIMMONS:

2 Q. Officer Johnson, please state your full name for the
3 record and spell your last name.

4 A. Robert K. Johnson, J-O-H-N-S-O-N.

5 Q. Officer Johnson, where are you employed?

6 A. The Walhalla Police Department.

7 Q. And what's your current assignment?

8 A. Patrolman.

9 Q. And how long have you been employed in law enforcement?

10 A. Since 1992. I became a police officer as a reserve
11 officer in Sumter, South Carolina while I was in the Air
12 Force. And when I retired from the Air Force in 1995 I went
13 full time.

14 Q. How many years were you in the Air Force?

15 A. Twenty-one years, six months.

16 Q. And were you working the night of January 12th and 13th
17 of 2015?

18 A. Yes, ma'am.

19 Q. Were you the shift supervisor at that time?

20 A. Yes, ma'am.

21 Q. Okay. For reference I want to show you what has been
22 pre-marked as State's Exhibit 75. What is this?

23 A. It appears to be the map location of Walhalla Gardens
24 on [REDACTED] and the house at [REDACTED]
25 [REDACTED], which is across the street to Frank Martin. That's

1 where the incident occurred.

2 Q. Does this appear to be a fair and accurate
3 representation of this location?

4 A. Yes, ma'am.

5 MS. SIMMONS: The State would move into evidence
6 State's 75.

7 THE COURT: Any objection?

8 MS. LANE: No objection.

9 THE COURT: State's Exhibit No. 75 would be
10 admitted without objection.

11 (Whereupon, State's Exhibit No. 75 was entered
12 into the record as evidence)

13 BY MS. SIMMONS:

14 Q. Officer Johnson, tell us a little bit about this area.

15 A. [REDACTED] -- the [REDACTED] is
16 actually the last house in the city limits from -- if you go
17 right past the house, you will see the city limit sign
18 there. It's on the left going down [REDACTED]
19 heading towards Playground Road. It's a white house. It
20 sits up on the hill. There is a tree farm between it and
21 the Walhalla Gardens, and there is a little creek that runs
22 right adjacent to the property.

23 Q. Is it fair to say you can pretty easily walk between
24 these two locations?

25 A. Oh, yes, it's less than a half mile, if that.

1 Q. And you were the shift supervisor on January 12th and
2 13th of 2015?

3 A. Yes, ma'am.

4 Q. Did your shift receive a call in the early morning
5 hours of January 13th to respond to [REDACTED]?

6 A. Yes, ma'am. We received a call about five o'clock in
7 the morning stating that -- dispatch stated there was an
8 anonymous caller stating there were shots fired in the area
9 of [REDACTED] and Walhalla Gardens, [REDACTED]
10 [REDACTED]. Then we weren't -- I don't believe we were
11 given the address of [REDACTED] They said it was the last house
12 before the city limits past the bridge and that's the only
13 house there.

14 Q. Is that house in Oconee County?

15 A. Yes, it is.

16 Q. So your shift went out?

17 A. Yes, ma'am.

18 Q. Did they find anything unusual?

19 A. No, ma'am, we found nothing. We circled the area. We
20 drove through -- myself and my partner, we went through the
21 Walhalla Gardens area. We hit [REDACTED] down
22 Frank Martin's house, North Poplar Street back up on Main,
23 South Broad Street or North Broad Street and we did not see
24 anything, did not hear anything, did not observe anything
25 out of the usual for five o'clock in the morning.

1 Q. And [REDACTED] locked up tight?

2 A. Yes, ma'am.

3 Q. Less than an hour later did you receive a second 911
4 call?

5 A. Yes, ma'am. We received a call from dispatch stating
6 that the lady at Walhalla Gardens came over and stated that
7 a friend of hers was at [REDACTED] had been
8 injured, stabbed.

9 And when we got to the area we circled the area. My
10 partner went to the house and looked around the house. He
11 told me that the house was locked up, no lights. The doors
12 and windows were secure, so I went to Walhalla Gardens to
13 talk to the person who called and to find out what was going
14 on. She told me -- I believe her name was Ms. Jaeger,
15 stated that she had received -- somebody had came from the
16 house on [REDACTED], at [REDACTED], stated
17 that a friend of hers, an acquaintance that had been at that
18 house had been stabbed and injured. And he ran -- the
19 person came down and told to her what was going on and
20 that's why she had called.

21 Q. But at that point you knew you had to get back to [REDACTED]
22 [REDACTED]?

23 A. Yes.

24 Q. Okay. When you went back to [REDACTED] did you find
25 anything different on the house or on the doors?

1 A. I didn't. My partner had already walked around the
2 house once. And when he came back the second time he says
3 there was a -- on the front of the house there was a front
4 door -- a porch and a front door on the side of the house.
5 On the right side of the house there is a side door and he
6 said he found a note on the side door that I did not see. I
7 did not go to the house the first time. The second time
8 when I walked around the house he said he saw the note.

9 Q. So you never actually saw the note?

10 A. No, ma'am.

11 Q. And at that point in time did you think it was time to
12 make entry into the home?

13 A. We looked around the house again. There was no lights
14 on. We did not hear any activity in the house, no people
15 shuffling around, no voices, or anything like that.

16 We checked -- myself and three deputies from the
17 sheriff's office came in. They were assisting us. We
18 walked around the house, shined the lights. We checked the
19 outbuildings. No windows were open. No -- the doors were
20 all still secure. We couldn't hear anything.

21 Upon looking on the front porch we saw the storm door
22 and the front door, and next to the storm door was a window
23 that was cracked, and we were trying to pull the blinds down
24 so we could see inside there and we saw a couple of spots of
25 blood and we were trying to make a decision on whether, you

1 know, was that somebody accidentally spilling blood, you
2 know, cut themselves, something like that, or -- and as we
3 looked down further we saw drag marks going down the hallway
4 and that usually -- and when we looked down below the window
5 we saw a pool of blood and that's when we decided to make
6 entry.

7 Q. Was one of those deputies, was he wearing an Axion
8 video?

9 A. Yes, ma'am.

10 Q. How many years did you say that you have been in law
11 enforcement?

12 A. Since 1992.

13 Q. Okay. And the condition of the body you found when you
14 went inside that home, have you ever seen a body handled in
15 this manner where a self-defense claim was made?

16 A. Oh, no, ma'am.

17 Q. Please answer any questions that Ms. Lane may have.

18 A. Hi, ma'am.

19 THE COURT: Ms. Lane, your witness.

20 CROSS EXAMINATION BY MS. LANE:

21 Q. You were the shift supervisor that night, correct?

22 A. Yes, ma'am.

23 Q. And you testified that the call said that shots were
24 fired, is that correct?

25 A. That's what they had told us.

1 Q. And you testified to a note on the door?

2 A. I did not see the note. My partner did.

3 Q. Your partner saw a note on the door.

4 Do you know just by investigative notes what that note
5 said or who that note was written by?

6 A. I'm not exactly sure who it was written by.

7 My partner said it was something like they have left
8 and they have gone to go visit somebody in another city.

9 Q. And you said the windows and the doors were secured, is
10 that correct?

11 A. Yes, ma'am.

12 Q. Photos of the house, around the house, shows many
13 windows with small cracks in them, isn't that right?

14 A. There was one, the front door, the front side window
15 that had about a two or three inch crack in it.

16 Q. Two or three inch crack.

17 And what -- how large would you say the flashlight is
18 that you shined through the window?

19 A. I had -- the head on it, it's about inch and a half,
20 two inches and it's a long flashlight, the one I was using
21 at that time.

22 Q. So it's your testimony that you were able to see down
23 to the floor with that flashlight with a two inch crack in
24 the window?

25 A. Yes, ma'am.

1 Q. Were there any knock on the door?

2 A. Yes, ma'am, we beat on the doors and windows trying to
3 make contact with anybody inside.

4 We didn't know what was inside. All we had the
5 information from the lady from Walhalla Gardens stating
6 somebody was injured in there.

7 Q. Thank you, officer.

8 A. Yes, ma'am. Thank you.

9 THE COURT: Any redirect?

10 MS. SIMMONS: No, Your Honor.

11 THE COURT: All right. Thank you, officer. You
12 can step down.

13 THE WITNESS: Thank you, Your Honor.

14 MS. SIMMONS: Your Honor, the State calls Deputy
15 Justin Pelfrey.

16 THE CLERK: Please come forward.

17 OFFICER JUSTIN PELFREY, having been first duly
18 sworn, testified as follows:

19 THE WITNESS: I do.

20 THE CLERK: Please be seated.

21 DIRECT EXAMINATION BY MS. SIMMONS:

22 Q. Deputy Pelfrey, where are you employed?

23 A. The Oconee County Sheriff's Office.

24 Q. And how many years have you been in law enforcement?

25 A. Approximately four and a half years.

1 Q. Tell me a little bit about your educational background.

2 A. I graduated Oconee Christian Academy. After that I
3 went to the Citadel. I graduated with a Bachelor's in
4 Criminal Justice.

5 Q. And all your time has been with the sheriff's office?

6 A. Yes, ma'am.

7 Q. Were you working the night of January 12th and 13th,
8 2015?

9 A. Yes, ma'am.

10 Q. Did you receive a call in the early morning hours of
11 January 13th to respond to [REDACTED]?

12 A. Yes, ma'am.

13 Q. Is that in Oconee County?

14 A. Yes, ma'am.

15 Q. What information was relayed to you by dispatch?

16 A. Dispatch said we had a call from a female subject who
17 stated that someone had been stabbed at that address on
18 [REDACTED].

19 Q. Were other county officers with you when you responded?

20 A. Yes, ma'am. Deputy Rashad Crooks and Corporal Justin
21 Murphy.

22 Q. Were there any other -- were the Walhalla officers also
23 with you?

24 A. Yes, ma'am.

25 Q. What did you find when you got to the scene on the

1 outside of the house?

2 A. When we got to the house, walked around the house,
3 checking to see if we could see anything from the outside.
4 It appeared all the window shades had been pulled down. All
5 the doors and windows appeared to be locked. You couldn't
6 hear anything inside the residence.

7 Q. All right. Were there any notes on the door that you
8 saw, or anything?

9 A. Yes, there was a note on one of the exterior doors. I
10 can't remember verbatim what it said, but it said that no
11 one was home.

12 Q. I'm going to show you what's been pre-marked as State's
13 Exhibit 43. Do you recognize this?

14 A. Yes, ma'am, that's the note left on the door.

15 Q. Is it altered or tampered with in any way?

16 A. No.

17 MS. SIMMONS: Your Honor, we would move into
18 evidence State's Exhibit 43.

19 THE COURT: Any objection?

20 MS. LANE: No, sir.

21 THE COURT: State's Exhibit No. 43 will be
22 admitted without objection.

23 (Whereupon, State's Exhibit No. 43 was entered
24 into the record as evidence)

25 BY MS. SIMMONS:

1 Q. At what point in time did you decide to make entry?

2 A. While we were looking around the house we found a
3 window that we were able to pry open just a little bit. We
4 were able to stick a flashlight in the door -- or in through
5 the window, through the blinds. While looking around we saw
6 what appeared to be fresh blood stains on the floor. Based
7 off the information we got from dispatch that there was a
8 stabbing at that incident and we didn't know if the victim
9 or suspects were still inside, we decided to make entry
10 based on the exigent circumstances.

11 Q. When you got inside what did you find?

12 A. There appeared to be more blood stains throughout the
13 house. We cleared the residence looking for anybody in the
14 house.

15 We got to the back, one of the back bedrooms, and the
16 door was locked. We made entry into that room where a bunch
17 of clutter in the house and there was an open attic access.
18 Corporal Murphy went up the attic access and when he came
19 back down, he stepped on a rolled up rug. We later
20 discovered that the body was inside the rug wrapped up.

21 Q. And were you wearing a body camera on the night in
22 question?

23 A. Yes, ma'am.

24 Q. Have you reviewed State's Exhibit No. 1 prior to trial?

25 A. Yes, ma'am.

1 Q. And is this your initials and the date?

2 A. Yes, ma'am.

3 Q. When you reviewed this footage, had it been altered or
4 tampered with in any way?

5 A. No, ma'am.

6 MS. SIMMONS: Your Honor, at this point in time
7 the State would move into evidence State's Exhibit 1 and
8 offer it to be published to the jury.

9 THE COURT: Any objection?

10 MS. LANE: NO objection.

11 THE COURT: All right. State's Exhibit No. 1
12 would be admitted without objection.

13 (Whereupon, State's Exhibit No. 1 was entered into
14 the record as evidence)

15 (Whereupon, State's Exhibit No. 1 was played to
16 the jury panel).

17 BY MS. SIMMONS:

18 Q. Deputy Pelfrey, at that point did you reenter the home?

19 A. No, ma'am.

20 Q. And all that was a fair and accurate depiction of what
21 happened that night on January 13th, 2015?

22 A. Yes, ma'am.

23 Q. And in your years of law enforcement have you ever seen
24 someone claim self-defense and dispose of a body in that
25 manner?

1 A. No, ma'am.

2 Q. Please answer any questions Ms. Lane may have.

3 THE COURT: Ms. Lane, your witness.

4 MS. LANE: Thank you, Your Honor.

5 CROSS EXAMINATION BY MS. LANE:

6 Q. Officer, it is a true statement that that video doesn't
7 show who did what, is that correct?

8 A. Yes, ma'am. It shows the body camera.

9 Q. Thank you.

10 MS. SIMMONS: Nothing further.

11 THE COURT: All right. Thank you, officer. You
12 are excused.

13 THE WITNESS: Thank you, Your Honor.

14 MS. SIMMONS: Your Honor, the State calls Megan
15 Crowe.

16 (Off the record).

17 (Back on the record)

18 MS. SIMMONS: I apologize. The witnesses being
19 sequestered, it takes a minute to get them in here.

20 THE CLERK: Ma'am, if you would, please come
21 forward and be sworn.

22 MEGAN CROWE, having been first duly sworn,
23 testified as follows:

24 THE CLERK: Please be seated.

25

1 DIRECT EXAMINATION BY MS. SIMMONS:

2 Q. Megan, if you will please state your full name and
3 spell your last name for the record?

4 A. Megan Crowe, C-R-O-W-E.

5 Q. Ma'am, where do you live?

6 A. I live at [REDACTED].

7 Q. I know that you are soft spoken, so speak up just a
8 little bit.

9 A. [REDACTED], Liberty, South Carolina.

10 Q. Do you have any criminal convictions?

11 A. Possession of stolen goods.

12 Q. And were you charged with your participation in the
13 event that brought us here today?

14 A. Yes, ma'am.

15 Q. What were you charged with?

16 A. Accessory after the fact of murder and kidnapping.

17 Q. Have you been promised anything in return for your
18 testimony today?

19 A. No, ma'am.

20 Q. Were you living at [REDACTED] in Walhalla
21 in January of 2015?

22 A. Yes, ma'am.

23 Q. Is that in Oconee County?

24 A. Yes, ma'am.

25 Q. How do you know the defendant in this case?

- 1 A. He was my boyfriend at the time.
- 2 Q. Okay. And please point out in the courtroom who you
- 3 know as Kenneth Collins.
- 4 A. (Witness pointing at defendant).
- 5 Q. How do you know Andy Cobb?
- 6 A. He was a good friend of mine.
- 7 Q. How long ago a good friend?
- 8 A. Since middle school.
- 9 Q. And how do you know Chris Burrell?
- 10 A. He was Kenny's brother.
- 11 Q. Who was staying at [REDACTED] on January 12th and
- 12 13th of 2015?
- 13 A. Me, Kenny Collins, and Chris Burrell.
- 14 Q. Was Andy a visitor?
- 15 A. Yes, ma'am.
- 16 Q. Were you doing drugs around this time?
- 17 A. Yes, ma'am.
- 18 Q. What kind of drugs were you doing?
- 19 A. Methamphetamine and Klonopin.
- 20 Q. Everybody?
- 21 A. Yes, ma'am.
- 22 Q. How about the defendant, what was he doing?
- 23 A. He was doing methamphetamine and Klonopin.
- 24 Q. What was his demeanor on the dates of January 12th and
- 25 13th of 2015?

1 A. It was completely different from anything I ever seen.
2 He was -- his eyes were just completely discolored, and his
3 attitude, he was -- he was real violent.

4 Q. Tell us where you went on January 12th, during the day.

5 A. We went to Walhalla Gardens.

6 Q. What did you do there?

7 A. We went to Chris Burrell's ex-girlfriend's house and
8 met Jeremy Little and Sarah Jaeger and Ashley Settlemyer.

9 Q. Did you feel threatened by Jeremy Little when you met
10 him?

11 A. No, ma'am.

12 Q. Was he staying at the apartments?

13 A. I think he was visiting with Ashley.

14 Q. What did y'all do while you were at the apartments?

15 A. Kenny bought some drugs from -- some methamphetamine
16 from Jeremy and we were just visiting with Chris. Just
17 visiting Ashley.

18 Q. When you bought some methamphetamine from him, who?

19 A. Kenny had purchased some. I think he paid for a little
20 bit, but he still owed some money on it, and then we left
21 and went down to our house, but Kenny still owed him.

22 Q. And him is Jeremy Little?

23 A. Yes, ma'am.

24 Q. Did you make plans to see Jeremy again that evening?

25 A. Yes, ma'am.

1 Q. What was that about?

2 A. So Kenny could finish paying him off.

3 Q. And what else were y'all going to do?

4 A. Jeremy came down to the house. He was just going to do

5 some more meth with us and just party with us.

6 Q. What time do you estimate that Jeremy showed up that --

7 I guess into the 13th?

8 A. I guess it would be about ten or eleven, maybe.

9 Q. Late?

10 A. Yeah.

11 Q. Jeremy showed up?

12 A. Uh-huh.

13 Q. And tell me what happened when he got there.

14 A. Me and Andy were walking outside because I told Kenny

15 that I didn't trust him, but it was just because he had a

16 gun and -- I mean, I seen him cleaning it at the apartments

17 that day.

18 Q. But he hadn't threatened you?

19 A. No. No threatening way.

20 Q. You didn't -- I'm sorry, I didn't mean to interrupt.

21 You didn't trust him?

22 A. No, ma'am, but we went out to the building and we were

23 just going to wait until Kenny finished paying him off and

24 everything and he was going to leave, but whatever it was --

25 I mean me and Kenny -- or me and Andy were out in the

1 building a couple minutes.

2 So we went back in and whenever we went in Kenny and
3 Jeremy were in there arguing and eventually Kenny said "do
4 you want to die tonight, motherfucker?"

5 MS. LANE: Objection.

6 MS. SIMMONS: She said what the defendant said.

7 THE COURT: Overruled. Overruled.

8 BY MS. SIMMONS:

9 Q. Go ahead and repeat that, Megan.

10 A. Okay.

11 Q. What did Kenny say in there?

12 A. Kenny said "do you want to die tonight motherfucker?"

13 And so whenever -- I figured out what this was all
14 about. Like I had kind of got in the middle of them and it
15 was because Kenny thought that Jeremy had a wire on him, or
16 he kept calling him a snitch. So I asked Jeremy just to
17 raise his shirt. And he raised his shirt and it was nothing
18 there. So when -- I just told him just to leave, just to
19 avoid complication and everything. And he went to go leave
20 and Kenny I guess either didn't believe it that he wasn't a
21 snitch or something, but Kenny stabbed him and he fell onto
22 the carpet.

23 Q. Where did he stab him, what part of the house?

24 A. Oh, in the -- going out of the kitchen into the living
25 room. And Kenny -- I mean, Jeremy fell. And I kind of

1 caught him, whatever, and he was screaming -- wasn't
2 screaming. He was just saying he couldn't move. He felt
3 like he was paralyzed.

4 And then we both got onto the ground and he said
5 that -- he just kept saying "I got two kids. I got two
6 kids, so don't let this happen." And I was trying to talk
7 to him and Kenny said "well, I got two kids too." And then
8 Kenny went into the living room.

9 And while I was sitting there talking to Jeremy and
10 Kenny came out of the other room, he said that -- he seen me
11 and Jeremy were sitting there kind of talking and I guess he
12 got mad, so he came over and he hit me in the head and he
13 kicked Jeremy out of my lap and Jeremy's head hit the door,
14 the door frame, and bounced off and -- I guess he was
15 unconscious or -- I don't know if that's when he died, or
16 what, but -- and then Kenny stabbed him again.

17 And after that he started -- I guess Kenny kind of
18 freaked out of what he had done and he was --

19 And he said he wanted us to go get stuff to like, you
20 know, I guess, tie him up and everything. And Kenny told me
21 to throw him the roll of duct tape, so I threw him a roll of
22 duct tape. I was just doing what he told me to do. Like I
23 just -- I just seen him kill somebody, so I didn't know what
24 he was going to do to me. He told me that I was would you
25 rather die -- I mean, I kind of took that as either I was

1 doing what he said or he was going to kill me. So --

2 And Kenny tied him up and he stripped his clothes off
3 him and that's when he found Jeremy's gun and Kenny just got
4 it and put it on him.

5 And then he told me and Andy to go get the carpet and
6 everything and so we just doing what he said and he rolled
7 him up in the carpet and everything. And then that's when
8 the police came, and so he just made me and Andy move him
9 into the back room and told us to get up in the attic and
10 not say a word.

11 Q. During the course of all this is Jeremy moaning when he
12 was tied up?

13 A. No, after -- after his head hit the door I never -- he
14 never did anything after that.

15 Q. Was he moaning before that?

16 A. Yes, ma'am...

17 Q. What -- so you said the defendant made threats to you?

18 A. Yes, ma'am.

19 Q. Who tied the victim up?

20 A. Kenny.

21 Q. And what was your participation in everything?

22 A. I threw him a roll of duct tape and I went and got
23 the things he told me to get and --

24 The cleaning spot and everything, I don't remember
25 going to get them, but I do remember that I did do whatever

1 he told me to do.

2 Q. At any point did you feel like you could leave?

3 A. No, ma'am.

4 Q. What was Andy doing during all this?

5 A. Andy was -- part of the time he was in the bathroom
6 and -- because I told him just to go and if he could get
7 away, get away, but the rest of the time he was just -- I
8 mean, he was just standing there doing what he was doing,
9 whatever Kenny told him to do and he was terrified.

10 Q. How about Chris?

11 A. Chris, I don't -- I don't remember seeing Chris after
12 the argument that they had. I don't remember seeing him at
13 all.

14 Q. Did the defendant make any phone calls after he had
15 stabbed Jeremy?

16 A. No, ma'am.

17 Q. Were there phones available in the house?

18 A. Kenny had -- we shared a phone at the time and he
19 had -- all's I know is he had one.

20 Q. At any point did he call 911 with the phone that he
21 had?

22 A. No, ma'am.

23 Q. So you and Andy saw -- you saw stab wound -- stab wound
24 one, and where was it?

25 A. It was -- it was right in this area of his back in

1 the -- like kind of rib cage, I guess. And -- well, the
2 first one was up here, and then he second one was in like
3 the rib cage area.

4 Q. And so you saw the knife?

5 A. Yes, ma'am.

6 Q. Megan, I'm going to show you what's been -- what is a
7 photograph -- what has been marked as State's Exhibit 62,
8 which is a photograph of the actual State's Exhibit, which
9 is a photograph of what is in that box.

10 Megan, what is that?

11 A. A knife that Kenny used to stab him with.

12 Q. And how many times did he stab him with that knife?

13 A. Twice.

14 Q. Is this a fair and accurate depiction of that knife?

15 A. Yes, ma'am.

16 Q. How you remember it?

17 A. Yes, ma'am.

18 MS. SIMMONS: Your Honor, at this point in time
19 the State would move in State's 62.

20 THE COURT: Any objection?

21 MS. LANE: No objection.

22 THE COURT: All right, State's Exhibit 62 would be
23 admitted without objection.

24 (Whereupon, State's Exhibit No. 62 was entered
25 into the record as evidence)

1 BY MS. SIMMONS:

2 Q. At any point in time did Jeremy, the victim, threaten
3 any of you?

4 A. No, ma'am.

5 Q. What was his demeanor towards you all?

6 A. He was -- at first he was trying to party with us and
7 then he was just trying to leave.

8 Q. Did you ever -- did you ever see him with a gun at the
9 house?

10 A. No, ma'am, I never seen a gun until Kenny showed me
11 when he took it off of him.

12 Q. Did he ever point a gun at anybody?

13 A. No, ma'am.

14 Q. And I want to show you what's been pre-marked as
15 State's Exhibit 43. Do you recognize this item?

16 A. Yes, ma'am.

17 Q. What is it?

18 A. It's the note Kenny told me to write in case my grandma
19 happened to come to the house.

20 Q. Any alterations been made to that note?

21 A. No, ma'am.

22 MS. SIMMONS: Judge, at this time we would admit
23 and publish State's 43.

24 THE COURT: Any objection?

25 MS. LANE: No objection.

1 THE COURT: State's Exhibit No. 43 would be
2 admitted without objection.

3 (Whereupon, State's Exhibit No. 43 was entered
4 into the record as evidence)

5 BY MS. SIMMONS:

6 Q. Megan, what does that note say and why did you write
7 it?

8 A. It says "grandma, went with Andy to see a friend. I
9 will be back sometime next week. Call me if you need me.
10 Love Megan."

11 And I wrote it because Kenny told me that -- my grandma
12 had a key to the house and Kenny told me that he didn't want
13 nobody coming in the house. If, you know, she happened to
14 stop by, just that she wouldn't come in.

15 Q. So Jeremy was tied up and you guys were trying to get
16 him into the attic, is that correct?

17 A. Yes, ma'am.

18 Q. Did that ever succeed?

19 A. No, ma'am.

20 Q. What happened?

21 A. The law had already started coming in the house. They
22 said -- I remember hearing them say that they seen blood
23 through the window and Kenny started making me and Andy get
24 up in the attic.

25 Q. How long were you in the attic?

1 A. At least -- it felt like days, but I guess about eight
2 hours.

3 Q. What did the defendant tell you in the attic?

4 A. He told me that we weren't -- there was no way we were
5 going to get away with this and that if anything had
6 happened, that I needed to tell them that he tried to rape
7 me or something so that Kenny would have a way to get out of
8 this.

9 Q. Did you indeed tell law enforcement that at some point?

10 A. Yes, ma'am.

11 Q. Did you eventually come out of the attic?

12 A. Yes, ma'am.

13 Q. How did all that happen?

14 A. I started coughing and -- it's all insulation and Kenny
15 tried to cover my mouth and I'm kind of claustrophobic, so
16 it kind of freaked me out a little bit. I told him I'll
17 tell them whatever you want me to, but I just got to get out
18 of here and I have got to go, so I started to go towards the
19 steps and I guess I missed a board and I fell through the
20 ceiling.

21 Q. Where did all the drugs in the house end up?

22 A. They -- some of them were still at the house is what I
23 was told and I don't know if the law got any of them.

24 Q. But you spoke with law enforcement when you got out of
25 the attic?

1 A. Yes, ma'am.

2 Q. Did you initially take responsibility for Jeremy's
3 murder?

4 A. Yes, ma'am.

5 Q. Why did you do that?

6 A. Because I didn't -- I knew Kenny was still up in the
7 attic. I knew he still had the gun. I knew Andy was up
8 there with Kenny and I didn't want anything happening to
9 Andy or anything. I mean, he was my best friend and he
10 didn't need to be there.

11 Q. And why did you maintain that story for a while?

12 A. I guess just I didn't want the law to think I was lying
13 to them, because I didn't know. I was just scared. You
14 know, I -- I mean, my mind wasn't -- it just wasn't coping
15 with everything that happened.

16 Q. Did you eventually on January the 13th tell the truth?

17 A. Yes, ma'am.

18 Q. And the truth is what you told us here today?

19 A. Yes, ma'am.

20 Q. Did you ever brag about your involvement in this case
21 at the jail?

22 A. No, ma'am. No, ma'am.

23 When I -- I got a lawyer first right off the rip and so
24 when I talked to him, he told me that I could not tell --
25 talk to anybody about anything, unless it was him, and if I

1 did I would lose my lawyer and I couldn't afford a lawyer,
2 so I never said anything to anybody about, you know --

3 Q. And to be clear, did Jeremy Little ever act in an
4 aggressive manner or threaten you, Kenny Collins, Andy Cobb?

5 A. No, ma'am.

6 Q. Did he ever threaten Chris Burrell?

7 A. No, ma'am.

8 Q. And who stabbed Jeremy Little?

9 A. Kenny Collins.

10 Q. Now, I'm going to show you some photos that you
11 reviewed prior to today. I want you to talk me through
12 those photos.

13 Megan, I'm going to show you what is marked as State's
14 Exhibits 2, 3, 4, 8, 9, 12, 16, 21, 25, 26, 28, 29, 30, 31,
15 32, 33, 34, 36, 37, 38, 39, 40, 41 and 57.

16 I want you to look at these items again and tell me if
17 they are fair and accurate depictions of the crime scene --
18 if these items are fair and accurate depictions of the crime
19 scene and the evidence, and if number 57 is a fair and
20 accurate depiction of your booking photo on January 13th of
21 2015.

22 Are these the items as you remember them?

23 A. Yes.

24 MS. SIMMONS: Your Honor, at this point the State
25 would move to admit into evidence and publish. Again going

1 through, it's State's 2, 3, 4, 8, 9, 12, 16, 21, 25, 26, 28
2 through 34, State's 36, 37, 38, 39, 40, 41, and 57.

3 THE COURT: Any objection?

4 MS. LANE: No objection.

5 THE COURT: State's 2, 3, 4, 8, 9, 12, 16, 21, 25,
6 26, 28, 29, 30, 31, 32, 33, 34, 36, 37, 38, 39, 40, 41 and
7 57 would all be admitted without objection.

8 (Whereupon, State's Exhibit No. 2 was entered into
9 the record as evidence).

10 (Whereupon, State's Exhibit No. 3 was entered into
11 the record as evidence).

12 (Whereupon, State's Exhibit No. 4 was entered into
13 the record as evidence).

14 (Whereupon, State's Exhibit No. 8 was entered into
15 the record as evidence).

16 (Whereupon, State's Exhibit No. 9 was entered into
17 the record as evidence).

18 (Whereupon, State's Exhibit No. 12 was entered
19 into the record as evidence).

20 (Whereupon, State's Exhibit No. 16 was entered
21 into the record as evidence).

22 (Whereupon, State's Exhibit No. 21 was entered
23 into the record as evidence).

24 (Whereupon, State's Exhibit No. 25 was entered
25 into the record as evidence).

1 (Whereupon, State's Exhibit No. 26 was entered
2 into the record as evidence).

3 (Whereupon, State's Exhibit No. 28 was entered
4 into the record as evidence).

5 (Whereupon, State's Exhibit No. 29 was entered
6 into the record as evidence).

7 (Whereupon, State's Exhibit No. 30 was entered
8 into the record as evidence).

9 (Whereupon, State's Exhibit No. 31 was entered
10 into the record as evidence).

11 (Whereupon, State's Exhibit No. 32 was entered
12 into the record as evidence).

13 (Whereupon, State's Exhibit No. 33 was entered
14 into the record as evidence).

15 (Whereupon, State's Exhibit No. 34 was entered
16 into the record as evidence).

17 (Whereupon, State's Exhibit No. 36 was entered
18 into the record as evidence).

19 (Whereupon, State's Exhibit No. 37 was entered
20 into the record as evidence).

21 (Whereupon, State's Exhibit No. 38 was entered
22 into the record as evidence).

23 (Whereupon, State's Exhibit No. 39 was entered
24 into the record as evidence).

25 (Whereupon, State's Exhibit No. 40 was entered

1 . into the record as evidence).

2 (Whereupon, State's Exhibit No. 41 was entered
3 into the record as evidence).

4 (Whereupon, State's Exhibit No. 57 was entered
5 into the record as evidence)

6 BY MS. SIMMONS:

7 Q. Megan, just briefly I want to show you each one of
8 these pictures and tell me what you see.

9 State's 2?

10 A. The bottom of my driveway.

11 Q. State's 3?

12 A. A picture of my house.

13 Q. State's 4?

14 A. It's the building that me and Andy were in.

15 That's the door Jeremy was trying to get out of.

16 Q. What's on the floor?

17 A. His blood.

18 Q. State's 9?

19 A. That's the living room where Kenny made us change our
20 clothes.

21 Q. State's 12?

22 A. A hallway that he was dragged down.

23 Q. State's 16?

24 A. The couch where Jeremy had fell against where we were
25 sitting.

- 1 Q. What's on the floor?
- 2 A. His blood.
- 3 Q. Megan, State's 21?
- 4 A. That's where Kenny hit his head up against the wall.
- 5 Q. State's 25?
- 6 A. That's the knife.
- 7 Q. What's it in?
- 8 A. The sink that where he had handed it to Andy and said
- 9 he needed to do something with it.
- 10 Q. State's 26?
- 11 A. It's the knife in the sink.
- 12 Q. State's 28?
- 13 A. That's Jeremy's body in the back room.
- 14 Q. State's 29?
- 15 A. That's everything he had Jeremy wrapped up in.
- 16 Q. State's 30?
- 17 A. That's the back room where we went up into the attic.
- 18 Q. State's 31?
- 19 A. Jeremy's body.
- 20 Q. Is that how you remember him looking before he was tied
- 21 up?
- 22 A. Yes, ma'am.
- 23 Q. State's 32?
- 24 A. That's his hands where Kenny tied him and duct taped
- 25 them.

1 Q. Who gave him the duct tape?

2 A. Yes, ma'am.

3 Q. Who did?

4 A. I gave him the duct tape.

5 Q. State's 33?

6 A. That's Jeremy's body in the sleeping bag he had him in.

7 Q. State's 34?

8 A. Jeremy -- that's Jeremy's body in the carpet and
9 everything.

10 Q. State's 36?

11 A. That's his clothes he took off of him.

12 Q. State's 37?

13 A. That's the bag of clothes where he told us to take our
14 clothes off.

15 Q. State's 38?

16 A. That's my pants where Jeremy was laying in my lap.

17 Q. State's 39?

18 A. The bag of clothes.

19 Q. State's 40?

20 A. That's Jeremy's jacket.

21 Q. State's 41?

22 A. That's -- that's the bag of clothes that -- Jeremy's
23 jacket.

24 Q. And State's 57?

25 A. That's my mug shot.

1 Q. Megan, please answer any questions that Ms. Lane may
2 have, okay?

3 A. Yes, ma'am.

4 THE COURT: Ms. Lane, your witness.

5 MS. LANE: Thank you, Your Honor.

6 CROSS EXAMINATION BY MS. LANE:

7 Q. Megan, at some point during that night you went outside
8 with Andy Cobb, is that correct?

9 A. Yes, ma'am, we went out to the building.

10 Q. And you just looked at a photo marked State's 21 and
11 you recognized that that was the building, correct?

12 A. Yes, ma'am.

13 Q. That's where you and Andy Cobb went to, is that right?

14 A. Yes, ma'am.

15 Q. You were out there for some period of time. You were
16 looking for something, is that correct?

17 A. Yes, ma'am.

18 Q. You were looking for Band-Aids?

19 A. I don't remember looking for Band-Aids, but it's
20 possible.

21 Q. And you had cut your wrist, is that correct?

22 A. It's not that I remember, but like I said, it's
23 possible.

24 Q. Did you cut -- you cut your wrist before, is that
25 correct?

1 A. One time before, yes, ma'am.

2 Q. You were gathering up all the cleaner and you have
3 testified that you were doing what Kenny told you to do,
4 right?

5 A. Yes, ma'am.

6 Q. When you fell through the attic at the foot of law
7 enforcement, you immediately confessed to killing Jeremy
8 Little, didn't you?

9 A. Yes, ma'am.

10 Q. Kenny was not there with you at that point, was he? He
11 was still in the attic, wasn't he?

12 A. Yes, ma'am.

13 Q. So you could have been protected by law enforcement
14 officers, but you told them that you killed Jeremy Little,
15 right?

16 A. Yes, ma'am.

17 Q. Isn't it convenient that everything that you did that
18 night Kenny told you to do?

19 A. I don't find it convenient, no.

20 Q. Do you recall taking Jeremy's jacket off?

21 A. No, ma'am.

22 Q. The duct tape, you said Kenny told you to get it, and
23 you are testifying that you were the one who retrieved the
24 duct tape?

25 A. Yes, ma'am.

1 Q. Because Kenny asked you to get it, because you know
2 your fingerprints are on that duck tape, don't you?

3 A. Yes.

4 Q. Not Kenny's, yours?

5 A. Yes, ma'am.

6 Q. So, in fact, you used the duct tape, didn't you?

7 A. No, ma'am.

8 Q. You not only handed it off to Kenny, but you used it?

9 A. No, I threw him the roll of duct tape.

10 I never once tied Jeremy up or done anything to
11 Jeremy's body.

12 Q. When you went to jail after you had fallen out of the
13 attic, you didn't have a lawyer at that point, did you?

14 A. No, ma'am.

15 Q. And you testified that you have never told anyone else
16 that you committed a murder, that you killed Jeremy Little,
17 because your lawyer told you not to talk to anyone else, is
18 that correct?

19 A. Yes, ma'am.

20 Q. But when you went to jail and told your cellmate that
21 you just killed someone --

22 MS. SIMMONS: Objection, hearsay.

23 THE COURT: Overruled.

24 BY MS. LANE:

25 Q. When you went to jail and told your cellmate that you

1 had just stabbed someone, you weren't represented by a
2 lawyer at that time, were you?

3 A. I never told anyone anything. I had dreams that night.
4 The first few nights, the nightmares, and I woke up saying a
5 few things. The guards had to wake me up, but -- I mean, we
6 have all had dreams before and then -- I mean, so --

7 Q. But you testified that you didn't talk -- you didn't
8 tell anyone --

9 A. No, ma'am.

10 Q. -- when your lawyer told you not to, when, in fact, you
11 didn't have a lawyer yet?

12 A. No.

13 Q. Right?

14 A. Yes, ma'am.

15 Q. You also stated that you told law enforcement that you
16 stabbed Jeremy, and you continued with that story because
17 you didn't want law enforcement to think that you were lying
18 to them, right?

19 A. Yes, ma'am.

20 Q. When, in fact, that's exactly what you were doing?

21 A. Yes, ma'am.

22 Q. So your testimony is I lied and I continued to lie so
23 they wouldn't think I was lying, is that fair to say?

24 A. Yes, ma'am.

25 Q. And you mentioned being claustrophobic?

- 1 A. Yes, ma'am.
- 2 Q. But you went up into the attic?
- 3 A. Yes, ma'am.
- 4 Q. You knew that you were claustrophobic before you went
5 up there, didn't you?
- 6 A. Yes, ma'am.
- 7 Q. And Kenny at some point was outside of the house while
8 you and Andy remained in the house, isn't that right?
- 9 A. I don't recall that.
- 10 Q. You recall some things but not others?
- 11 A. Yes, ma'am.
- 12 Q. Didn't you text someone that night and say what's up?
- 13 A. No, ma'am. I never had the phone.
- 14 Q. So, Megan, essentially your testimony is that you
15 retrieved the cleaner, you got the duct tape. You
16 understand that your fingerprints are on the duct tape?
- 17 A. Yes, ma'am.
- 18 Q. You bagged clothes?
- 19 A. I didn't -- no, I didn't bag the clothes. I took the
20 close off and Kenny told me to take them off. I took my
21 clothes off. I never touched -- I never took Jeremy's
22 clothes off or anything.
- 23 Q. You took your clothes off which had the most blood on
24 them, isn't that right?
- 25 A. Yes, ma'am, because he was laying in my lap.

1 Q. And when you were taken out of the house after you had
2 fallen through the attic, you were arrested, you are taken
3 out of the house, didn't you give Kenny a kiss?

4 A. No, ma'am, not that I recall.

5 Well, I made a police to the police and we were
6 separated the whole time.

7 Q. And Kenny didn't ask one of the officers to allow you
8 all to have a kiss before you were separated?

9 A. I don't recall that.

10 Q. You don't recall a lot, do you?

11 A. No, ma'am.

12 Q. You seem to only recall --

13 A. It's traumatic for me.

14 Q. But you recall Kenny telling you to do this and --

15 A. Yes, ma'am.

16 Q. -- telling you to do that?

17 A. Yes, ma'am.

18 Q. In one of your statements you said that Jeremy pulled a
19 gun on you, didn't you?

20 A. I didn't -- that wasn't a written statement of mine,
21 no, ma'am.

22 Q. But you said that to law enforcement, have you not?

23 A. Yes, ma'am.

24 Q. Your written statement is not the only statement that
25 you provided, is it?

1 A. That's -- no, the policeman, but Kenny -- that was what
2 Kenny told me to tell them whenever I was coming out of the
3 attic. That's the only way I could get out of the attic.

4 Q. How long had you been awake when all this happened,
5 Megan?

6 A. For about three days.

7 Q. You were up three days, no sleep. What were you doing
8 those three days?

9 A. I mean, we were just doing what we always did. I
10 mean --

11 Q. Smoking a lot of meth?

12 A. Yes, ma'am.

13 Q. You currently have a charge pending against you for
14 violent crimes, don't you?

15 A. No, ma'am.

16 Q. You don't have a burglary charge pending you?

17 MS. SIMMONS: Objection, Your Honor, irrelevant.

18 THE COURT: Counsel approach.

19 (Whereupon, the lawyers approached the bench for
20 an off-the-record discussion)

21 THE COURT: All right. Madam Bailiff, would you
22 take our jury to the jury room?

23 Ladies and gentlemen of the jury, we are going to
24 take up a matter of law. While we are in this break go
25 ahead and elect your foreperson while you are back there.

1 Write the name down on a note pad.

2 (The following takes place outside the presence of
3 the jury panel)

4 THE COURT: All right. Ms. Simmons, state your
5 objection for the record.

6 MS. SIMMONS: Your Honor, I object to any
7 references that Megan has a pending burglary third, which is
8 nonviolent, and now the jury has been led to believe she has
9 a violent charge pending unrelated to this case. It's
10 extremely prejudicial.

11 THE COURT: Ms. Lane?

12 MS. LANE: Your Honor, I misspoke about the
13 burglary -- the violent offense. I didn't realize it was a
14 burglary third.

15 THE COURT: Okay.

16 All right. Well, I will sustain the objection. I
17 will give a curative instruction when the jury returns.

18 We will take a short break and then we will
19 continue.

20 Ms. Crowe, you are under oath. You cannot discuss
21 your testimony with anyone while we are taking a break.

22 (Whereupon, proceedings were recessed)

23 (Whereupon, proceedings were reconvened)

24 THE COURT: Anything we need to address before we
25 call the jury back in?

1 MS. SIMMONS: Nothing from the State, Your Honor.

2 MS. LANE: Nothing, Your Honor.

3 THE COURT: Okay. Mr. Bailiff, let's get our
4 jury, please.

5 (The following takes place in the presence of the
6 jury panel)

7 THE COURT: Okay. Ladies and gentlemen, the
8 question that was asked directly before your break you will
9 disregard and give that no consideration whatsoever.

10 Ms. Lane, you may proceed with your
11 cross-examination.

12 MS. LANE: Thank you, Your Honor.

13 BY MS. LANE:

14 Q. Do you know Amanda Secrest?

15 A. Yes, ma'am.

16 Q. How do you know her?

17 A. I know her. That's Kenny's stepmom.

18 COURT REPORTER: Speak up, please.

19 BY MS. LANE:

20 Q. And you were friendly with her, weren't you?

21 A. Yes, ma'am.

22 Q. And while you were in jail you exchanged letters with
23 Kenny through Amanda, didn't you?

24 A. No, ma'am.

25 Q. You didn't use false names so that you and Kenny could

1 continue to communicate while you were both in jail?

2 A. No, ma'am.

3 Q. In February you did send a letter to the Department of
4 Corrections to another fellow, didn't you?

5 A. Yes, ma'am.

6 Q. And you weren't supposed to do that, were you?

7 A. I didn't know. I was informed afterwards I wasn't.

8 Q. And you informed this fellow that there were some
9 things going on between you and Kenny and you really wanted
10 him to talk with you, didn't you?

11 A. Who wanted to talk to me?

12 Q. The guy that you wrote the letter to.

13 A. Steven, yes, ma'am.

14 Q. And this was less than a month after --

15 A. Yes, ma'am.

16 Q. -- Jeremy Little's death, isn't that right?

17 A. Yes, ma'am.

18 Q. Thank you, ma'am.

19 MS. LANE: Nothing further, Your Honor.

20 THE COURT: Any redirect?

21 MS. SIMMONS: Nothing further from this witness,
22 Your Honor.

23 We would ask that she not be released from her
24 subpoena.

25 THE COURT: All right.

1 Thank you, ma'am. You can step down. You are
2 still under subpoena and subject to being called.

3 MS. SIMMONS: The State calls Andy Cobb.

4 And, Your Honor, he is located on another floor as
5 well.

6 THE CLERK: Mr. Cobb, if you would, please come
7 forward.

8 ANDY COBB, having been first duly sworn, testified
9 as follows:

10 THE WITNESS: I do.

11 THE CLERK: Please be seated.

12 DIRECT EXAMINATION BY MS. SIMMONS:

13 Q. Good afternoon, Andy.

14 A. Good afternoon.

15 Q. Could you please state your full name and spell your
16 last name for the record? Speak up for me.

17 A. My name is Andy Cobb, Andy Steve Cobb. It's spelled --
18 Andy Steve Cobb. It's spelled C-O-B-B.

19 Q. Andy, how old are you?

20 A. I'm twenty-one years old.

21 Q. What city do you live in?

22 A. Westminster.

23 Q. Do you have any criminal record at all?

24 A. No, ma'am.

25 Q. And what were you charged with for your participation

1 in the event that brought us here today?

2 A. Accessory after the fact.

3 Q. Have you been promised anything in return for your
4 testimony here?

5 A. No, ma'am.

6 Q. Were you known to hang out at [REDACTED]
7 in Walhalla during January of 2015?

8 A. Yes, ma'am.

9 Q. Who lived there?

10 A. Megan and Kenny.

11 Q. How do you know the defendant?

12 A. He was dating Megan for a short time.

13 Q. Could you point out Kenny Collins for me?

14 A. He's right over there.

15 Q. How do you know Megan Crowe?

16 A. I went to school with her, elementary school.

17 Q. Are you still friends with her today?

18 A. Not so much, not as we once were.

19 Q. How do you know Chris Burrell?

20 A. He's brothers to Kenny. I went to school with him too.

21 Q. Were all these people using drugs back in January of
22 2015?

23 A. I would say so, yes.

24 Q. Including you?

25 A. Yes.

1 Q. How about the defendant, what kind of drugs was he
2 using on January 12th and 13th of 2015?

3 A. Marijuana and methamphetamine.

4 Q. What was his demeanor on those two days?

5 A. He was real belligerent and malicious.

6 Q. Tell me on the date of January 12th where were you?

7 A. I was with my mother. We were shopping for groceries.

8 Q. And did you eventually return home?

9 A. I did.

10 Q. Where were you living then?

11 A. At Walhalla Gardens.

12 Q. At Walhalla Gardens, is that where you met Jeremy
13 Little?

14 A. It is.

15 Q. Who was he hanging out with?

16 A. He was visiting Ashley Settlemyre, a neighbor of mine.

17 Q. And did anybody else come and hang out with him?

18 A. No, it was just him.

19 Q. Did Kenny and Megan eventually come up?

20 A. They did.

21 Q. When you were meeting with -- when you met Jeremy, did
22 you feel threatened by him?

23 A. No, not at all.

24 Q. Who was he staying with?

25 A. He was staying with a friend of his.

1 Q. What did y'all do at the apartments?

2 A. We had came by there to purchase marijuana.

3 Q. Who did the defendant purchase drugs from?

4 A. I'm unaware. I don't know.

5 Q. When did you go home?

6 A. I didn't go home. I was arrested.

7 Q. When y'all left Walhalla Gardens, did you plan to see
8 Jeremy again that day?

9 A. I wasn't planning on it, no.

10 Q. What did you do when you got to Megan's house?

11 A. We did a line -- I did a line of meth and we counted
12 change to buy more.

13 Q. And did that line of meth impair you substantially?

14 A. No, not at all.

15 Q. Did Jeremy eventually show up at the house?

16 A. He did.

17 Q. Did you know why he was there at that point?

18 A. He was there to get high with us.

19 Q. Tell me what happened from there when he arrived.

20 A. He showed up. Him and Kenny were kind of friendly with
21 each other. You know, they were shaking hands, being
22 polite, you know, and then me and Megan, we went outside to
23 find Band-Aids. She slit her wrist. And then we came back
24 in and they were arguing.

25 Q. Tell me about this argument.

1 A. They were arguing that -- he was threatening -- that
2 Jeremy was threatening Kenny with a gun, which I didn't see
3 the -- I didn't see the gun.

4 Q. What was Jeremy saying?

5 A. That he didn't know what was going on. He said why --
6 why are we acting like this; why is he being pushed and
7 harassed.

8 Q. Did Jeremy ever reach for anything?

9 A. He reached into his pocket, yes, but to my knowledge
10 that was for the lull.

11 Q. Okay. For those that may not know what the lull is?

12 A. The meth pipe.

13 Q. Tell me how did this argument progress.

14 A. Kenny's argument was that he reached into his pocket to
15 get the gun and then Megan was -- she was worried he was
16 wearing a wire, that he was an informant, so they -- she
17 demanded him expose his skin. He wasn't -- he wasn't wired,
18 so Megan was trying to calm things down and it just -- it
19 didn't happen that way.

20 Q. What happened next?

21 A. There was -- somehow Jeremy made a break for the door
22 and we all proceeded after Kenny, after he -- after Kenny --
23 Jeremy went for the door. Then Kenny followed and we all
24 followed Kenny and that's where Kenny stabbed him at the
25 door.

- 1 Q. What part of his body did he stab him?
- 2 A. In the back. In his back.
- 3 Q. What was Megan screaming at this point?
- 4 A. We were all asking him to stop.
- 5 Q. What kind of things was the defendant stating?
- 6 A. Just cussing him, just calling him an SOB and --
- 7 horrible stuff.
- 8 Q. After that first stab wound where did Jeremy end up?
- 9 A. He laid on the floor right at the door where he was.
- 10 Q. And did anybody try to help him or go over there?
- 11 A. Megan and Kenny were over there.
- 12 Q. Did you ever see the defendant kick Jeremy?
- 13 A. I did.
- 14 Q. Tell me about that.
- 15 A. He stomped him in the face multiple times.
- 16 Q. Would you say Jeremy was defenseless at that point?
- 17 A. He was.
- 18 Q. What was the defendant saying to you?
- 19 A. He didn't say much to me until I went into the
- 20 bathroom. And later he came in and -- he broke the door in
- 21 and he told me that before I got out, after got rid of him,
- 22 that he knew where my family lived and he would kill all of
- 23 us.
- 24 Q. What could you hear while you were locked in the
- 25 bathroom?

1 A. I heard Megan screaming a lot. She was screaming, and
2 Jeremy was begging and pleading, that he had children and
3 that he wanted to be with them. And that's actually what
4 Kenny said. He said "you should have been with your
5 children."

6 Q. Megan screams, how would you characterize them?

7 A. Very loud and bloodcurdling.

8 Q. How did these -- how did the victim end up tied up?

9 A. I'm guessing Megan or Kenny.

10 Q. You weren't there for that?

11 A. I didn't see that.

12 Q. When you came out of the bathroom what were you asked
13 to do?

14 A. Megan had asked me to bag his clothes and wash the
15 knife.

16 Q. What was Kenny doing at this point?

17 A. He was on the phone going -- he was going crazy over
18 the phone.

19 Q. Do you know who he was talking to?

20 A. No.

21 Q. Did he ever call 911, to your knowledge?

22 A. Not to my knowledge, no.

23 Q. Why would you -- why did you help with this?

24 A. Only because Megan had asked.

25 Q. Did you feel threatened by the defendant?

1 A. Very much so.

2 Q. Did you feel free to leave?

3 A. I couldn't leave. They told me I couldn't.

4 Q. How about Chris, where was he during all this?

5 A. He was in the far bedroom where I was, but when the
6 altercation started, he came down the hall and stood there.
7 Pretty much just stood there and was trying -- he was trying
8 to calm it down too, but it was futile. It didn't work.

9 Q. At any point in time did Jeremy, the victim, ever
10 threaten you, Andy, Kenny, Chris?

11 A. No.

12 Q. What was his demeanor towards you?

13 A. He was scared and confused.

14 Q. Did you ever see him point a gun at anyone?

15 A. No, none of us.

16 Q. Did you ever see a gun that came from his person?

17 A. Not until later.

18 Q. When did you see that?

19 A. After Kenny had took it from him.

20 Q. What was his condition at that point?

21 A. He was unconscious.

22 Q. Tell me what you guys did after he was tied up.

23 A. After we -- after we bagged his clothes and took and
24 put the knife in the sink, they proceeded to -- I guess -- I
25 guess clean. They were cleaning with chemicals and house

1 cleaners.

2 Q. What did you end up doing with Jeremy's body?

3 A. It was -- they had pushed it down the hallway to the
4 attic opening.

5 Q. Were you supposed to help get it in the attic?

6 A. We had attempted to hoist him up into the attic but we
7 couldn't move him.

8 Q. How did y'all end up getting in the attic?

9 A. We crawled over him.

10 Q. Why did you guys go in the attic?

11 A. Because the police broke into the door and they all --
12 Megan and Chris said let's go in the attic -- or Megan and
13 Kenny, I'm sorry.

14 Q. So you could hear law enforcement in the house?

15 A. We could.

16 Q. Did the defendant say anything to you while y'all were
17 in the attic?

18 A. Kenny didn't, no.

19 Q. Why did you end up coming out of the attic?

20 A. Megan was -- I'm guessing she was fed up with it. She
21 was really itchy. Her skin was irritated. She wanted to
22 come down, and she proceeded to get up off the beams and her
23 foot fell through, but she pulled herself on up and climbed
24 down.

25 Q. Once you came out of the attic did you talk to law

1 enforcement?

2 A. I did.

3 Q. Have you been truthful with them and truthful here
4 today?

5 A. Yes.

6 Q. To be clear, did Jeremy Little ever act in an
7 aggressive manner towards any person?

8 A. None of us, no.

9 Q. And who stabbed Jeremy Little?

10 A. Kenny Collins.

11 Q. I'm going to show you what has been pre-admitted as.
12 State's Exhibits and I want you to tell me what you see,
13 okay?

14 A. Okay.

15 Q. This is State's Exhibit 62.

16 A. That's the knife.

17 Q. That's the knife you washed in the sink?

18 A. It is.

19 Q. Tell me what I'm seeing here.

20 A. That is the hallway -- or the kitchen leading to the
21 hallway.

22 THE COURT: What number is that?

23 MS. SIMMONS: I'm sorry. It's 12, Your Honor.

24 BY MS. SIMMONS:

25 Q. Tell me what's in the hallway?

1 A. I'm unaware.

2 MS. SIMMONS: Your Honor, may I approach?

3 THE COURT: Yes, ma'am.

4 BY MS. SIMMONS.

5 Q. I know it's hard to see on there. What do you see on
6 the floor?

7 A. Shoes.

8 Q. Do you see anything down the hallway on the floor?

9 A. It appears to be a trail of blood.

10 Q. I'm going to show you State's 16. What do you see
11 there?

12 A. That's the sofa and it was cleaner and then the blood
13 and the sheet.

14 Q. Is that where the stabbing happened?

15 A. That looks like -- is that the bedroom?

16 It looks like the bedroom, but it can't be because --
17 no, that's where it occurred?

18 Q. State's Exhibit 25?

19 A. That's the sink where I washed it.

20 Q. State's 26?

21 A. That's the knife.

22 Q. State's 27?

23 A. That's Jeremy.

24 Q. State's 29?

25 A. That's the carpet he was wrapped up in.

1 Q. State's 30?

2 A. That's the bedroom and the ladder -- or the -- the
3 victim, of course, and the attic chute.

4 Q. State's 31?

5 A. That's the victim.

6 Q. Is that how you remember him looking that night?

7 A. Not at all. I remember him alive and then the next
8 thing I know he's enclosed in all that in the sleeping bag.

9 Q. State's 32?

10 A. That's his wrists where they bound him.

11 Q. State's 33?

12 A. That's the sleeping bag.

13 Q. State's 34?

14 A. Those are his legs. They were bound.

15 Q. Andy, please answer any questions Ms. Lane may have,
16 okay?

17 A. Okay.

18 THE COURT: Ms. Lane?

19 MS. LANE: Thank you.

20 CROSS EXAMINATION BY MS. LANE:

21 Q. Andy, at some point you and Megan went outside, didn't
22 you?

23 A. We did.

24 Q. When did you go outside?

25 A. Right after Jeremy's arrival.

1 Q. And Kenny went outside of the house at some point also,
2 didn't he?

3 A. He did.

4 Q. Do you remember when he went outside?

5 A. Shortly after the incident.

6 Q. You said you saw Jeremy stabbed, right? You saw Kenny
7 stab Jeremy?

8 A. The silhouette, yes.

9 Q. Can you point to where you saw Kenny stab Jeremy?

10 A. In the upper back, high on the back.

11 Q. And you didn't see any other stab wound inflicted after
12 that, did you?

13 A. No, ma'am.

14 Q. Because you were in the far back bathroom?

15 A. Yes, ma'am.

16 Q. So when Jeremy was stabbed the second time, you weren't
17 present for that?

18 A. No, but I could hear Megan scream. I'm guessing that's
19 when the final blow was delivered.

20 Q. How would you describe Megan that day?

21 A. She was -- she was just looking to have a good time
22 before any of this had occurred, and then after it occurred
23 she was scared.

24 Q. Didn't you refer to her as hateful and ill?

25 A. Somewhat, especially -- well, there was a point where

1 Kenny was frustrated with her, because -- or she was
2 frustrated with him. She had told him she had no idea what
3 to do, what would he expect. She's never done nothing like
4 this before, and then he referred to her as his rider doll
5 (phonetic).

6 Q. And it's your testimony that Megan asked you to bag the
7 clothes, right?

8 A. She did.

9 Q. And Megan asked you to wash the knife?

10 A. She did.

11 Q. And you used the term altercation. Do you agree that
12 there was some altercation that happened, is that right?

13 A. Yes, ma'am.

14 Q. When you went outside with Megan to that building and
15 you guys came back in, you could tell there was an argument,
16 is that correct?

17 A. Yes, ma'am.

18 Q. You also mentioned in your testimony, you said they
19 proceeded to tie him up. Did you see that?

20 A. I didn't see them tie him up, no.

21 Q. You also said in the attic that Kenny didn't say
22 anything to you?

23 A. He didn't, no.

24 Q. Megan did?

25 A. Yeah. I asked her what's going to happen, what are we

1 going to do, and she simply told me "we are going to go to
2 jail." I knew that much, but I was looking beyond that.

3 Q. So, Andy, you stated that you put the knife in the
4 sink, right?

5 A. Yes, ma'am.

6 Q. And did you put Jeremy's brown jacket in the bag?

7 A. I did.

8 Q. Do you know who took the jacket off of him?

9 A. No, ma'am.

10 Q. You provided some of this information to the police,
11 right?

12 A. I did.

13 Q. In the form of a written statement?

14 A. Yes, ma'am.

15 Q. And in that statement you used an explanation mark to
16 say that when you came back into the house from you and
17 Megan being out at the building, that you heard yelling,
18 right?

19 A. We did.

20 Q. And you used that figure of punctuation to demonstrate
21 that something was going on that surprised you. Is that
22 fair to say?

23 A. It did, yes.

24 Q. And you don't know what Jeremy Little did while you
25 were outside, did you?

1 A. No, I can't say what was said or what happened. I was
2 outside.

3 Q. And you also were in that back room for a period of
4 time and you can't say what happened when you were back
5 there, can you?

6 A. No, ma'am.

7 Q. But you provided a statement and you acknowledged that
8 Kenny believed that Jeremy reached for a gun, is that true?

9 A. Yes, ma'am.

10 Q. And you can't very well say that he never reached for a
11 gun or never pointed a gun because you weren't there the
12 entire time, were you?

13 A. Well, no, but if he -- if -- if he was going to reach
14 for it, he would have done it a lot sooner, but no.

15 Q. But there was a period of time -- actually there were
16 two periods of time that you weren't present. You were
17 outside the house and then you were in the far back
18 bathroom, right?

19 A. Yes, this is true.

20 Q. So during those times you don't know what was going on,
21 do you?

22 A. No, I was -- no.

23 Q. Do you know where the drugs went to that night?

24 A. I have no idea. We only managed to get one line in,
25 one line, a piece, and that's all I recall.

1 Q. You didn't mention anything about drugs in your initial
2 statement to law enforcement, did you?

3 A. I'm unaware. I don't know.

4 Q. Yeah. In fact, the first time that you brought up drug
5 use was fairly recently.

6 You said Megan collected the cleaners, right?

7 A. She did.

8 Q. Do you recall which cleaner she gathered?

9 A. It was a few. There were several. I only remember
10 bleach.

11 Q. You saw her getting these cleaners?

12 A. The bleach, yes.

13 Q. When law enforcement was there in the house, Megan fell
14 through the ceiling, and then you came down after her,
15 right?

16 A. I did, yes.

17 Q. They asked you if anyone else was up there. What did
18 you say?

19 A. I proceeded to tell them no. I kept shaking my head
20 no, only because Megan was saying it was me and her up
21 there. And then finally an officer just kept asking and
22 asking and I nodded that he was up there.

23 Q. So you were saying what you believed Megan wanted you
24 to say?

25 A. No, I -- I was following her to start -- I was

1 following her I guess -- I don't know. I guess her -- what
2 she wanted to hear, you know, but then I was -- no, he was
3 up there too, just as much as we were.

4 Q. Wouldn't you agree, Andy, that if you were afraid and
5 had been threatened, the first thing that you should have
6 done when you were there in front of law enforcement is tell
7 them that you had been threatened and you were afraid?

8 A. Yes.

9 Q. But you didn't do that, did you?

10 A. Not until later.

11 Q. Instead you lied to them?

12 A. When did I lie?

13 Q. When you said no one else was in the attic.

14 A. Well, they knew better. They knew he was still up
15 there.

16 Q. But that's not the question.

17 When you said no one else was in the attic, you lied,
18 right?

19 A. Yes.

20 Q. Thank you.

21 MS. LANE: Nothing further.

22 THE COURT: Anything further, Ms. Simmons?

23 MS. SIMMONS: Just briefly.

24 REDIRECT EXAMINATION BY MS. SIMMONS:

25 Q. Andy, when you came back in from the building, to be

1 clear, was Jeremy Little pointing a gun at anybody, reaching
2 for a gun, or threatening anyone?

3 A. No, his hand were exposed like they were up.

4 Q. And after Jeremy was stabbed and all this was going on,
5 who was in control of the situation and directing people's
6 behavior?

7 A. Kenny was directing Megan's behavior, and Megan was
8 directing mine.

9 MS. SIMMONS: Nothing further.

10 THE COURT: Anything further from this witness?

11 MS. LANE: Nothing further, Your Honor.

12 THE COURT: We would ask that he remain under
13 subpoena.

14 THE COURT: Thank you, sir. You can step down,
15 but you are still under subpoena and subject to recall.

16 MR. ALDERMAN: Your Honor, the State would call
17 Ashley Settlemyre to the stand.

18 ASHLEY SETTLEMYER, having been first duly sworn,
19 testified as follows:

20 THE WITNESS: I do.

21 DIRECT EXAMINATION BY MR. ALDERMAN:

22 Q. Ashley, would you give us your full name, please, and
23 then spell your last name for us?

24 A. It's Ashley Gill Settlemyer, S-E-T-T-L-E-M-Y-E-R.

25 Q. And, Ashley, where do you live?

1 A. Right now?

2 Q. Yes.

3 A. I live in Oakway with my parents.

4 Q. Okay. And where did you live in January of 2015?

5 A. At Walhalla Gardens.

6 Q. Do you know the defendant Kenny Collins?

7 A. I do.

8 Q. Could you point him out for us?

9 A. That's Kenny.

10 Q. Thank you.

11 And do you know his brother Chris Burrell?

12 A. Yes.

13 Q. How do you know him?

14 A. I have known him for a very long time. My family
15 actually has known their family since I was a kid, but I
16 have personally known him maybe eight years.

17 Q. And do you know where the defendant and his brother
18 were staying at the time?

19 A. In the house right below Walhalla Gardens. If you pull
20 out of the apartments you go to the left and it would be a
21 house on the hill on the left.

22 Q. And did you know the victim in the case, Jeremy Little?

23 A. Briefly.

24 Q. Okay. Tell me how you knew him.

25 A. Sarah Jaeger was staying at my house and he was her

1 friend and she said he needed somewhere to stay for a couple
2 of nights, that he was a good guy, and I let him sleep on my
3 couch. I actually only knew him two days.

4 Q. All right. So he was at your apartment for two days?

5 A. Yes.

6 Q. In the short time that you knew him what was he like?

7 A. He seemed like a good guy, very easy going, helpful in
8 any way that he could. He would wash my dishes. If I
9 needed anything, he would offer to buy it. He just seemed
10 like a good guy.

11 Q. Did you ever know him to be a violent person?

12 A. Not as far as I knew him.

13 Q. Tell us about January the 12th, 2015, the day before
14 the incident.

15 A. What would you like to know?

16 Q. What was going on at your house that day?

17 A. Chris Burrell had come over to my house. I had seen
18 him out in the parking lot. He had come in, and Sarah had
19 some meth that she was trying to sell and I wanted it out of
20 my house, so she wanted me to get rid of it pretty cheap, so
21 Chris said that his brother might want it, so he left to go
22 get Kenny and Kenny's girlfriend and they come over.

23 Q. All right. And what was the defendant like that day?

24 A. Kenny?

25 Q. Yes.

1 A. He just seemed a little out of character, but not --

2 Q. Did you know him for a long time?

3 A. I did.

4 Q. All right. And you said he seemed like he was out of
5 character?

6 A. Yeah, he actually got ill with me a little bit and
7 that's very unusual for Kenny.

8 Q. When was the last time that you saw the victim in the
9 case, Jeremy Little, alive?

10 A. That night I was going to bed and he asked if he could
11 take a shower and I told him yeah, and he got in the shower
12 and I was asleep and that's the last I seen him.

13 Q. Okay. Let's talk about the next morning.

14 What's the first thing that you remember the morning of
15 the 13th?

16 A. Chris Burrell was beating on my window telling me it
17 was an emergency, to let him in.

18 Q. Okay. About what time was that?

19 A. Four -- around 4:30, 5:00 in the morning.

20 Q. And what did you do next when he was beating on the
21 window?

22 A. I opened the door.

23 Q. Okay. And describe his appearance for me, if you can.

24 A. He was sweating. He seemed extremely scared, nervous.

25 Q. Was he out of breath?

1 A. Yes.

2 Q. Nervous you said?

3 A. Yeah.

4 Q. Okay. And at that point did he say anything to you?

5 A. He told me that Jeremy had been killed, that Kenny had
6 killed him.

7 Q. If you can remember, what was the last thing that Chris
8 Burrell said to you at your apartment?

9 A. He told me to lock my door and whatever I did, not to
10 open the door for Kenny.

11 Q. Did you get the impression that he was scared of Kenny,
12 or scared that Kenny might come down there?

13 A. Yes.

14 Q. While Chris was at your house, did you tell him to do
15 anything?

16 A. I told him to call the police; that if he didn't, I
17 would.

18 Q. What did he do?

19 A. He called 911.

20 Q. Did he call anybody else first?

21 A. He called his mother and told her what had been going
22 on.

23 Q. Tell us about that 911 call.

24 A. He called 911 and told them that he was Dustin Cox,
25 told them that he had heard screaming and gunshots, but he

1 didn't tell them that somebody had been killed.

2 Q. Did he tell them, using this assumed name, that he was
3 there, or that he was a neighbor that heard something?

4 A. He acted like he was a neighbor that had heard it.

5 Q. And was it your impression that he said he heard
6 gunfire to get them there faster?

7 A. Yes.

8 Q. After he left --

9 Well, let me back up.

10 Was there anyone else in house when all this was going
11 on?

12 A. Sarah Jaeger was in the house. My three kids were in
13 the house, and my aunt, my uncle and their kids were in the
14 house asleep.

15 Q. Okay. Did you tell anybody in the house what was going
16 on?

17 A. Sarah had been woken up from my baby crying, or I guess
18 that's how she got woke up, but she had come into my room
19 after he left and I had told her what was going on.

20 Q. What did she do?

21 A. She immediately put her shoes on, grabbed her keys and
22 tried to go -- or she did go down there beating on the door.

23 Q. What did she do after that?

24 A. She come back and said that all the lights in the house
25 were on, but nobody would answer the door, and so she called

1 911 again.

2 Q. Did the police come and talk to you that morning?

3 A. They did.

4 Q. And did you tell them everything that you told us
5 today?

6 A. At first I was really scared to tell them about the
7 drugs and I was scared to tell them that Jeremy had been
8 staying at my house, at my house on my couch, because I have
9 kids.

10 Q. Did you, in fact, give two statements; one that day and
11 one the next?

12 A. I did.

13 Q. And did you clear up all those issues the next day?

14 A. I did.

15 Q. And you are telling the truth here today?

16 A. Yes, sir.

17 Q. Thank you very much.

18 If you would, please, answer any questions that defense
19 may have for you.

20 THE COURT: Ms. Lane?

21 MS. LANE: Thank you.

22 CROSS EXAMINATION BY MS. LANE:

23 Q. Ms. Settlemyer, you described Kenny's behavior -- or
24 you described Kenny as unusual?

25 A. Right.

1 Q. On edge?

2 A. Yes.

3 Q. So are you saying that you didn't know him to be that
4 way?

5 A. Not often, but, yeah, it's been known for him to be a
6 little on edge.

7 Q. And you just admitted that you gave a false statement
8 to the police the first time that you talked to them --

9 A. I did.

10 Q. -- correct?

11 A. Yes.

12 Q. And you have -- you have been convicted of breach of
13 trust?

14 A. I have, but I don't see where that has anything to do
15 with this case.

16 Q. Well, it's a crime of dishonesty.

17 A. Right.

18 Q. And you lied to the police, so I wanted to point that
19 out.

20 Thank you.

21 REDIRECT EXAMINATION BY MR. ALDERMAN:

22 Q. Is everything that you have told us today the truth?

23 A. It is.

24 Q. Thank you very much.

25 THE COURT: Anything further from this witness?

1 MS. LANE: Nothing, Your Honor.

2 MR. ALDERMAN: Nothing, Your Honor.

3 THE COURT: Is this witness still under subpoena?

4 MR. ALDERMAN: Yes.

5 THE COURT: Are you releasing her, or is she --

6 MS. SIMMONS: Your Honor, we do not wish to
7 release her at this time, but she's free to go today.

8 THE COURT: All right, ma'am. Thank you, ma'am,
9 you are excused for today, but you are still subject to
10 recall.

11 THE WITNESS: Okay. Thank you.

12 THE COURT: Okay. Ladies and gentlemen, we are
13 going to break for lunch at this point. It's about 12:45,
14 so be back in the jury room at two o'clock.

15 And remember what we discussed yesterday. You
16 can't talk to third parties about the case. You can't
17 deliberate amongst yourselves, and you can't do any
18 independent research on either the facts or the law.

19 I hope everyone has a good lunch and we will see
20 you at two o'clock.

21 (The following takes place outside the presence of
22 the jury panel)

23 THE COURT: Before we go in recess I would state
24 for the record I received a note from the jury that juror
25 number 6 has been elected the foreman of the jury.

1 So let's make this as a Court Exhibit, please.

2 We will be in recess until two o'clock.

3 (Jury Note marked as Court's Exhibit No. 8 for
4 identification)

5 (Whereupon, proceedings were recessed).

6 (Whereupon, proceedings were reconvened)

7 (Knife was marked as State's Exhibit No. 77 for
8 identification).

9 THE COURT: We ready?

10 MS. LANE: Yes, sir, Your Honor.

11 THE COURT: Mr. Bailiff, get our jury, please.

12 (The following takes place in the presence of the
13 jury panel)

14 THE COURT: All right. State, call your next
15 witness.

16 MS. SIMMONS: May it please the court, Your Honor,
17 the State calls Chief Ronald Wilbanks.

18 OFFICER RONALD WILBANKS, having been first duly
19 sworn, testified as follows:

20 THE WITNESS: I do.

21 THE CLERK: Please be seated.

22 DIRECT EXAMINATION BY MS. SIMMONS:

23 Q. Chief Wilbanks, if you will state your full name for
24 the record and spell your last name?

25 A. Ronald Wilbanks, W-I-L-B-A-N-K-S.

1 Q. Chief, tell me a little bit about your employment
2 background and training.

3 A. I began law enforcement in '93 with the City of
4 Walhalla. I was there for a few years.

5 I have also worked for the Oconee County Sheriff's
6 Office for -- I worked for them about eleven years.

7 And came back to Walhalla. Captain. Then promoted to
8 chief.

9 I attended basic training at the academy and various
10 investigation classes.

11 Q. How many total years in law enforcement?

12 A. (No response).

13 Q. Just guess for me.

14 A. Eighteen, or so.

15 Q. And how did you become involved in the case relating to
16 this defendant?

17 A. I was contacted by Officer Robbie Johnson.

18 Q. And what did Officer Johnson tell you?

19 A. He advised me that they had found a body at [REDACTED]
20 [REDACTED], inside the city limits of Walhalla.

21 Q. Did you subsequently interview the defendant in this
22 case, Kenneth Collins?

23 A. I did.

24 Q. And did you advise the defendant Kenneth Collins of his
25 rights?

1 A. Yes, I did.

2 Q. And did you do that using a rights form that is
3 commonly used?

4 A. Yes, ma'am.

5 Q. I'm going to show you what's been pre-marked as State's
6 Exhibit 76. Is this the form that you used?

7 A. Yes, it is.

8 Q. What time did this interview take place?

9 A. 3:04 p.m..

10 Q. On what date?

11 A. January the 13th, 2015.

12 Q. How do you recognize this form?

13 A. This form has my writing, my signature, the defendant's
14 initials beside each line, indicating that he understood his
15 rights. And also Sergeant Scott Arnold's signature.

16 Q. Let me take that back from you for a second.

17 MS. SIMMONS: Judge, at this point in time the
18 State would move to admit State's Exhibit 76?

19 THE COURT: Any objection?

20 MS. LANE: No objection.

21 THE COURT: All right. State's Exhibit No. 76
22 will be admitted without objection.

23 (Whereupon, State's Exhibit No. 76 was entered
24 into the record as evidence)

25 MS. SIMMONS: Judge, we would also like to publish

1 this to the jury.

2 BY MS. SIMMONS:

3 Q. Chief, just briefly go over this with me and how you
4 would read this form to someone.

5 A. What I do, we start out filling out the top portion
6 where you see the place, which is the OLEC is Oconee Law
7 Enforcement Center. The date, time, and explain to them
8 that, you know, I have to read them their Miranda Warnings
9 and for them to initial beside each line as we read them to
10 them indicating that they understand each line.

11 At the end is the bottom portion is where they sign
12 agreeing to speak with us.

13 Q. How long do you estimate your interview lasted with
14 him?

15 A. I -- I don't really recall the actual length. I think
16 we were in the room for maybe forty-five minutes or so.

17 Q. Would it be safe to say it wasn't a lengthy
18 interrogation?

19 A. No, it wasn't.

20 Q. Where is this room? Describe it for us.

21 A. It is upstairs in the sheriff's office. It is a room
22 about 12 X 12. It has a desk I think with three or four
23 chairs. You know, two on each side, I think, or two and
24 one. I can't remember how many chairs. I'm not up there
25 often, but -- and, you know, that's -- that's all that's in

1 the room.

2 Q. At any point was the defendant denied any comfort? By
3 that I mean like a restroom break, food, a drink, or
4 anything like that?

5 A. No.

6 Q. Was he in handcuffs during this interview?

7 A. No, Sergeant Arnold un-cuffed him after we entered into
8 the room.

9 Q. Was he seated?

10 A. He was seated.

11 Q. Did he have any visible injuries on his body?

12 A. None that I recall.

13 Q. And you said Scott Arnold was present with you?

14 A. Yes.

15 Q. Did you go over the form with the defendant and make
16 sure he understood his rights?

17 A. Yes, I did.

18 Q. Did he appear to understand his rights?

19 A. He did.

20 Q. Was he intoxicated or under the influence of illegal
21 drugs to the point where he didn't understand what was going
22 on?

23 A. He did not appear to be, no.

24 Q. Did he appear to be sleep deprived?

25 A. He didn't appear to be that way to me.

1 Q. Did he appear to be alert and understand everything
2 that was going on?

3 A. He did.

4 Q. Did he subsequently sign this form?

5 A. He did.

6 Q. Did you intimidate him?

7 A. No.

8 Q. Was the waiver of rights voluntary?

9 A. It was.

10 Q. And did the defendant give you a statement?

11 A. He did.

12 Q. Did he give you a written statement or a verbal
13 statement?

14 A. A verbal statement.

15 Q. What did he tell you after receiving his Miranda
16 Warnings?

17 A. Again, after Sergeant Arnold and I entered the room
18 with Kenny and I read Kenny his Miranda Warnings, Kenny
19 signed the Miranda Warnings from us stating he understood
20 and agreed to talk with us.

21 He stated that he met the guy at Walhalla Gardens and
22 bought some dope. He said that the guy was the law. And
23 when I asked him if he thought he was a police officer, he
24 said to me a snitch, which was the same thing to him.

25 He went on to say the guy came down to his house to do

1 some dope and that the guy pulled a gun on Megan and he then
2 stabbed him in the back.

3 Kenny went on to say that the guy didn't die for a long
4 time and was making sounds, so he tied him up and put stuff
5 around his mouth to quiet him down.

6 Kenny said he pulled the guy's pants down looking for a
7 wire because he thought he was an informant for the police.

8 Kenny went on to say that he then wrapped him up and
9 drug him down the hallway into another room.

10 Kenny then changed his story and said that the guy
11 pulled a gun on him, at which time he stabbed him because he
12 hated a snitch.

13 When Kenny was asked why he changed his story, at that
14 time he indicated he no longer wished to speak with us.

15 Q. Did you freely honor that right at that time? Did you
16 not question him any more?

17 A. It ceased at that moment.

18 Q. And were you present at the scene where all the
19 defendants came out of the ceiling at [REDACTED]?

20 A. I -- I got there sort of at the end of it.

21 I think Andy and Megan were already in the driveway
22 when Sergeant Arnold and I got there. Kenny was coming down
23 from the attic as we entered into the house.

24 Q. At any point in time did you see any defendant was
25 allowed to interact with another?

1 A. No.

2 Q. And in your eighteen or so years in law enforcement,
3 based on what you saw at this crime scene and the evidence,
4 have you ever seen a body handled in this manner in a
5 self-defense case?

6 A. Never.

7 Q. Please answer any questions that Ms. Lane may have.

8 THE COURT: Ms. Lane?

9 MS. LANE: Thank you.

10 CROSS EXAMINATION BY MS. LANE:

11 Q. Chief Wilbanks, when you have these interviews, you
12 were talking to Kenny, there is a record of the interview
13 form that you fill out, right?

14 A. Yes.

15 Q. And that form you typically date and time, is that
16 correct?

17 A. Yes.

18 Q. But you didn't put a time on this particular form, did
19 you?

20 A. Sergeant Arnold kept the notes for the record of the
21 interview.

22 Q. Would you agree if there is no time on it, then you are
23 not entirely sure how long the interview went?

24 A. I'm sure he can tell you that, how long the interview
25 went. I -- I just -- I can't tell you the exact time how

1 long it went.

2 Q. And you interviewed Megan Crowe as part of this
3 investigation?

4 A. I was briefly in the room at one time with her. I
5 think Sergeant McMahan and Sergeant Smith conducted that,
6 primarily that interview.

7 Q. Were you present for that entire interview, or you just
8 sat in for parts of it?

9 A. Just sat in for a part of it.

10 Q. And you also spoke to Chris Burrell and a guy named
11 Ronald Danson?

12 A. Yes, I spoke with Chris Burrell and briefly spoke with
13 Ron Danson.

14 Q. In your brief communication with Ronald Danson he made
15 you aware that -- or he stated to you that Jeremy had pulled
16 a gun on Kenny?

17 MS. SIMMONS: Objection, hearsay.

18 THE COURT: Sustained.

19 MS. LANE: Nothing further, Your Honor.

20 THE COURT: Anything further from this witness?

21 MS. SIMMONS: Just a brief followup, Your Honor.

22 REDIRECT EXAMINATION BY MS. SIMMONS:

23 Q. Chief, you said you interviewed Chris Burrell?

24 A. Yes.

25 Q. When you interviewed Chris Burrell, did he appear to be

1 intoxicated and sleep deprived or in any way did he appear
2 to not know what was going on?

3 A. No. Actually he was on his way to the police
4 department to initiate contact with us when we saw him and
5 Ron Danson coming down the highway.

6 Q. You characterized him as alert and oriented?

7 A. Oh, very much.

8 Q. Thank you.

9 MS. LANE: Just another question, Chief Wilbanks.

10 RECROSS EXAMINATION BY MS. LANE:

11 Q. In the eighteen years of law enforcement I'm sure that
12 you have seen the effects of methamphetamine use?

13 MS. SIMMONS: Objection. Outside this cross --
14 outside the scope of redirect.

15 THE COURT: Overruled.

16 BY MS. LANE:

17 Q. You have seen --

18 A. I have interacted with people on meth.

19 Q. And do you know people on meth to stay up for long
20 periods of time, days at a time?

21 A. That's what I have been told, yes.

22 Q. And the night that you interviewed these folks, was
23 that a running piece of information that you were getting
24 was that somehow methamphetamine use was involved?

25 A. I didn't know that for sure. I mean, I don't know if

1 they did any dope, or a little dope, but the defendant did
2 not appear to be, again, sleep deprived or high when I
3 interacted with him.

4 Q. Would you say that one who has been awake for three
5 days, five days, seven days is sleep deprived?

6 A. I mean, if -- I'm sure if you stay away for seven days,
7 you are sleep deprived, but I was never told that -- given
8 that information that he had been up for five or seven days.

9 Q. Thank you.

10 MS. SIMMONS: Nothing further.

11 THE COURT: All right. Thank you. You may step
12 down.

13 MS. SIMMONS: Your Honor, once the witness has
14 testified, may they stay in the courtroom?

15 THE COURT: If they are not subject to recall if
16 they hear testimony of another witness.

17 MS. SIMMONS: The State calls Sergeant Scott
18 Arnold.

19 OFFICER SCOTT ARNOLD, having been first duly
20 sworn, testified as follows:

21 THE WITNESS: I do.

22 THE CLERK: Please be seated.

23 DIRECT EXAMINATION BY MS. SIMMONS:

24 Q. Sergeant Arnold, please state your full name for the
25 record and spell your last name.

- 1 A. Scott Bradley Arnold, A-R-N-O-L-D.
- 2 Q. Sergeant Arnold, where are you employed?
- 3 A. Oconee County Sheriff's Office.
- 4 Q. How long have you been in law enforcement?
- 5 A. Approximately twenty-two years.
- 6 Q. How did you become involved in the case regarding this
- 7 defendant Kenneth Collins?
- 8 A. I was dispatched to assist Walhalla PD for an
- 9 investigation.
- 10 Q. Do you commonly assist Walhalla Police Department in
- 11 major cases?
- 12 A. Yes, I do.
- 13 Q. Did you talk to the defendant in this case regarding
- 14 taking a statement from him, along with Chief Wilbanks?
- 15 A. Yes, I did.
- 16 Q. Did Chief Wilbanks advise him of his rights?
- 17 A. Yes, he did.
- 18 Q. Did he do so using this form which has been marked as
- 19 State's Exhibit 76?
- 20 A. Yes, he did.
- 21 Q. How do you recognize this form?
- 22 A. I recognize the date and the time and my signature on
- 23 it.
- 24 Q. How long do you estimate the interview lasted?
- 25 A. I'm not sure. It was over an hour, an hour and a half,

1 maybe.

2 Q. You say it was a lengthy interview?

3 A. It was lengthy, yeah.

4 Q. Where did the interview take place?

5 A. At the Oconee County Sheriff's Office, in the interview
6 room.

7 Q. Describe the room.

8 A. The room is about 12 X 12, with a table in it, and
9 usually about four chairs.

10 Q. At any point was he denied any comforts; a restroom,
11 something to drink, anything of that nature?

12 A. No, he was not.

13 Q. Did you provide anything to him, if he asked for it?

14 A. He asked for a cup of water and we gave him a cup of
15 water.

16 Q. Was he in handcuffs?

17 A. When we brought him up there he was and we took the
18 cuffs off of him.

19 Q. Is that normal procedure?

20 A. Yes, it is.

21 Q. Did he have any visible injuries that you recall?

22 A. No, he didn't.

23 Q. And using this form, did Chief Wilbanks go line by line
24 with the defendant?

25 A. Yes, he did.

1 Q. And did both of you make sure he understood his rights?

2 A. Yes, we did.

3 Q. And you said he marked the form to indicate that?

4 A. Yes, he did.

5 Q. In your opinion, did the defendant understand his
6 rights?

7 A. Yes.

8 Q. Did it appear that drugs or alcohol were impairing his
9 mental faculties?

10 A. No.

11 Q. Did he appear to be sleep deprived?

12 A. No, he did not.

13 Q. Did he appear to be alert and aware?

14 A. Yes, he was.

15 Q. What about his mental capacity?

16 A. He seemed fine.

17 Q. Did the defendant (sic) make any promises or threats to
18 him to get him to sign this form?

19 A. No, I did not.

20 Q. Did you intimidate him?

21 A. No, I did not.

22 Q. Was his waiver of rights voluntary?

23 A. Yes, they were.

24 Q. Did the defendant after these warnings decide to give
25 you a statement?

1 A. Yes, he did.

2 Q. Was the statement in writing or a verbal statement?

3 A. It was verbal.

4 Q. Did you write what he told you?

5 A. Yes, I did.

6 Q. Tell me what verbal statement the defendant gave?

7 A. After his rights were given to him, he pretty well told
8 us that he had went to Walhalla Gardens to get some dope.
9 That's where he met the guy. He said he thought the guy was
10 a snitch. Later on he and some other individuals went back
11 home.

12 When the guy came down to his residence he pulled a gun
13 on Megan. That's when he stabbed him in the back.

14 He said the guy laid there for a long time. The guy
15 kept moaning while he was laying there. That's when he tied
16 clothing around his mouth to keep him from moaning.

17 He said he also pulled his clothes off trying to find a
18 wire, because he thought he was working for the narcotics
19 division and thought he was a snitch.

20 Later on he wrapped him up in a tarp and pulled him
21 down the hallway.

22 He said when law enforcement showed up he didn't know
23 what to do and that's when they all three went up in the
24 attic and hid.

25 Just moments later he changed his story. He stated

1 that he pulled a gun on him. And that's when he told us he
2 hated snitches and he hated law enforcement. He said they
3 were all the same.

4 I explained to him, I said "your story is not adding
5 up," and that's when he -- that's when he refused to talk.
6 We terminated the interview.

7 Q. Were you also -- so that wrapped up that there, but
8 were you also present when the defendant, Megan Crowe and
9 Andy Cobb were apprehended?

10 A. I was -- I was there and I was actually the one that
11 handcuffed him as he was coming down from the attic. We had
12 the incident with him there, but I escorted Kenneth out and
13 I -- I don't remember seeing them. I know they were there,
14 but I don't remember seeing them.

15 Q. So you escorted Kenneth from the scene?

16 A. Yes, I did.

17 Q. At any point did you let him interact with his
18 co-defendants?

19 A. No.

20 Q. And in your years of law enforcement of -- you said
21 twenty-one?

22 A. Twenty-two years.

23 Q. Twenty-two.

24 Have you ever seen a body handled in the way this was
25 in this case for a self-defense claim?

1 A. No, I have not.

2 Q. Please answer any questions that Ms. Lane may have.

3 CROSS EXAMINATION BY MS. LANE:

4 Q. You picked up Chris Burrell and Ronald Danson?

5 A. I pulled over Ron Danson. Chris was a passenger in the
6 vehicle.

7 Q. You also -- you had an interview with Amy Johnson and
8 Tara Porter?

9 A. No, I did not.

10 Q. I believe that was Captain Harris. I apologize.
11 Nothing further from you. Thank you.

12 MS. LANE: Thank you.

13 MS. SIMMONS: Nothing further, Your Honor.

14 THE COURT: All right. Thank you, officer. You
15 may step down.

16 MR. ALDERMAN: Your Honor, at this time the State
17 would call Officer Matt Patterson.

18 OFFICER MATT PATTERSON, having been first duly
19 sworn, testified as follows:

20 THE WITNESS: I do.

21 THE CLERK: Please take a seat on the stand.

22 DIRECT EXAMINATION BY MR. ALDERMAN:

23 Q. Officer Patterson, would you state your full name and
24 spell your last name for the record, please?

25 A. Matthew Mason Patterson, P-A-T-T-E-R-S-O-N.

1 Q. And where are you currently employed?

2 A. Currently I'm employed with the Westminster Police
3 Department.

4 Q. Where were you employed prior to that?

5 A. Walhalla Police Department.

6 Q. Is that where you were employed in January of 2015?

7 A. Yes, sir.

8 Q. Okay. And what were your duties day to day at the
9 Walhalla Police Department?

10 A. Day to day I was on road patrol, so it was answering
11 calls for service, enforcing traffic laws and things of that
12 nature.

13 Secondary duty was also crime scene, processing crime
14 scenes and evidence collection.

15 Q. Is it fair to say that you collected evidence for the
16 Walhalla Police Department at that time?

17 A. Yes, sir.

18 Q. Okay. And do you have any particular specialized
19 training?

20 A. Some. I have been through a couple of crime scene
21 evidence classes for managing the property and evidence
22 room, evidence collection.

23 Also another one that was an overall class, everything
24 from fingerprints to blood spatter patterns to photography,
25 things of that nature.

1 Q. Did your duties in evidence collection with the
2 Walhalla Police Department bring you to [REDACTED]
3 [REDACTED] on January the 13th?

4 A. They did.

5 Q. Okay. Tell us how you came to be there that morning.

6 A. I received a phone call from one of the officers on the
7 scene requesting that I respond due to the nature of the
8 crime was possibly a homicide.

9 Q. Okay. And explain to us, if you would, sort of educate
10 us on how you go about processing a scene like that.

11 A. Initially I'll do a walk around of the house. Walk
12 through inside the house. I will get with the investigating
13 officer who was on the scene, talk with them briefly. We
14 will discuss what items at the crime scene that we want to
15 collect. Then photographs will be taken of the exterior of
16 the residence 360 degrees and also interior of the
17 residence.

18 Q. Is that what you did in this case?

19 A. Yes, sir.

20 Q. I'm going to hand you some photographs. And for
21 clarity I'm going to show you some photographs, some of
22 which have already been admitted into evidence, others I'm
23 going to show you now.

24 A. Okay.

25 Q. Have you had a chance to review these prior to today?

1 A. Yes, sir.

2 Q. And what are these photographs of?

3 A. These are photographs that I took at the crime scene at

4 [REDACTED].

5 Q. And do these appear to be a true and accurate
6 representation of the scene that day?

7 A. Yes, sir.

8 MR. ALDERMAN: Your Honor, I would move in State's
9 5, 6, 7, 10, 11, 13, 14, 15, 17, 18, 20, 19. I'm going out
10 of order. I apologize. 22, 23, 24, 27, 35, 42, 44, 45, 46,
11 47, 48, 49, 50, 51, 52, 53, 54, 55, 56.

12 THE COURT: Any objection?

13 MS. LANE: No objection.

14 THE COURT: All right. State's Exhibits 5, 6, 7,
15 10, 11, 13, 14, 15, 17, 18, 19, 20, 22, 23, 24, 27, 35, 42,
16 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, and 56, all
17 are admitted without objection.

18 (Whereupon, State's Exhibit No. 5 was entered into
19 the record as evidence).

20 (Whereupon, State's Exhibit No. 6 was entered into
21 the record as evidence).

22 (Whereupon, State's Exhibit No. 7 was entered into
23 the record as evidence).

24 (Whereupon, State's Exhibit No. 10 was entered
25 into the record as evidence).

1 (Whereupon, State's Exhibit No. 11 was entered
2 into the record as evidence).

3 (Whereupon, State's Exhibit No. 13 was entered
4 into the record as evidence).

5 (Whereupon, State's Exhibit No. 14 was entered
6 into the record as evidence).

7 (Whereupon, State's Exhibit No. 15 was entered
8 into the record as evidence).

9 (Whereupon, State's Exhibit No. 17 was entered
10 into the record as evidence).

11 (Whereupon, State's Exhibit No. 18 was entered
12 into the record as evidence).

13 (Whereupon, State's Exhibit No. 19 was entered
14 into the record as evidence).

15 (Whereupon, State's Exhibit No. 20 was entered
16 into the record as evidence).

17 (Whereupon, State's Exhibit No. 22 was entered
18 into the record as evidence).

19 (Whereupon, State's Exhibit No. 23 was entered
20 into the record as evidence).

21 (Whereupon, State's Exhibit No. 24 was entered
22 into the record as evidence).

23 (Whereupon, State's Exhibit No. 27 was entered
24 into the record as evidence).

25 (Whereupon, State's Exhibit No. 35 was entered

1 into the record as evidence).

2 (Whereupon, State's Exhibit No. 42 was entered
3 into the record as evidence).

4 (Whereupon, State's Exhibit No. 44 was entered
5 into the record as evidence).

6 (Whereupon, State's Exhibit No. 45 was entered
7 into the record as evidence).

8 (Whereupon, State's Exhibit No. 46 was entered
9 into the record as evidence).

10 (Whereupon, State's Exhibit No. 47 was entered
11 into the record as evidence).

12 (Whereupon, State's Exhibit No. 48 was entered
13 into the record as evidence).

14 (Whereupon, State's Exhibit No. 49 was entered
15 into the record as evidence).

16 (Whereupon, State's Exhibit No. 50 was entered
17 into the record as evidence).

18 (Whereupon, State's Exhibit No. 51 was entered
19 into the record as evidence).

20 (Whereupon, State's Exhibit No. 52 was entered
21 into the record as evidence).

22 (Whereupon, State's Exhibit No. 53 was entered
23 into the record as evidence).

24 (Whereupon, State's Exhibit No. 54 was entered
25 into the record as evidence).

1 (Whereupon, State's Exhibit No. 55 was entered
2 into the record as evidence).

3 (Whereupon, State's Exhibit No. 56 was entered
4 into the record as evidence)

5 BY MR. ALDERMAN:

6 Q. Officer Patterson, if you would, just walk us through
7 what we are looking at here.

8 A. That would be the door on the front of the house.

9 THE COURT: State the number.

10 MR. ALDERMAN: I apologize, Your Honor.

11 BY MR. ALDERMAN:

12 Q. State's 5?

13 A. That's the front door inside on the front of the house
14 in a screened-in porch.

15 Q. State's 6?

16 A. That's just inside that same doorway looking into the
17 living room.

18 Q. State's 7.

19 A. The same room. Looking at a couch there. The bottom
20 left is what appears to be blood on the floor.

21 Q. State's 10?

22 A. This is a picture from the kitchen area looking down
23 the hallway toward the back of the house.

24 Q. State's 11?

25 A. That's a picture of the kitchen.

1 Q. And what are we looking at on the floor going back down
2 that hallway?

3 A. Toward the bottom of the picture toward the left is
4 what appears to be a drag mark and what appears to be blood
5 on the kitchen floor there, and there was some cleaning type
6 solutions on the island there.

7 Q. State's 13?

8 A. Still in the kitchen. To the bottom right is blood in
9 the floor of the kitchen.

10 Q. State's 14.

11 A. That's a picture of some type of cleaning solution that
12 was inside the kitchen on a little bench area.

13 Q. State's 15?

14 A. That's blood on the floor of the kitchen.

15 Q. State's 17?

16 A. Standing in the living room looking back out the front
17 door, the couch on the right, there is some cleaning
18 products on the couch; what appears to be a rag or a towel
19 there on the floor; on the bottom left-hand corner in the
20 doorway there is blood all over the carpet.

21 Q. State's 18.

22 A. The same doorway. That's what appears to be blood
23 there on the carpet also.

24 Q. State's 19?

25 A. The same doorway inside the house. That is the door

1 frame and blood there on the frame also.

2 Q. Is there anything different about that blood as opposed
3 to say what was found on the carpet or dragged down the
4 hall?

5 A. That appears to be some type of splatter upon the door
6 frame.

7 Q. State's 20?

8 A. That is blood smeared or transferred some type on the
9 wall in the hallway.

10 Q. And how might that come to be there?

11 A. Something was drug across it, or the transfer of the
12 blood onto it.

13 Q. State's 22?

14 A. That's on the floor I believe of the living room.
15 Cleaning materials, cleaning solutions on the floor.

16 On the bottom right it's a blood stain in the carpet.

17 Q. State's 23?

18 A. That's the couch in the living room.

19 Cleaning solutions there on the left.

20 I believe that on the right it kind of spray can. I'm
21 not a hundred percent on that.

22 Q. State's 27?

23 A. That is the doorway entering into the back bedroom.

24 Q. And do we notice anything about the door itself?

25 A. I believe the door was -- had to be forced in by the

1 responding units and that was where the damage came in.

2 Q. State's 42?

3 A. That is blood on the island in the kitchen.

4 Q. State's 37?

5 A. That was taken in the living room. That's an empty
6 roll of duct tape, and there is what appears to be blood on
7 the inside of that roll.

8 Q. State's 45?

9 A. That is blood stain on the couch in the living room.

10 Q. State's 48.

11 A. That again is the island area in the kitchen and blood
12 on the island there on the end of it.

13 Q. State's 49.

14 A. That's taken from inside the kitchen looking back
15 toward the living room.

16 Down at the bottom of the picture is the blood on the
17 floor of the kitchen.

18 There is clothing there.

19 The same cleaning solution on that little bench we
20 spoke about earlier.

21 Q. State's 50.

22 A. That's a picture of the living room facing from the
23 kitchen area. And the left-hand side there is what appeared
24 to be blood on the carpet area along with several cleaning
25 solutions lying around.

1 Q. State's 54?

2 A. That is blood in the living room area near the front
3 door.

4 The metal laying there was going to be from the door
5 frame where they had to force entry into the home.

6 Q. So is it fair to say that's immediately in front of the
7 door?

8 A. Yes.

9 Q. As you entered the home?

10 A. Yes.

11 Q. 55.

12 A. Another picture of the front door. Blood on the carpet
13 there and blood on the door frame area.

14 Q. State's 56.

15 A. That's again a blood stain. I believe that was taken
16 in the living room area in the carpet.

17 Q. State's 51?

18 A. That's standing in the living room. The kitchen is to
19 your left. Several spots there throughout the picture of
20 blood in the carpet.

21 Q. State's 53.

22 A. A picture of the couch in the living room. Cleaning
23 solutions on the couch and in the floor, and a pool of blood
24 on the left-hand side.

25 Q. State's 52?

1 A. Again, we are in the living room facing the front door.
2 The bottom all the way to the middle is what appears to be
3 blood in the carpet.

4 Q. Is it fair to say that that's where the greatest
5 concentration of blood was found?

6 A. Yes, sir.

7 Q. Immediately in front of the door as you entered the
8 house?

9 A. That's correct.

10 Q. State's 35?

11 A. That's a picture of the victim, his back area.

12 Q. 46?

13 A. That's a picture of the sink in the kitchen. There is
14 blood on the blue portion of the counter there.

15 Q. State's 47.

16 A. Same scene in the kitchen. That is a knife that is
17 wrapped in a plastic bag and some type of liquid in the
18 sink.

19 Q. Did you collect that knife?

20 A. I did.

21 Q. I'm showing you what's previously been admitted as
22 State's 62. Was that also the same knife?

23 A. Yes, that is.

24 Q. The one that was in the sink in the other photo?

25 A. Yes, sir.

1 Q. Officer Patterson, there is a pair of gloves up there
2 on the counter for you. Put those on, please.

3 Officer Patterson, I'm going to hand this to you and
4 ask if you recognize it?

5 A. I do. That is the knife that was in the sink that day.

6 Q. Does it appear that it's been manipulated or altered in
7 any way?

8 A. No, sir.

9 Q. It is substantially then as you found it that day?

10 A. That's correct.

11 Q. Okay.

12 MR. ALDERMAN: Your Honor, at this time I would
13 move State's 77, which has been previously marked as 77,
14 into evidence.

15 THE COURT: Any objection?

16 MS. LANE: No objection.

17 THE COURT: Exhibit No. 77 would be admitted
18 without objection.

19 (Whereupon, State's Exhibit No. 77 was entered
20 into the record as evidence)

21 MR. ALDERMAN: And, Your Honor, if I may, I would
22 like to publish to the jury by holding it.

23 THE COURT: Hold it.

24 BY MR. ALDERMAN:

25 Q. Including the knife, what type of evidence did you

1 collect at the scene?

2 A. I collected photographs, obviously.

3 We also collected DNA samples by using sterile cotton
4 tip swabs, things of that nature.

5 Q. Did you collect a revolver at the scene?

6 A. I did.

7 Q. I'm going to show you what has previously been marked
8 as State's 72, 73, and 74. Do you recognize that?

9 A. I do. That is the revolver that we collected that day.

10 Q. And did you take that photograph?

11 A. I did.

12 Q. And do they appear to have been altered, manipulated,
13 or changed in any way?

14 A. No, sir.

15 Q. Is it a fair and accurate representation of the
16 revolver as you found it?

17 A. Yes, sir.

18 MR. ALDERMAN: Your Honor, at this time I would
19 move State's 72, 73, and 74 into evidence.

20 THE COURT: Any objection?

21 MS. LANE: No objection.

22 THE COURT: State's Exhibit 72, 73, and 74 would
23 be admitted without objection.

24 (Whereupon, State's Exhibit No. 72 was entered
25 into the record as evidence).

1 (Whereupon, State's Exhibit No. 73 was entered
2 into the record as evidence).

3 (Whereupon, State's Exhibit No. 74 was entered
4 into the record as evidence)

5 MR. ALDERMAN: And permission to publish, Your
6 Honor?

7 THE COURT: Yes.

8 BY MR. ALDERMAN:

9 Q. Educate us a little bit, if you would, Officer
10 Patterson. This is a revolver, is it not?

11 A. Yes, sir.

12 Q. Now, in the function of a revolver, when it fires a
13 round, does it eject a shell, or does it stay in the
14 cylinder?

15 A. The cartridges stay in the cylinder.

16 Q. So it's fair to reason that if a shot had been fired,
17 that a cartridge -- the spent cartridge would be found in
18 the cylinder?

19 A. Yes, sir.

20 Q. Did you find any spent cartridges in the cylinder of
21 that revolver?

22 A. No, sir.

23 Q. Now, you say that you collected swabs of blood at the
24 scene?

25 A. Yes, sir.

1 Q. Is that correct?

2 A. That's correct.

3 Q. Did you collect swabs from the defendant himself?

4 A. I did. I collected swabs from his hands.

5 Q. I'll show you what's been previously marked as 58, 59,
6 60, and 61 and ask if you recognize that?

7 A. Yes, sir, those are the pictures that I took of the
8 defendant's hands.

9 Q. And are these a fair and accurate representation of his
10 hands that day?

11 A. Yes, sir.

12 Q. Manipulated or altered in any way?

13 A. No.

14 MR. ALDERMAN: And, Your Honor, I would move
15 State's 58, 59, 60, and 61 into evidence.

16 THE COURT: Any objection?

17 MS. LANE: No objection.

18 THE COURT: State's 58, 59, 60 and 61 would be
19 admitted without objection.

20 (Whereupon, State's Exhibit No. 58 was entered
21 into the record as evidence).

22 (Whereupon, State's Exhibit No. 59 was entered
23 into the record as evidence).

24 (Whereupon, State's Exhibit No. 60 was entered
25 into the record as evidence).

1 (Whereupon, State's Exhibit No. 61 was entered
2 into the record as evidence)

3 MR. ALDERMAN: And permission to publish, your
4 Honor.

5 THE COURT: Yes, sir.

6 BY MR. ALDERMAN:

7 Q. Tell us what we are looking at here.

8 A. That's a picture of the outside of the defendant's
9 hands, what appears to be blood on his right hand middle
10 knuckle area.

11 Q. Did you swab that area on his hands?

12 A. I did.

13 Q. And once you collect these swabs, the blood at the
14 scene, the defendant's hands, what do you do with that?

15 A. It's stored at the police department securely and then
16 it's sent to SLED for DNA analysis.

17 Q. Were those swabs, the ones taken from the hands, then
18 of the carpet and the counter in the home sent to SLED for
19 analysis?

20 A. Yes, sir, they all were sent.

21 Q. What were the results?

22 A. The results -- which particular one? The hands came
23 back --

24 Q. The hands.

25 A. -- positive identification through DNA analysis for the

1 victim.

2 Q. And the carpet area in the home?

3 A. The same.

4 Q. And the countertop area?

5 A. It came back positive also.

6 Q. Did you send the knife for analysis?

7 A. I believe we did.

8 Q. And do you recall if any DNA was found on the knife?

9 A. No, sir, I don't recall.

10 Q. All right. In your experience in evidence collection
11 would you expect a knife found in a sink with water and
12 detergent to return any DNA?

13 A. No, sir, I wouldn't expect it would.

14 Q. Officer Patterson, while you were there collecting
15 evidence did you witness the arrest of the defendant?

16 A. Yes, sir.

17 Q. All right. And did you see the gun in his possession?

18 A. I did.

19 Q. All right. Tell us about that.

20 A. When the defendant came out of the I believe the attic
21 area he had the gun in his hand and in his mouth.

22 Q. Okay. So if I understand you, he came down the attic
23 area with the gun in his mouth?

24 A. Yes, sir.

25 Q. And then did he reach up and throw it on the ground?

1 A. Yes, sir.

2 Q. And did you then collect it from the ground?

3 A. Yes, sir. Once everything was secured, they were
4 secured, yes, it was recovered.

5 Q. In your years as an officer have you ever seen a
6 self-defense case in which the victim was bound, gagged,
7 beaten, stripped, stabbed, rolled up in a tarp and hidden in
8 the back room of a house?

9 A. No, sir.

10 Q. Thank you. If you may answer any questions Ms. Lane
11 would have for you.

12 A. Yes.

13 THE COURT: Ms. Lane?

14 CROSS EXAMINATION BY MS. LANE:

15 Q. Lieutenant Patterson, you mentioned sending items off
16 to SLED for testing after they were collected?

17 A. Yes, ma'am.

18 Q. Let me back up just a minute.

19 How did you decide what to take from a crime scene for
20 processing?

21 A. I talk with the investigating officer that is on the
22 scene and he advises what he wants collected for his case.

23 Q. And did you take more than one knife?

24 A. Not that I recall, no, ma'am.

25 Q. Do you complete the evidence log, or does someone else

1 do that after you process a crime scene?

2 A. I complete it.

3 MS. LANE: Permission to approach the witness,
4 Your Honor?

5 THE COURT: Yes, ma'am.

6 BY MS. LANE:

7 Q. Lieutenant, I have got -- these -- this is a list of
8 evidence items that I would like you to take a look at.
9 Have you seen that before? Do you recognize it?

10 A. I don't know that I have seen it in this format, but --

11 Q. Do you recall entering these items after processing the
12 crime scene?

13 A. From what I can see, yes, ma'am.

14 Q. And do you see more than this one knife entered on
15 there?

16 A. There is a black in color folding knife there.

17 Q. Do you recall seeing any other knives?

18 A. I don't recall any, no, ma'am.

19 MS. LANE: Your Honor, I'm going to move to admit
20 this as Defense Exhibit 1.

21 THE COURT: Get it marked.

22 (Evidence List of Items marked as Defendant's
23 Exhibit No. 1 for identification)

24 MR. ALDERMAN: No objection.

25 THE COURT: All right, Defense Exhibit No. 1 would

1 be admitted without objection.

2 (Whereupon, Defendant's Exhibit No. 1 was entered
3 into the record as evidence)

4 MS. LANE: Permission to approach the witness,
5 Your Honor?

6 THE COURT: Yes, ma'am.

7 BY MS. LANE:

8 Q. Do you recognize this photo, lieutenant?

9 A. I don't recall it.

10 Q. Do you recognize anything in the photo?

11 A. The surrounding area looks familiar. This is a sign
12 here. I believe I saw that.

13 Q. Do you believe that is -- and I can show you -- I think
14 the State just entered an exhibit that has a full sign there
15 in the kitchen area.

16 A. Yeah, I believe that's the same area.

17 Q. Do you believe that's an accurate representation of at
18 least the surrounding area?

19 A. Uh-huh.

20 Q. But you don't recall seeing that knife?

21 A. Not right off I don't recall. I can't say that I can.

22 MS. LANE: Your Honor, I would like to publish
23 Exhibit 1 to the jury.

24 THE COURT: Okay.

25 MS. LANE: This is a document. It's the evidence

1 list, a list of items taken by lieutenant as he was
2 processing the crime scene.

3 And here is what I was pointing out, that there
4 was a black in color folding knife.

5 BY MS. LANE:

6 Q. Lieutenant, was the gun sent to SLED also?

7 A. Yes, ma'am, it was sent.

8 Q. And was it tested, processed by SLED?

9 A. No, ma'am, it was not.

10 Q. The gun was returned at the request of the sheriff's
11 department, is that correct?

12 A. I believe the paperwork that I received is at the
13 request of Captain Harris it no longer needed to be
14 processed.

15 Q. Thank you.

16 REDIRECT EXAMINATION BY MR. ALDERMAN:

17 Q. The knife that we handled a moment ago, remind us again
18 where that was found?

19 A. In the sink in the kitchen.

20 Q. And was it in water, detergent?

21 A. Yes, sir.

22 Q. Did you find any blood on it?

23 A. No, sir.

24 Q. Would you expect to in water and detergent?

25 A. No, sir.

1 Q. Taking another look at what defense showed you a moment
2 ago, describe what we see in the picture here.

3 A. It appears to be a steak knife, possibly, stuck in the
4 paneling inside a door.

5 Q. Is it fair to say it's not soaking in water or
6 detergent?

7 A. No, sir, it's not.

8 Q. Do you see any blood on that knife?

9 A. No, sir.

10 Q. Did you find blood in other places in the house?

11 A. Yes, sir.

12 Q. Did you, in fact, find blood all over that house?

13 A. Yes, sir.

14 Q. But none on this steak knife?

15 A. Correct.

16 Q. As best you can tell, is that a large knife?

17 A. It's hard to tell from the picture to gauge exactly how
18 long it is. It looks like possibly just a standard steak
19 knife.

20 Q. All right. Thank you very much.

21 MR. ALDERMAN: Nothing further at this time, Your
22 Honor.

23 THE COURT: Anything further?

24 MS. LANE: Nothing further, Your Honor.

25 I'm going to move to admit that photo as Defense

1 Exhibit 2.

2 MR. ALDERMAN: Your Honor, I'm going to object as
3 that the officer has indicated that he is not familiar with
4 that picture, or when it was taken, or if it's a true and
5 accurate representation.

6 THE COURT: I'm going to sustain the objection,
7 but that's without prejudice to the defense with the ability
8 to introduce it later with the proper foundation.

9 MS. LANE: Thank you, Your Honor.

10 THE COURT: Thank you, officer. You may step
11 down.

12 THE WITNESS: Thank you.

13 MS. SIMMONS: Your Honor, this may be a good time
14 for the afternoon break.

15 THE COURT: All right. Madam Bailiff, would you
16 take our jury to the jury room and we will take our
17 afternoon break.

18 (The following takes place outside the presence of
19 the jury panel)

20 THE COURT: All right, we will be in recess.

21 (Whereupon, proceedings were recessed)

22 (Whereupon, proceedings were reconvened)

23 THE COURT: All right, let's get our jury.

24 (The following takes place in the presence of the
25 jury panel)

1 THE COURT: Let's go back on the record.

2 State, call your next witness.

3 MR. ALDERMAN: Thank you, Your Honor.

4 At this time the State would call Captain Paul
5 Harris to the stand.

6 OFFICER PAUL HARRIS, having been first duly sworn,
7 testified as follows:

8 THE WITNESS: Yes, ma'am.

9 DIRECT EXAMINATION BY MR. ALDERMAN:

10 Q. Captain Harris, please state your full name and spell
11 your last name for the record.

12 A. It's Paul Harris, H-A-R-R-I-S.

13 Q. Where do you work, sir?

14 A. Walhalla Police Department.

15 Q. And what do you do for the Walhalla Police Department?

16 A. I am the captain and I assist the chief with various
17 activities and events that go on through the day.

18 Also an investigator and the training officer.

19 Q. Do you remember the morning of January the 13th, 2015?

20 A. Yes, sir, I was called by Officer Johnson that they had
21 found a body at [REDACTED] and believed it to
22 be a homicide and asked for me to come on out.

23 Q. And what information did you receive from dispatch, or
24 did you receive, that brought you out there?

25 A. That they received a call that Jeremy Little was in a

1 residence and had been stabbed per the second call they got,
2 so I immediately got dressed and went on down there and met
3 with my officers.

4 Q. Starting with the first call, what did law enforcement
5 do when they responded to that call?

6 A. The first call they got was the one that come from
7 Chris Burrell. He stated that he heard gunshots in the
8 area. He used the name of Mr. Cox.

9 The officers circled the area, canvassed the area, went
10 around the area, didn't see anything or hear anything.
11 Nothing seemed to be out of place for that time of day in
12 Walhalla, so they cleared the scene and went back on duty.

13 Q. And then they received a second call?

14 A. They did. They received a second call from Sarah
15 Jaeger, a 911 call.

16 Officer Chastain went to [REDACTED].

17 Officer Robbie Johnson went to meet with Sarah Jaeger
18 at the residence. Sarah Jaeger had informed her that Chris
19 Burrell had come to the house stating that his brother Kenny
20 had stabbed a man, believed him to be dead, down on [REDACTED]
21 [REDACTED], so Officer Johnson left Walhalla Gardens and
22 immediately went down to [REDACTED].

23 Q. And when they got there, what did they see that was
24 different from the first call?

25 A. The officers went around the house, found the lights to

1 be off.

2 They did discover a note on the back door, believed it
3 was written by Megan Crowe to her grandmother stating that
4 she had gone to Anderson to be with some friends, be back in
5 a week.

6 Officers continued to look in the area. They did find
7 a front window open. They were able to make tiny access
8 through that window and see into the residence and they
9 thought they saw blood in the living room and they believed
10 they saw blood going down the hallway, at which time they
11 decided to make entry into the home to try to assist Mr.
12 Little, if he was still alive.

13 Q. And what did they find when they entered the home?

14 A. After they cleared the house they found large amounts
15 of blood in the kitchen, dining room, blood tracks down the
16 hallway.

17 They had cleared the residence until they got to the
18 back door -- excuse me, to the back bedroom. The back
19 bedroom had been dead-bolted from the inside, so they forced
20 entry into the door. They found the attic ceiling -- or the
21 attic ladder had been extended. They cleared the attic. I
22 believe it was Deputy Murphy stepped back down and that's
23 when he stepped on the body and realized there was a body in
24 the room.

25 Q. After the scene was processed, did you attend the

1 autopsy?

2 A. I did.

3 Q. I'm going to hand you what's been previously marked as
4 State's 63 through 71 --

5 A. Yes.

6 Q. -- and ask if recognize these?

7 A. I do. These are the pictures from the autopsy.

8 Q. All right. And did you, in fact, take those pictures?

9 A. I did, yes, sir.

10 Q. Are they a fair and accurate representation of the
11 autopsy at the scene that day?

12 A. They are, yes, sir.

13 Q. And do they appear to have been altered or tampered
14 with in any way?

15 A. No, sir.

16 MR. ALDERMAN: Your Honor, at this time I would
17 move to enter into evidence State's 63 through 71.

18 THE COURT: Any objection?

19 MS. LANE: No objection.

20 MR. ALDERMAN: And, Your Honor, I'll reserve
21 publication for a later witness.

22 THE COURT: State's 63 through 71 would be
23 admitted without objection.

24 (Whereupon, State's Exhibit No. 63 was entered
25 into the record as evidence).

1 (Whereupon, State's Exhibit No. 64 was entered
2 into the record as evidence)

3 (Whereupon, State's Exhibit No. 65 was entered
4 into the record as evidence).

5 (Whereupon, State's Exhibit No. 66 was entered
6 into the record as evidence).

7 (Whereupon, State's Exhibit No. 67 was entered
8 into the record as evidence).

9 (Whereupon, State's Exhibit No. 68 was entered
10 into the record as evidence).

11 (Whereupon, State's Exhibit No. 69 was entered
12 into the record as evidence).

13 (Whereupon, State's Exhibit No. 70 was entered
14 into the record as evidence).

15 (Whereupon, State's Exhibit No. 71 was entered
16 into the record as evidence)

17 BY MR. ALDERMAN:

18 Q. Now, at the autopsy did you bring the knife that was
19 recovered?

20 A. Yes, sir, I did.

21 Q. What's previously admitted as State's 77?

22 A. That is correct.

23 Q. All right. I would ask you to put those gloves on that
24 are in front of you.

25 I'm handing you State's 77. Do you recognize this?

1 A. Yes, sir, that's the knife we removed from [REDACTED]
2 [REDACTED] out of the kitchen sink.

3 Q. I'll hand this to you.

4 I'll hand you a ruler. Can you give us a measurement
5 of the cutting edge of that blade?

6 A. Do you want the length or the width?

7 Q. The length of the cutting edge, if you would.

8 A. Approximately seven inches.

9 Q. And the width at the widest point?

10 A. About an inch and three-quarters.

11 Q. Thank you.

12 At the autopsy did you collect blood from the victim?

13 A. We did.

14 Q. And what did you do with that?

15 A. The blood was returned to the Walhalla Police
16 Department, stored for security in a refrigerator we use for
17 liquid evidence. It was locked and the key turned into
18 evidence.

19 Q. And why did you collect that?

20 A. To test it with the blood at the residence to see if it
21 was a match for the victim.

22 Q. Is it fair to say that that's for comparison?

23 A. Yes, sir.

24 Q. Did you also send a revolver for testing at SLED?

25 A. Yes, sir, we sent the revolver.

1 Q. And was that testing ever completed?

2 A. No, sir, it wasn't.

3 SLED tests for the entire state. We were allowed five
4 items on normal routine. We got a waiver and sent
5 approximately twenty-one, twenty-two items.

6 After investigation we discovered the gun had not been
7 fired. All three rounds were still locked in the chamber.
8 We decided the gun did not need to be tested, so we can test
9 other items, so the gun was sent back to Walhalla.

10 Q. How did you go about identifying the suspects in this
11 investigation? How did you come to find them?

12 A. Well, we knew the house was the house that Megan Crowe
13 lived in, but Megan Crowe had crashed through the ceiling.
14 That's how we found out who the suspects were. They were
15 the ones who had locked themselves on the interior of the
16 door climbing through the crawl space, Megan, Andy, and
17 Kenneth Collins.

18 Q. And how did you rule out self-defense in this case?

19 A. Speaking to Andy and Megan, they all made statements
20 that Kenny -- I mean, excuse me, that Jeremy Little had run
21 to the door and tried to escape. He did have two stab
22 wounds in his back, which would lead to the fact that --
23 which would lead to the belief that he was trying to exit
24 the residence.

25 Q. All right. In all of your years of law enforcement

1 have you ever seen a self-defense case in which the victim
2 was stabbed twice in the back, beaten, tied up, and then
3 dragged off and attempted to be stuffed in an attic?

4 A. No, sir, I have not.

5 Q. Thank you, Captain Harris.

6 If you would, answer any questions that Ms. Lane may
7 have for you.

8 THE COURT: Ms. Lane?

9 MS. LANE: Thank you, Your Honor.

10 CROSS EXAMINATION BY MS. LANE:

11 Q. Captain Harris, you testified that the gun was not
12 tested --

13 A. That's correct.

14 Q. -- is that correct?

15 A. Yes, ma'am.

16 Q. And that you knew that it wasn't fired because there
17 were three rounds in it, right?

18 I would like to show you a couple of photos.

19 MS. LANE: May I approach the witness?

20 THE COURT: Yes, ma'am.

21 BY MS. LANE:

22 Q. Do you recognize these photos?

23 A. Yes, ma'am.

24 Q. And do they accurately represent what you would have --
25 what would have been retrieved from the crime scene that

1 day?

2 A. Yes, ma'am.

3 Q. Do you know who took the photos?

4 A. It would have been Lieutenant Matt Patterson.

5 Q. Thank you.

6 MS. LANE: Your Honor, I'm going to move to
7 admit -- or actually I think both of them are already in.

8 MS. SIMMONS: Judge, I don't have a problem with
9 readmitting them.

10 THE COURT: What exhibits are we talking about?

11 MS. LANE: I'm not sure what the State Exhibit is.
12 I know we flipped through and I have seen the photos, but
13 I'm willing to move to admit them as defense exhibits.

14 THE COURT: Well, go ahead and mark them. The
15 State is not objecting, so just go ahead and mark them and
16 admit it.

17 (Photograph marked as Defendant's Exhibit No. 2
18 for identification)

19 BY MS. LANE:

20 Q. Captain Harris --

21 A. Yes, ma'am.

22 Q. -- what do you see there?

23 A. A bottle of muriatic acid.

24 Q. And what's beside this bottle of muriatic acid?

25 A. It appears to be three bullets that appear to be live.

1 Q. Three bullets?

2 A. Yeah, that appear to be gunshot rounds.

3 Q. And this -- does that gun appear cocked to you?

4 A. Yes, ma'am, it -- Kenny Collins came out of the attic
5 with the gun in his mouth.

6 Q. So I have shown you this photo where there is three
7 bullets.

8 Is there any way to tell for certain where these three
9 bullets came from without testing that gun?

10 A. The ones there, no, ma'am, but un-shot bullets could be
11 from any gun. The only way to test that was the actual
12 bullet in that gun. They weren't fired.

13 Q. Correct.

14 So, in essence, without testing it there is no way to
15 know that for sure?

16 A. I don't believe there is any way to know that, ma'am.

17 Q. Thank you, Captain Harris.

18 A. You are welcome.

19 MS. LANE: Nothing further, Your Honor.

20 THE COURT: Any redirect?

21 MR. ALDERMAN: Briefly, Your Honor.

22 REDIRECT EXAMINATION BY MR. ALDERMAN:

23 Q. So to be clear, three unfired rounds in that picture?

24 A. Yes.

25 Q. Is there anything in that picture then that is

1 inconsistent with the position that the gun was never fired?

2 A. No, sir, because all rounds are live.

3 Q. And is there any way to match, to your knowledge, a
4 random bullet to a gun if it was never fired?

5 A. To my knowledge, there is no way to connect the two.

6 MR. ALDERMAN: Nothing further, Your Honor.

7 RECROSS EXAMINATION BY MS. LANE:

8 Q. Any ballistics testing at all on a gun or ammunition?

9 A. Rephrase. What's your question there, ma'am? I'm
10 sorry.

11 Q. Were the bullets tested, or are you just eyeballing it
12 and --

13 A. No, ma'am.

14 Q. -- saying these are live rounds, they have never been
15 fired?

16 A. Those were live rounds and they had never been fired.

17 Q. Just by looking?

18 A. Just by looking at them, yes, ma'am.

19 Q. Thank you.

20 A. You are welcome.

21 THE COURT: Thank you, officer. Step down.

22 Ms. Lane, you just put in one exhibit?

23 MS. LANE: Yes, Your Honor.

24 THE COURT: That would be Defendant's Exhibit No.

25 2?

1 MS. LANE: Yes.

2 THE COURT: That would be without objection.

3 (Whereupon, Defendant's Exhibit No. 2 was entered
4 into the record as evidence).

5 MS. SIMMONS: Your Honor, that would be all the
6 State's witnesses for today. Dr. Woodard is under subpoena
7 for tomorrow morning.

8 THE COURT: Okay.

9 All right. Ladies and gentlemen, we have reached
10 a natural stopping point for the day, so you get to go home
11 now. We will start the case at nine o'clock tomorrow. So
12 be in the jury room shortly before nine o'clock.

13 Remember the three prohibitions; no discussions
14 with third parties, no independent research, and no
15 deliberations.

16 I hope everyone has a good evening and we will see
17 you tomorrow at nine o'clock.

18 (The following takes place outside the presence of
19 the jury panel)

20 THE COURT: Okay. Anything further from either
21 party before we go into recess?

22 MS. SIMMONS: No, Your Honor.

23 MS. LANE: No, Your Honor.

24 THE COURT: We will be in recess until nine
25 o'clock tomorrow morning.

1 (Whereupon, proceedings were recessed to October
2 18, 2017, at nine o'clock a.m.)

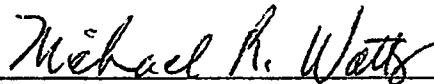
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CERTIFICATE

I, the undersigned, Michael R. Watts, Official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and the evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for OCONEE County, South Carolina, on the 17TH day of OCTOBER, 2017.

I do further certify that I am neither of kin, counsel nor interest to any party hereto.

MARCH 2, 2018



Michael R. Watts
Circuit Court Reporter

1 State of South Carolina
2 County of Oconee

In the Court of General Sessions

3
4 State of South Carolina,)

5)

2015-GS-37-00348 & 349

6 -vs-)

October 18, 2017

7 Kenneth Strother Collins,)

8 Defendant.)

Transcript of Record

9 _____)

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11

B E F O R E:

12

13 The Honorable R. Scott Sprouse, Judge;
14 and a jury.

15

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

16 Lindsey Simmons, Esquire
17 Jason Alderman, Esquire
18 Tenth Circuit Solicitor's Office
19 Attorneys for the State

20
21 Angela Lane, Esquire
22 Attorney for Defendant

23

24

25

Diane L. Marcengill, RPR, CRR
Circuit Court Reporter

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For the State:

Marked	Description	I.D.	Admitted
78	Autopsy report		8

For the Defendant:

Marked	Description	I.D.	Admitted
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1 (WHEREUPON, court convened with all parties
2 present and the following proceedings were had
3 commencing at 9:13 a.m.)

4 MS. SIMMONS: Judge, may we approach?

5 (WHEREUPON, a bench conference was held off the
6 record.)

7 THE COURT: Let's go on the record. Anything for
8 the record from either side before we bring our jury
9 in?

10 MS. SIMMONS: No, Your Honor.

11 MS. LANE: Nothing, Your Honor.

12 THE COURT: All right.

13 Mr. Bailiff.

14 (WHEREUPON, the jury entered open court at
15 9:17 a.m.)

16 THE COURT: Good morning, ladies and gentlemen.
17 Did any member of the jury discuss the case with third
18 parties, deliberate, or conduct independent research?

19 All right. Let the record reflect that there were
20 no positive responses. Very good.

21 State, ready to call your next witness?

22 MS. SIMMONS: We are, Your Honor.

23 At this time, the State would call Dr. Brett
24 Woodard to the stand.

25 BRETT HOUGHTEN WOODARD, M.D.,

1 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

2 DIRECT EXAMINATION

3 BY MR. ALDERMAN:

4 Q Dr. Woodard, would you please give us your full
5 name and spell your last name for the record.

6 A Brett Houghten Woodard, W-o-o-d-a-r-d,
7 H-o-u-g-h-t-o-n.

8 Q Thank you, Dr. Woodard. What is your occupation?

9 A I am a medical doctor, and I am currently
10 practicing in the field of forensic pathology.

11 Q And where did you attend medical school?

12 A I attended medical school at Tulane University,
13 received my medical degree. I did an internship at the
14 Charity Hospital of New Orleans, then I went to Durham,
15 North Carolina and did a residency in pathology at Duke
16 University Medical Center.

17 Following that, I did fellowship training at the
18 North Carolina Medical Examiner's Office.

19 Q And since then, Dr. Woodard, where have you
20 practiced?

21 A I've practiced since 1982 through 2016 with
22 Piedmont Pathology Associates. Since 2016, I've been
23 working with the Oconee, Anderson, and Abbeville County
24 coroner's office as their medical examiner.

25 Q Would you describe that as a specialized field or

1 a general practice?

2 A Pathology is a speciality in medicine. Forensic
3 pathology is a specialized subspecialty within
4 pathology that deals with injuries to the human body,
5 their causes, and the consequences of those injuries up
6 and to the point of death.

7 Q And are you board certified in a particular field?

8 A Board certified in anatomic pathology, clinical
9 pathology, blood banking and transfusion medicine, and
10 forensic pathology.

11 Q How does one go about becoming board certified?

12 A In order to become board certified in general
13 pathology, you have to take a period of training and
14 successfully complete that training according to the
15 supervisors of that training, then you're allowed to
16 sit for an examination. You are required to maintain
17 continuing education at a certain level in order to
18 maintain that certification.

19 In the Board of Forensic Pathology, you take a
20 separate test following experience and training, and
21 again the recommendation of the trainers, and you then
22 are required to maintain continuing education in that
23 field.

24 Q Dr. Woodard, have you authored any publications,
25 or do you lecture in any particular fields?

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Brett Houghten Woodard, M.D. - Direct by Mr. Alderman

6

1 A I lecture in the field now of forensic pathology.
2 I have offered, while at Duke, a variety of
3 publications mainly dealing with cancer.

4 Q And how many times have you testified in court?

5 A Hundreds.

6 Q All right. And are you being compensated for your
7 testimony here today?

8 A I am not.

9 Q How many years total have you practiced as a
10 forensic pathology, if you had to put a number on it?

11 A Roughly 40 years.

12 Q And in your roughly 40 years as a forensic
13 pathologist, how many autopsies would you say you have
14 performed?

15 A Thousands. I roughly perform 250 autopsies a year
16 since 1982. Before that, I performed more. Some years
17 I perform more.

18 MR. ALDERMAN: Your Honor, at this time we would
19 ask the court to declare the witness an expert in the
20 field of forensic pathology.

21 THE COURT: Any objection?

22 MS. LANE: No objection.

23 THE COURT: The witness would be classified as an
24 expert in the field of forensic pathology without
25 objection.

1 BY MR. ALDERMAN:

2 Q Dr. Woodard, I'm going to hand you what has been
3 previously marked for identification as State's
4 Exhibit 78. Do you recognize this?

5 A This represents a copy of my autopsy on Jeremy L.
6 Little. This would be the report that I completed, and
7 the report would have been then given as the property
8 of the Oconee County Coroner.

9 Q Does it appear to be a true and accurate copy of
10 that document?

11 A Yes, it does.

12 Q Appear to have been altered or tampered with in
13 any way?

14 A Other than that little sticker and the received
15 stamp, no.

16 Q Fair enough.

17 Dr. Woodard, are these reports generated in your
18 regular course of business?

19 A Yes, they are.

20 MR. ALDERMAN: Your Honor, at this time I would
21 move to admit State's Exhibit 78.

22 THE COURT: Any objection?

23 MS. LANE: No objection.

24 THE COURT: All right. State's Exhibit 78 would
25 be admitted without objection.

1 (WHEREUPON, State's Exhibit Number 78 was admitted
2 into evidence.)

3 BY MR. ALDERMAN:

4 Q Dr. Woodard, did you perform an autopsy of a
5 gentleman by the name of Jeremy Little?

6 A Yes, I did.

7 Q When was that?

8 A It was performed on the 14th of January 2015.

9 Q And if you would, Doctor, just sort of educate us
10 about what a general full autopsy entails.

11 A A full forensic autopsy, we initially receive the
12 deceased from the custody of a county coroner. In this
13 case it was Coroner Carl Addis. He and law enforcement
14 that may have come with him will give us a general
15 hearsay background of how they found the individual,
16 what they saw, where they found the individual, and any
17 background information that may help as far as
18 information of their health status or medications or
19 substances that were found at the death scene.

20 We then open the body up. I receive it as it was
21 clothed at the time of death. I take photographs that
22 substantially show the condition of the deceased as we
23 receive them, study the outside clothes of a clothed
24 victim to see if we can find trauma to the surface of
25 the clothes. If we find trauma to the surface of the

1 clothes, we then look underneath that to see if there's
2 trauma to the surface of the body. We then collect any
3 what we call trace evidence, factors that may be
4 available under the fingernails, blood smears that
5 don't seem to be related to what the visual injuries
6 that we have, exemplar hairs from their head if
7 location was important, and blood samples for
8 toxicology, DNA-type studies. We then remove the
9 clothes, place them in evidence and give them to the
10 police authority which is present, and then we examine
11 the outside of the body for any scrapes, bruises, cuts,
12 or tears of the skin that may be present. We record
13 these as far as location, and we record them
14 photographically. In most cases, a representative from
15 law enforcement is present who parrots our photographs.
16 When I pause or take photographs, they turn around and
17 take the same photograph. Then we open the body and
18 see how these outside injuries translate to injuries in
19 the deeper layers of the body and then inside the body.
20 After that's done and recorded, I prepare the
21 report and give information to the police and coroner's
22 office about the physiologic effect of those, what
23 would somebody be able to do after that injury
24 occurred, and give them my opinion as to the cause of
25 death and the manner of death.

1 Q Thank you, Dr. Woodard.

2 What were your initial observations about
3 Mr. Little that day?

4 A He had what we called both sharp force trauma,
5 trauma caused by a knife object, and blunt force
6 trauma, trauma that could be caused by a foot, hand,
7 blunt objects, blunt surfaces, or severe straining
8 against other individuals' grip, or in this particular
9 case, other individuals' bindings.

10 I dictated the blunt trauma first and then came
11 back and dictated the sharp force trauma. There was no
12 reason other than to be convenient to how I dictated it
13 and it got typed.

14 Q How was Mr. Little clothed?

15 A We received him shrouded in duct tape, and we
16 removed the clothing, a white tank top T-shirt
17 underwear, which was pushed down around his ankles.
18 Socks were on his feet. There were EKG patches, which
19 were put on by first responders as part of their
20 activities. And we removed these and placed them into
21 evidence. Then we examined the underlying body.

22 Q All right. Dr. Woodard, you described some
23 external injuries and the clothing of the victim. I'm
24 going to show you some pictures that have been
25 previously admitted into evidence and have you, if you

1 can, describe these for me.

2 State's 36. What are we looking at here?

3 A This represents a picture that I either took or
4 caused to have taken. You see the hand, purplish hand
5 with a ruler in the picture and our identifying number
6 081511. This represents the substantial condition his
7 face was in at the time we received him, clothed with
8 that handkerchief and tape around his neck.

9 Q And State's 69?

10 A This is a picture after, I would say, we cleaned
11 the area to make any patterns more evident. You see
12 that there is a pattern bruise on his forehead. You
13 see that there is a tear in his skin above his left
14 eyebrow.

15 Q And, Dr. Woodard, you described bindings. Can you
16 tell us what you see in State's 65?

17 A Here you see cord, electrical cord that was used
18 as bindings around his wrist. We cut this away after
19 we took pictures of it in situ. You can see
20 approximate points of cut where the wires are sticking
21 out.

22 Q State's 66?

23 A This represents his right hand. You can see
24 bruises and scrapes over the right forearm and wrist
25 area. If you look on the right hand down toward the

1 hip area, while there is a bruise on the hip, there's
2 also a bruise over the bony bump that we call the
3 medial aspect of the hand, but that bony bump that's
4 next to the little finger side.

5 Q And then, perhaps more to that point, State's 70?

6 A This is the right hand again. This is a better
7 picture of that bony bump. As you look above the
8 ruler, you see there's lines of the bruises which show
9 the lines from the cord being wrapped around.

10 Q State's 67?

11 A This is the undersurface of his left arm, and you
12 can see bruises over his left arm again showing that
13 line-like pattern that the cord produced.

14 Q Dr. Woodard, what, if anything, do the bruises
15 tell you about what happened that night?

16 A When the cords were wrapped around him, he still
17 had blood pressure and, again, he had some element of
18 strain against those restraints.

19 Q So would it be fair to say in layman's terms, he
20 was tied up while he was still alive and he fought
21 against those bindings?

22 A That would be correct.

23 Q You mentioned clothing that was recovered.
24 State's 71?

25 A This is the back of his T-shirt. Again, we took

1 photographs. These show injuries to the T-shirt
2 surface. Also they show blood stain indicating that
3 blood had leaked out of the body.

4 Q State's 64?

5 A This shows a stab wound on the right back. This
6 stab wound went in the right back, ran into the
7 scapula -- your wing, if you will -- and went through
8 the soft tissues producing a blood clot in the tissue
9 known as a hematoma.

10 Q State's 68?

11 A This is a stab wound in the lower portion of the
12 back. As you look at the top edge of the stab wound,
13 you see that it has a point. You come down to what
14 would be the lower edge of the stab wound toward the
15 bluish-purple glove, and you see there is an upside
16 down V shape of the wound. This wound went in the soft
17 tissues, struck and cut the edge of a rib, went into
18 the lower lobe of the right side of the lung and went
19 through the lower lobe of the right side of the lung up
20 into the middle lobe of the right side of the lung
21 producing a hole in the lung and bleeding from the
22 lung. This resulted in air getting in around the chest
23 cavity, a pneumothorax, and bleeding around the chest
24 cavity, a hemothorax.

25 The V shape shows that when the knife was in the

1 body, the knife was either rotated or the individual
2 squirmed, so the knife was repositioned during the
3 attack.

4 Q Dr. Woodard, did you have an opportunity at
5 autopsy to compare those wounds to a knife recovered at
6 the scene, State's 62?

7 A Yes. A knife was brought by police authorities,
8 and you can see we're in the autopsy room again. Our
9 stainless steel table behind it. This knife was
10 brought. We did not place the knife near the wound,
11 but we examined the knife and looked at the wound
12 characteristics to see if this knife was consistent
13 with those characteristics.

14 Q Dr. Woodard, you'll find a pair of gloves in front
15 of you there on the stand. If you could put those on,
16 please. I'm going to hand you what has been admitted
17 as State's 77, a knife recovered at the scene.

18 Does that appear to be the knife that you compared
19 that day at autopsy?

20 A Yes. This appears to be the same knife or a
21 similar knife.

22 Q And, Dr. Woodard, based on what you observed from
23 the external and internal injuries, is it likely or
24 probable that a knife like this or this knife would
25 cause those injuries?

1 A Yes. If you could go back to the second wound
2 picture.

3 Q Yes, sir. State's 68.

4 A As I said, if you look at what is the upper side
5 of the wound, you can barely see the back of his head
6 to the far left as we look at the screen. And above,
7 right below the 081511, you see that that has a sharp
8 point to it. As you come all the way down to the
9 bottom, you will see there is a sharp point there
10 closer to the ruler. You can't really tell above the
11 ruler or the part that goes toward the top of the
12 screen, but as you look at this type of knife, the
13 reason I say it's consistent with that is this is
14 what's known as a double-edged knife. It has two sharp
15 sides. Most knives, like the knives that folks use in
16 their kitchen, have a dull side and a sharp side. In
17 fact, most knives that most people use have a dull side
18 and a sharp side.

19 In this particular case, because there is a sharp
20 wound at both sides, we can tell that a two-edged knife
21 or a dagger-type knife was used to make the stab rather
22 than what I'll call a more traditional civilian knife
23 that doesn't have those features.

24 The other feature that we observed is in the
25 length of this knife. This is seven -- well, maybe I

1 can make it so you can see it, too. This is seven
2 inches to the edge of the end of the sharp point of
3 this knife. The depth that the knife went in, the
4 anatomic depth that it achieved, was seven inches. So
5 the general length of the knife is consistent with the
6 wound. While a shorter knife can make the same wound,
7 it requires compression of the overlying tissues, the
8 skin, the fat, in this particular case the ribs. Ribs,
9 especially posterior ribs in adults, are very difficult
10 to compress. Anyone who's had experience being trained
11 in CPR knows how much effort has to be made in order to
12 compress those ribs, even in the dummies that are used
13 for that training.

14 The other feature that is consistent with this
15 knife is the general width of this knife. This is
16 about an inch and a half. Once one leaves the tip, it
17 is between an inch and a quarter and an inch and a
18 half. That general width matches the first wound. It
19 also would be consistent with this much longer
20 three-and-a-half-inch wound because we know there's
21 cutting at the top and cutting at the bottom with
22 repositioning of the knife.

23 Q Dr. Woodard, we've talked a bit about that second
24 wound. Would you say that the first wound is also
25 consistent with a double-edged knife like the --

1 A Yes. The first wound, while not as showing as
2 clearly those features still has those features, if we
3 could digress back to that picture.

4 Q State's 64.

5 A Again, you can see that it has a pointed quality
6 rather than a blunt or squared edge at one side.

7 Q Dr. Woodard, I'm going to show you some examples
8 of other knives, and in that same line, if you could
9 just explain to us why this could have or could not
10 have made that wound.

11 A This appears to be a relatively standard kitchen
12 serrated knife. It has a squared edge toward -- I
13 believe that's a door or cabinet, the seam of the door
14 or cabinet, and it has a serrated edge on the other
15 side. While direct thrust with serrated knives may not
16 leave a serrated pattern, when the knife is brought
17 down and cut like we see on the second wound, we begin
18 to see the serrated pattern, and we'll see the serrated
19 pattern at the edges of any kind of slashing wounds,
20 though we did not have those in this particular case.
21 I don't know the length of that knife.

22 Q And another example?

23 A This appears to be a relatively common folding
24 pocketknife. Again, I don't know if the blade is
25 serrated underneath, but the blade, the portion of the

1 blade that's sticking out, is squared. It has to be
2 squared so it's safe to have in your pocket and not cut
3 your hand when you reach to use this type of utility
4 knife. These tend to be shorter than the handle. The
5 handle looks like it's, based on the ten sign that's
6 there, looks like it's in the three-and-a-half, no more
7 than four-inch range.

8 Again, a knife in this length range would require
9 severe skin injuries from bruising in order to compress
10 the tissues, though the ribs would be very unlikely to
11 be compressed from such a knife.

12 Q Dr. Woodard, speaking generally, what kind of
13 force does it take to plunge that seven-inch knife
14 seven inches into a person through the ribs?

15 A If you miss the ribs, depending on how sharp the
16 knife is, the force can be moderate, okay. In this
17 particular case -- excuse me while I check the exact
18 number -- the seventh rib, the seventh rib demonstrated
19 a cut injury on the rib, so we had to actually
20 physically cut the bone, which requires significant
21 force in order to achieve that, even with a very sharp
22 knife.

23 Q Would you say that the width of that blade at its
24 widest point is wider than the space between ribs such
25 that a person would have to force those ribs apart to

1 get the knife into that space?

2 A Yes, but once the cutting action starts, that
3 force becomes less and less.

4 Q Now, you mentioned contusions to the head on the
5 exterior, and we saw pictures of those. Going to the
6 interior of the body, did you see any interior injuries
7 that were consistent with the exterior injuries?

8 A When we reflected the scalp to gain access to the
9 skull, we saw a very large bruise into the muscle
10 that's above your ear here and in the little fibrous
11 bands and soft tissues that make up your scalp, which
12 represented a severe bruise near or at the time that
13 blood pressure began to fall.

14 We opened the skull, and we saw that the
15 underlying brain tissue itself was bruised or contused.
16 It resulted in some bleeding. We call that
17 subarachnoid hemorrhage. The hemorrhage had time
18 dissect down around the bottom of the brain, which
19 meant that it was going on for a period of time before
20 death occurred.

21 Q In layman's terms, do we call that a brain bleed;
22 is that fair?

23 A No. Most people think of a stroke or a berry
24 aneurysm when they use that term. This is --
25 basically, the same thing will happen if some big guy

1 punched you in the arm and crushed your fat cells. You
2 start with a bruise, and then that bruise gets a little
3 bit bigger over time as the blood leaks away. In the
4 brain, there's this special space that the blood could
5 leak into, so it tends to leak faster and further.

6 Q Tell me this, Dr. Woodard. If a person was struck
7 with sufficient force to cause this injury, would you
8 expect them to be knocked unconscious potentially?

9 A Yeah. I would think that they would be stupefied.
10 They may appear to lay people to be unconscious or lay
11 people may even think they're dead. They may make some
12 vague moaning noises, and they may make incoherent
13 activities. With time, without medical intervention,
14 to reduce the swelling of the brain, the probability of
15 death is high.

16 Q Would you expect, even if not unconscious but in
17 that stupefied state, a person who received such an
18 injury be unable to defend themselves from that stab
19 wound to the lower back?

20 A Absolutely.

21 Q Let's talk a little bit more about the internal
22 injury to the lung. You described it as a
23 hemopneumothorax; is that right?

24 A That's correct. Air and blood around the lung.

25 Q And if you could explain that process to us a

1 little bit.

2 A When we open the chest wall up, there is potential
3 negative space that exists between the surface of our
4 lung and the surface of our chest wall. That's so that
5 when we breathe in, the air will come in, and when we
6 exhale, we actually use force to push the air back out.

7 When we open that space and air comes in from the
8 outside, we no longer have the negative pressure so it
9 becomes harder and harder to take a breath in. So with
10 each breath that you take in, it moves the lung in
11 relationship to the chest wall, a little more air leaks
12 in, until finally there's not enough space left, the
13 lung collapses so you can't take a breath. It takes a
14 period of time. The greater your activity, the quicker
15 it's going to happen. The less your activity, the
16 longer it will take.

17 Q And was that injury the cause of the death of
18 Jeremy Little?

19 A It was, in my opinion.

20 Q Dr. Woodard, how long does it take a person to die
21 from that injury?

22 A Several minutes. Again, depends on their activity
23 level at the time. Very inactive individual, it might
24 take longer. An active individual would be much
25 shorter time period.

1 Q So, for example, the victim was struck in the head
2 and incapacitated, as we discussed previously, and then
3 stabbed a second time. Would it take longer for them
4 to die?

5 A Absolutely.

6 Q Dr. Woodard, if a person received medical
7 treatment, emergency medical care or showed up in a
8 hospital, EMTs, is this a survivable injury or is it
9 absolutely fatal?

10 A It's very potentially survivable. A simple field
11 procedure, placing a large bore intravenous catheter in
12 the chest space and relieving, pulling the gas out
13 that's around the lung, will cause the lung to
14 sufficiently reinflate until a chest tube, which the
15 surgeons in the emergency room would put in, is put in
16 place and the lung can be completely reinflated.

17 Q Doctor, maybe you can help us clear something else
18 up that was raised earlier. Do you frequently in your
19 practice recover fired projectiles from bodies?

20 A Absolutely.

21 Q Are those projectiles then sent for ballistic
22 analysis?

23 A That's correct.

24 Q If you were to receive a body and, say, find an
25 unfired round in their pocket or otherwise on their

1 person, would be expect that to be sent for ballistic
2 analysis?

3 A Well, ballistic analysis evaluates the injuries
4 that occurred as the bullet goes down the rifle barrel.
5 During that passage, each individual firearm has unique
6 signature that can be identified. That bullet hasn't
7 been fired, so while it's a potential hazard -- we
8 wouldn't want to throw it in with the trash that's
9 going to be incinerated -- and, therefore, we like to
10 give them back to the police authorities to deal with.
11 The only purpose that it has would be to read the stamp
12 on the back of the bullet and say it was a Remington
13 bullet and see if it the other bullets that were
14 involved or a bullet that might have struck somebody
15 else was a Remington bullet. It wouldn't require
16 ballistic testing to figure that out.

17 Q Is it fair to say that sending an unfired bullet
18 for ballistic analysis is a useless endeavor?

19 A It has very little use that I can envision.

20 Q Dr. Woodard, in all your years of experience,
21 40-some-odd years in forensic pathology, have you ever
22 received a body who was stabbed twice in the back,
23 severely beaten, bound in a case where the defendant
24 successfully claims self-defense?

25 A Not that I'm aware of.

1 Q Dr. Woodard, what was the specific cause of death
2 again of Jeremy Little?

3 A The stab wound to the back and the resultant air
4 and blood that came around the lung, hemopneumothorax.

5 Q And what was the manner of death?

6 A Manner of death was homicide.

7 Q Thank you, Dr. Woodard. If you would, please
8 answer any questions Ms. Lane may have for you.

9 THE COURT: Ms. Lane.

10 MS. LANE: Thank you, Your Honor.

11 CROSS-EXAMINATION

12 BY MS. LANE:

13 Q Dr. Woodard, you used the term "consistent with" a
14 couple times. Can you explain what you mean when you
15 say "consistent with"?

16 A I could imagine -- I used it in relationship to
17 that dagger knife that was shown. I can imagine other
18 daggers that could be able to achieve the same wound.
19 With most knives, there's no unique signature to that
20 knife that says it was just, of all possible knives
21 like this, that that particular knife was the only one
22 that could have produced that injury.

23 Q And you measured the stab wound at the top of the
24 back, the top of the back/neck area at an inch and
25 three eighths; is that correct?

1 A That was the length of the cut in the skin,
2 correct.
3 Q And the width of the knife you said was an inch
4 and three quarters?
5 A The width went from an inch and a quarter to about
6 an inch and a half.
7 Q And do you believe that there would have been or
8 that there should have been some tearing in that stab
9 wound at the top of the back?
10 A I'm unclear what your question is.
11 Q I'm sorry. I'll rephrase. The stab wound at the
12 top of the back that we -- let me do this. This stab
13 wound?
14 A All right.
15 Q Do you believe that the length and width of the
16 knife that you were shown by the state should have
17 caused any tearing as it entered and exited this area
18 of the body?
19 A No. Tearing is caused by blunt trauma. By that,
20 the tissues are crushed. This is a sharp trauma that
21 severs the tissues along its pathway.
22 Q Thank you, Dr. Woodard.
23 MS. LANE: Nothing further, Your Honor.
24 MR. ALDERMAN: Nothing further from the state,
25 Your Honor.

1 THE COURT: Thank you, Doctor. You may step down.

2 Any objection to this witness being excused?

3 MS. SIMMONS: Not from the state.

4 MS. LANE: No objection.

5 THE COURT: Doctor, you are excused.

6 MS. SIMMONS: Your Honor, at this point the state
7 rests.

8 THE COURT: Okay.

9 Madam Bailiff, would you take our jury to the jury
10 room, please.

11 (WHEREUPON, the jury exited open court at
12 9:52 a.m.)

13 THE COURT: Are there any motions?

14 MS. LANE: Defense will move for a directed
15 verdict, Your Honor.

16 THE COURT: After hearing the testimony and the
17 evidence presented in the case, as you know, the court
18 has to look for the existence of evidence and not base
19 any decision on the weight of the evidence, and I find
20 that there is evidence in the record to support the
21 charges made by the state, making this a jury question
22 so I'll deny your motion for a directed verdict.

23 THE COURT: Ms. Lane, would you have your client
24 stand, please?

25 Mr. Collins -- Madam Clerk, would you put

1 Mr. Collins under oath.

2 (WHEREUPON, the defendant was sworn.)

3 THE COURT: Mr. Collins, at this time I'm going to
4 explain to you some of your rights. If do you not
5 understand anything I say, please let me know and I
6 will explain it in more detail. If you answer the
7 question, I will assume that you understood the
8 question.

9 Do you understand?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: We have reached the stage in the trial
12 where the you may present your defense. You have the
13 right to claim the protections given to you by the
14 Fifth Amendment to the Constitution of the United
15 States. This amendment states in part, "No person
16 shall be compelled in any criminal case to be a witness
17 against himself." This means you cannot be required to
18 testify in this case.

19 On the other hand, you have the right to testify
20 on your own behalf should you choose to do so.
21 However, no one can make you testify. This is a
22 personal right, and no one can waive this right except
23 you. If you decide to testify, you will be subject to
24 the same rules that govern other witnesses, and you may
25 be examined and cross-examined on any relevant issue in

1 this case.

2 In addition, if you have any convictions involving
3 dishonesty or false statements or for crimes punishable
4 by imprisonment for more than one year and this court
5 determines that the probative value of admitting this
6 evidence outweighs its prejudicial effect on you, the
7 solicitor will be able to introduce your record to
8 attack your credibility.

9 If you decide to testify, this decision on your
10 part must be freely, voluntarily, and intelligently
11 made with the knowledge of the protections given to you
12 by the Fifth Amendment and the consequences of your
13 decision to testify. If you decide not to testify, I
14 will instruct the jurors that they cannot give the fact
15 that you did not testify any consideration whatsoever,
16 and that there is to be absolutely no prejudice to you
17 because you did not testify.

18 It is left entirely up to you whether or not to
19 testify. You may talk to your attorney, your family,
20 friends, or anyone else, but the decision will be left
21 entirely up to you.

22 Do you understand what I have explained to you?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Do you have any questions to your
25 attorney about what I've explained to you?

1 THE DEFENDANT: No, sir.

2 THE COURT: Okay. We'll take a break.

3 Ms. Lane, I'll allow you to discuss this with your
4 client, and we'll come back after the break and you can
5 inform the court of your client's decision.

6 MS. LANE: Yes, sir.

7 Your Honor, may we approach?

8 THE COURT: Yes, ma'am.

9 (WHEREUPON, a bench conference was held off the
10 record.)

11 THE COURT: We'll go into recess.

12 (WHEREUPON, a recess was taken from 10:01 a.m. to
13 10:27 a.m.)

14 THE COURT: Before we get our jury, Ms. Lane, have
15 you had the opportunity to talk with your client about
16 testifying?

17 MS. LANE: I have, Your Honor. As counsel for the
18 defendant, I did advise that defendant not testify,
19 exercise his right to remain silent, and he has decided
20 that he will indeed testify.

21 THE COURT: Mr. Collins, would you stand, please,
22 sir.

23 Is that indeed your decision?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Do you need any more time to talk to

1 your attorney?

2 THE DEFENDANT: No, sir.

3 THE COURT: You wish to testify?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: Okay.

6 All right. Anything else for the record before
7 we --

8 MS. SIMMONS: No, Your Honor.

9 MS. LANE: No, Your Honor.

10 THE COURT: Okay. If you could let the bailiff
11 know to get our jury.

12 (WHEREUPON, the jury entered open court at
13 10:28 a.m.)

14 THE COURT: All right. Ms. Lane.

15 MS. LANE: Your Honor, defense calls Kenneth
16 Collins to the stand.

17 KENNETH STROTHER COLLINS,

18 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

19 DIRECT EXAMINATION

20 BY MS. LANE:

21 Q State your name for the record and spell your last
22 name.

23 A Kenneth Strother Collins, C-o-l-l-i-n-s.

24 Q And are you -- do you reside in Oconee County?

25 A Yes, ma'am, I do.

1 Q I'm going to ask you some questions about the
2 night -- the morning of January 13, 2015. Do you
3 recall that date?

4 A Yes, ma'am.

5 Q Where were you on that day?

6 A I was at [REDACTED], which was my
7 house at the time.

8 Q Who else lived in that house?

9 A It was me and Megan and her father and his
10 girlfriend, but they wasn't there at the time.

11 Q Who was there at the time?

12 A It was me, my brother Andy Cobb, and Megan Crowe.
13 And Jeremy Little came in thereafter, later.

14 Q Where did you meet Jeremy Little?

15 A I met him at Walhalla Gardens Apartments.

16 Q Was that the first time you met him?

17 A Yes, ma'am.

18 Q Can you tell us about when you met him?

19 A I was called up there by my brother because there
20 was a woman up there named Sarah Yeager at Ashley
21 Settlemyre's apartment. He told me she had some
22 marijuana for sale. I came up there. When I come up
23 there to get it, I'm sitting there. There was some
24 stuff happening or whatever, and then I ended up
25 getting some marijuana, I left, and then I was called

1 back again to say she had some crank. And then about
2 the third or fourth time I come up there, then I met
3 him. And he was sitting in there. And it was more in
4 passing than anything. I didn't really have any
5 dealings with him. Like I had seen him, but I didn't
6 really -- I didn't even know his name.

7 Q And what happened after that?

8 A After that, I left. I went back to the house. On
9 the way out, he told me, when he was standing in the
10 breezeway, he was like, "I'm going to come down there
11 later." And I was like, "I don't think that would be a
12 good idea, you know what I'm saying, because I really
13 don't know you, you know what I'm saying." And then
14 when I went down to the house, later on he came and
15 knocked on the door.

16 Q And after he knocked on the door, what happened?

17 A When he knocked on the door, I opened it up.
18 Megan and Andy were in the other room. I opened it up.
19 Chris was in the back room. I couldn't tell you what
20 he was doing. I thought he was in the shower. But
21 when he came in, he was like, "Do you want to smoke
22 some dope?" Because when I opened up the door, I kind
23 of stepped back and he kind of stepped in. I said, "I
24 don't know." I said, "I don't really smoke dope," you
25 know what I'm saying. I turn around, and here's Megan

1 and Andy coming. I said, "You got a bowl," which is a
2 meth pipe. And they said, "I don't know. I can't find
3 it," is what she said, and she started walking out
4 towards the building, out the back door through the
5 kitchen door.

6 Q And why did she go out to the building?

7 A I assume she was looking for the meth pipe.

8 Q And what happened after that?

9 A After that, Jeremy come in and he sit down at the
10 island, at the bar right there on a bar stool. I was
11 sitting there looking at him, and I seen him fumbling
12 through his pockets, and I seen the gun in his waist.
13 And I went into the other room, which was our bedroom,
14 which is the one right there to the side to the left.
15 I was looking around for the phone because Megan has
16 usually got it, and that's the room that they were in,
17 so I went in there looking for it. And when I come
18 back out, Jeremy is looking around the house like he's
19 looking for something.

20 Q And what happened after you saw Jeremy, who
21 appeared to be looking for something?

22 A I asked him if he could find what he was looking
23 for, did he see what he was looking for, and he said,
24 "No, I don't really look around people's houses like
25 that." And then we started to get into an altercation.

1 I told him, "The best thing he needed to do was just,"
2 excuse me my language, "Get the fuck out of my house,"
3 you know what I'm saying. And then it escalated from
4 there. And about the time that it really got heated,
5 Chris was coming down the hallway walking towards the
6 living room from behind Jeremy down the hallway. And
7 Megan and Andy walk in behind him, and I turn around
8 and look at them, and she said "hey" or something and
9 it made me turn around.

10 Q And then what happened?

11 A Then he ran toward the door, and then I told Chris
12 to watch out because Chris was standing by the couch
13 right beside the front door. I told him to watch out,
14 that he had a gun. And then Megan is telling him to
15 lift up his shirt while he was en route towards the
16 door. He flaps his shirt, you know what I'm saying.
17 And then when he gets to the door, he kind of turns
18 back, and him and Chris is kind of in a little
19 altercation right there by the front door. And then I
20 come and I grab the knife that was sitting right there
21 on the little mid wall that was in between the kitchen
22 and the living room, and I stabbed him in the shoulder
23 because I seen the gun in his waist when his shirt and
24 jacket lifted up.

25 Q Can you point to where you stabbed him?

1 A I stabbed him right here in the shoulder.

2 Q And then what did you do?

3 A Then Jeremy fell to the floor. And at the same
4 time, Chris, he kind of ran to the other side of the
5 room. Megan run up and grabbed me at the same time,
6 and Andy is screaming, and it freaked me out. And when
7 it did, I turned around and I pushed Megan, but I
8 pushed in the chest, and she flipped over and come back
9 at me and touching me. Then Christopher, "Watch out."
10 And I looked down, and Jeremy has got the gun pointed
11 up at me. And he reaches and grabs his arm and pulls
12 it back. That's when I'm able to kick him in his face
13 and tell him to give me the gun, you know what I'm
14 saying. I keep trying to get the gun from him, and
15 that's when he states he's paralyzed.

16 Q Did you hit Megan?

17 A No, ma'am, I didn't. I pushed her off of me
18 because in that time, I was already engaged in combat,
19 I guess you could say would be an appropriate term, but
20 I just stabbed the man, and then I heard a scream and I
21 was grabbed from behind.

22 Q I'm going to put up what's been marked and entered
23 as State's Exhibit 57. Did you hit Megan at the top of
24 the head?

25 A No. I didn't.

1 Q Do you know how she got that bruise?

2 A Yes, ma'am, I do.

3 Q How?

4 A While she was in the back room, I kept asking her,
5 "What the fuck are you doing," you know what I'm
6 saying, because she was like just doing a lot of crazy
7 stuff. And when I got back there, she said, "I can't
8 do nothing right. I can't do nothing. I'm just trying
9 to help you," you know what I'm saying. She started
10 slamming her head into the back of a bar room stool
11 that was in the back room. I had to tackle her on the
12 bed to get her to quit.

13 Q Did you at any time threaten Megan Crowe or Andy
14 Cobb?

15 A No, ma'am, I didn't.

16 Q Did you at any time go outside of that house?

17 A Yes, ma'am, I did.

18 Q When?

19 A It was right after the stabbing and I got the gun
20 from Jeremy. I tossed the gun over toward the chair
21 and it hit the floor. And then I went into the other
22 room to get the phone because I still didn't know where
23 it was. I didn't know what was going on. And then
24 when I come back out, Megan is sit down at Jeremy right
25 there beside the door, and I pulled her back. I said,

1 "Look, quit touching him. Why would you want that on
2 you," you know what I'm saying. And I look around and
3 the gun is gone. And I go back to the back room. Andy
4 is back there. And I asked him, I said, "Where is
5 Chris at?" So Chris and the gun is gone, and he said,
6 "Chris left." I said, "Well, if you want to leave,
7 right now would be the time for you to go," and then
8 that's when I proceeded to walk outside.

9 Q How long were you outside?

10 A I couldn't really recall. It was several minutes.
11 I would say probably 20, 30 minutes because I walked
12 around and I had to look for him.

13 Q Did you ever talk to anyone on the phone?

14 A Not at that time, I didn't. Later on in the
15 night, I ended up speaking to my mother. I tried to
16 call several people when I came back into the house
17 because I didn't have the phone yet until I come back
18 in. And I had told Megan to try to somebody on my
19 phone, and there should be a text on it that says,
20 "Hey, this is Megan.. What's up?"

21 Q So you stated that Chris went outside, and you
22 went outside to find Chris. Where did you find him?

23 A I found him standing in the middle of the field.

24 Q And did you go into the field?

25 A Yes, ma'am, I did.

1 Q And what did you do in the field with Chris?

2 A When I was in the field, he was telling me, "Come
3 on, come on. We need to get out of here." And I said,
4 "No, I can't leave everybody in there. What would be
5 the point of me saving everybody and then me just
6 leaving and running like that?" And then I told him he
7 had to give me the gun because it had to be there. And
8 then I told him he needed to get help and that I loved
9 him, and he kept telling me to come on, and I walked
10 back to the house.

11 Q So you told Chris to get help?

12 A Yes, ma'am, I did.

13 Q And when you spoke to your mother later on, did
14 you call her or did she call you?

15 A She called me.

16 Q Were you in possession of the phone when she
17 called you?

18 A I was after I heard it ringing because I tried to
19 call several times when I came back into the house.

20 Q You're aware that Jeremy had two stab wounds to
21 the back, correct?

22 A I wasn't at the time.

23 Q You've testified to delivering a stab wound in the
24 upper back or shoulder area?

25 A Yes, ma'am.

1 Q Do you know how he received the stab wound to the
2 center of the back?

3 A No, ma'am, I do not.

4 Q And you stated that you asked Jeremy to leave --

5 A Yes, ma'am, I did.

6 Q -- at some point?

7 Was that during your argument?

8 A Yes, ma'am, it was.

9 Q Is there anything else you would like to say?

10 A Yes, ma'am, there is. When I came back into the
11 house, I seen Megan and Andy standing in the living
12 room over there by Jeremy, and that's when he was being
13 tied up with the tape and everything. And then when I
14 come in, I asked them, I said, "What the fuck are you
15 doing?" And that's what scared me, you know what I'm
16 saying, because all the other stuff could have been
17 justified or unjustified depending on your term, you
18 know what I'm saying. But the at that point, it scared
19 me to death. I didn't know what to do. And that's
20 when I went looking for the phone. There was cleaner
21 everywhere when I come back in. It was a whole
22 different scene than when I walked outside.

23 Q So you didn't tie Jeremy up?

24 A No, ma'am, I didn't.

25 Q And did you get the cleaner?

1 A No, ma'am.

2 Q And how did you wind up in the attic?

3 A After we had proceeded to drag the body down the
4 hallway, when the spotlight hit the front window from
5 the police, we was scared so we just grabbed it and
6 run. And then we pulled it toward the back room and I
7 shut and locked the door. And we tried to get it in
8 the attic and we couldn't. Then we heard the front
9 door get kicked in, and we all ran in the attic.

10 Q Did you make Megan and Andy go into the attic?

11 A No, ma'am.

12 Q And when Megan came down out of the attic, could
13 you hear her?

14 A Yes, ma'am.

15 Q What did she say?

16 MS. SIMMONS: Objection; hearsay.

17 MS. LANE: Present sense impression, Your Honor.

18 THE COURT: Overruled.

19 THE WITNESS: She ended up -- they asked her to,
20 "Please get on the floor. Don't move." And then they
21 asked, "Was anybody else in the attic?" She said,
22 "Just my friend Andy." And then when they started
23 calling Andy down, he came down. And at that time she
24 said, "I just killed someone in self-defense."

25 Q And what did you say before you the came down?

1 A I said, "Don't hurt her."

2 Q Don't hurt who?

3 A Megan.

4 Q Why did you say that?

5 A I heard her yelp or something when she was being
6 lifted -- I couldn't see, but I heard her yelp, and I
7 came down with the pistol in my mouth.

8 Q After you all were arrested, after you were in
9 jail, did you continue to communicate with Megan?

10 A Yes, ma'am, I did.

11 Q How?

12 A Through letters sent to either my mother or my
13 child's mother, Amanda Seacrest.

14 Q And how did Megan -- did she write to you while
15 she was also in jail?

16 A Yes, ma'am, she did.

17 Q How did you guys manage to pull that off?

18 A You had to -- because they read the mail, and
19 anybody -- you can't have inmate-to-inmate
20 correspondence so you have to act like you're somebody
21 else when you're writing.

22 Q Who did Megan sign the letter as?

23 A In one of the letters, she signed it as Samantha.
24 She tried to make it like my mama, but her name is
25 Tamatha. And the other one, it was Chris.

1 MS. LANE: May I approach the witness?

2 MS. SIMMONS: Judge, I'm going to object to the
3 admission of this document. She cannot authenticate
4 that it was written by Megan Crowe. There's not a
5 handwriting expert. It's not signed by her.

6 MS. LANE: Your Honor, the letter was written to
7 Mr. Collins in his possession, and Megan Crowe, we have
8 in evidence a note that she wrote on the door for a
9 general comparison.

10 THE COURT: Madam Bailiff, would you take our jury
11 out, please.

12 (WHEREUPON, the jury exited open court at
13 10:42 a.m.)

14 THE COURT: Okay. Ms. Lane, have you marked this
15 letter?

16 MS. LANE: I have not, Your Honor.

17 THE COURT: Go ahead and mark it, and then I will
18 allow you to proffer this. And I'll note for the
19 record I have reviewed this letter with the attorneys
20 earlier, but I will allow you to proffer in testimony
21 regarding this letter.

22 (WHEREUPON, Defendant's Exhibit Number 3 was
23 marked for identification.)

24 MS. LANE: Your Honor, I'm offering the letter
25 into evidence. Yesterday we heard Megan Crowe testify

1 that she did not correspond with Ken Collins at all
2 while they were incarcerated. Mr. Collins just
3 testified that she did indeed correspond with him under
4 his mother's name, so the entry of the letter is more
5 for impeachment purposes.

6 THE COURT: This has been marked as Defendant's
7 Exhibit 3 for identification. All right.

8 Do you wish to ask your client any further
9 questions to attempt to authenticate the letter?

10 MS. LANE: Yes, Your Honor.

11 THE COURT: Okay.

12 VOIR DIRE EXAMINATION

13 BY MS. LANE:

14 Q Mr. Collins, do you recognize that letter?

15 A Yes, ma'am, I do.

16 Q And was that letter sent to you?

17 A Yes, ma'am, it was.

18 Q Who sent it?

19 A Megan Crowe.

20 Q And has it been in your possession?

21 A Yes, ma'am.

22 Q It was sent directly to you?

23 A Directly to me, yes.

24 MS. LANE: I'll move to admit as Defense

25 Exhibit 3.

1 THE COURT: Ms. Simmons.

2 MS. SIMMONS: Judge, first of all, I believe that
3 this defendant fails to authenticate this. The time to
4 admit this letter would have been yesterday with Megan
5 Crowe on cross-examination.

6 Further, Your Honor, under Rule 5, I didn't
7 receive this letter in advance of trial, and Rule 5
8 requires that documents or tangible objects within the
9 possession, custody, or control of the defendant if
10 they intend to introduce them in evidence. I have
11 never seen this letter before today.

12 THE COURT: Ms. Lane.

13 MS. LANE: I have never seen it before today
14 either, Your Honor.

15 THE COURT: I will sustain the state's objection.

16 MS. LANE: Thank you.

17 THE COURT: Let's get our jury back.

18 (WHEREUPON, the jury entered open court at
19 10:47 a.m.)

20 THE COURT: Ms. Lane.

21 MS. LANE: Thank you, Your Honor.

22 Q Mr. Collins, how did you feel when you saw Jeremy
23 Little's gun?

24 A It scared me.

25 Q How scared were you?

1 A I mean, I was terrified. I don't really like
2 firearms, anyway.

3 Q What did you think he was going to do with it?

4 A I thought he was going to harm my brother with it.

5 Q And that's why you stabbed him?

6 A Yes, ma'am.

7 Q Is there anything you would like the court to
8 know?

9 A Only thing I would like them to know is I can't
10 say what happened with the other stab wound and that I
11 didn't know about it until I was incarcerated. Like I
12 can't testify to say who did what on that part. All I
13 can say is what I seen. I seen Megan Crowe tie him up,
14 and I did stab him in the shoulder.

15 Q And have you been completely honest in your
16 testimony today?

17 A Yes, ma'am, I have.

18 MS. LANE: Nothing further from Mr. Collins.

19 THE COURT: All right.

20 Ms. Simmons.

21 MS. SIMMONS: Judge, we have a matter that needs
22 to be taken up outside the presence of the jury.

23 THE COURT: Madam Bailiff, take the jury to the
24 jury room, please.

25 (WHEREUPON, the jury exited open court at

1 10:49 a.m.)

2 THE COURT: Mr. Alderman.

3 MR. ALDERMAN: Your Honor, we intend to
4 cross-examine the witness on a prior bad act, a report
5 of an altercation involving an assault and a weapon
6 that happened, a stabbing, in fact, that happened just
7 a few days prior to the incident in question.

8 THE COURT: Is this a conviction?

9 MR. ALDERMAN: It is, Your Honor.

10 THE COURT: Okay. What was the charge? What was
11 he convicted of?

12 MR. ALDERMAN: He was convicted of assault and
13 battery in the third degree, Your Honor.

14 (Document shown to defense counsel.)

15 THE COURT: While Ms. Lane is looking at this, was
16 this disclosed to the defense in discovery?

17 MS. SIMMONS: Judge, the rap sheet was disclosed
18 in discovery. We did not disclose this incident until
19 the defendant testified. Because it was not relevant,
20 we couldn't bring it up, but when the defendant
21 testified that this was basically some self-defense
22 accident kind of thing, I believe he opened the door
23 and we would have had to disclose it.

24 THE COURT: But you gave the defendant's record to
25 the defense?

1 MS. SIMMONS: Yes.

2 THE COURT: And is this included on the rap sheet?

3 MS. SIMMONS: It shows it as an arrest; doesn't
4 show the disposition, but it's on there for
5 December 4th of 2014.

6 THE COURT: Okay. Ms. Lane, let me hear from you
7 on this issue.

8 MS. LANE: Well, I'll object, Your Honor. I
9 believe that its prejudicial value will outweigh its
10 probative value for one, and the other thing is I did
11 not have record of the conviction in enough time to
12 talk to the defendant about that prior to his taking
13 the stand.

14 THE COURT: When was the rap sheet provided?

15 MS. SIMMONS: In initial discovery, Your Honor. I
16 can't tell you a date, 2015.

17 THE COURT: What was the date of conviction?

18 MS. SIMMONS: The date of conviction -- trial date
19 was January 7th of 2015, Your Honor. He got out of
20 jail on this shortly before this incident.

21 THE COURT: And this was an assault and battery
22 third degree case, a misdemeanor?

23 MS. SIMMONS: It was a misdemeanor case, Your
24 Honor, but it did involve a box cutter, which is a
25 knife.

1 MS. LANE: It's not a felony conviction, Your
2 Honor. I understand it involves a box cutter, but it's
3 a misdemeanor, and I do believe it's going to be
4 extremely prejudicial to the defendant.

5 THE COURT: All right. I'm going to sustain the
6 defense's objection. I find the probative value of
7 this evidence is outweighed by its prejudicial effect.

8 MS. LANE: Thank you, Your Honor.

9 THE COURT: Anything further before we bring our
10 jury back?

11 MS. SIMMONS: No, Your Honor.

12 THE COURT: Okay.

13 (WHEREUPON, the jury entered open court at
14 10:57 a.m.).

15 THE COURT: Mr. Alderman.

16 MR. ALDERMAN: Thank you, Your Honor.

17 CROSS-EXAMINATION

18 BY MR. ALDERMAN:

19 Q So you saved everybody?

20 A Yes, sir.

21 Q Did I hear you say that?

22 A Yes, sir.

23 Q You saved everybody in that house?

24 A Yes, sir.

25 Q All right. And even though that would have been

1 the shortest way for everybody to get out of this
2 situation, nobody but you is saying that; is that
3 right?

4 A Yes, sir.

5 Q Mr. Collins, were you convicted in 2010 of
6 receiving stolen goods?

7 A Yes, sir, I was.

8 Q Malicious injury to property in that same year?

9 A Yes, sir.

10 Q How about giving false information --

11 A Yes, sir.

12 Q -- in 2011? Failure to stop for blue lights 2012?

13 A Yes, sir.

14 Q Burglary in the second degree?

15 A Yes, sir.

16 Q Grand larceny?

17 A Yes, sir.

18 Q Resisting arrest?

19 A Yes, sir.

20 Q You met Jeremy Little at Walhalla Gardens that
21 night, right?

22 A Yes, sir.

23 Q And you bought drugs from him?

24 A No, sir.

25 Q And later that night, he came over to Megan's

- 1 house?
- 2 A Yes, sir.
- 3 Q And you let him in?
- 4 A Yes, sir.
- 5 Q But you didn't trust him?
- 6 A No, sir.
- 7 Q You thought he was a snitch, right?
- 8 A I wasn't sure what he was, sir.
- 9 Q You weren't sure of what he was, but you thought
- 10 he was a snitch, right?
- 11 A Originally, yes.
- 12 Q You don't like snitches, do you?
- 13 A No, sir.
- 14 Q It's a yes or no question.
- 15 A No, sir.
- 16 Q So you accused him of being a snitch, didn't you?
- 17 A No, sir, I did not.
- 18 Q You didn't ask him if he was the police?
- 19 A No, sir, I did not.
- 20 Q You just thought he was?
- 21 A Yes, sir.
- 22 Q And then you threatened him with a knife, didn't
- 23 you?
- 24 A No, sir.
- 25 Q So if I understood your story, he's at the front

1 door --

2 A Yes, sir.

3 Q -- about to leave, while lifting up his shirt; did
4 I hear that?

5 A No, sir.

6 Q No? You didn't say he was lifting up his shirt --

7 A No, sir.

8 Q -- on the way out and you saw a gun in his
9 waistband near your brother? We didn't hear that a
10 minute ago?

11 A I heard -- you heard me say that his shirt
12 lifted --

13 Q It was a yes or no question --

14 A -- during the altercation with my brother. I
15 didn't say he lifted his shirt.

16 Q Okay. So he didn't lift his shirt.

17 A His shirt lifted while he's in an altercation with
18 my brother.

19 Q An altercation.

20 A Yes sir.

21 Q So he's walking out the door to leave, gets in an
22 altercation, may or may not have lifted his shirt, and
23 you were all the way over in the kitchen?

24 A Yes, sir.

25 Q And before he could get out the door, you stabbed

1 him in the back?

2 A Yes, sir.

3 Q How far is it from the kitchen to the door?

4 A I mean, it's not that big of a distance.

5 Q And you managed to cover that distance, stab him
6 in the back --

7 A Yes, sir.

8 Q -- and save everybody in the room because you may
9 or may not have seen him pull up his shirt, and he may
10 or may not have had a gun in his waistband?

11 A I never said I saw him pull up his shirt.

12 Q Once you stabbed him in the back, he said he was
13 paralyzed, didn't he?

14 A After he hit the floor and he pulled the gun on
15 me, yes.

16 Q So yes, after you stabbed him in the back, he said
17 he was paralyzed, didn't he?

18 A After he had put the gun --

19 Q It's a yes or no question.

20 A Yes, sir, he did.

21 MS. LANE: Objection; asked and answered.

22 THE COURT: Overruled.

23 BY MR. ALDERMAN:

24 Q And then you kicked him in the face, right?

25 A Yes, sir, I did.

- 1 Q You kicked him in the face repeatedly, didn't you?
- 2 A No, sir, I didn't.
- 3 Q Just the one time?
- 4 A Yes, sir.
- 5 Q So all that bruising we saw on his face, State's
- 6 63, that's just one great, big kick in the face just
- 7 one time; is that right?
- 8 A That's all I kicked him.
- 9 Q And then you stabbed him again, didn't you?
- 10 A No, sir, I did not.
- 11 Q So you just stabbed him the one time?
- 12 A Yes, sir.
- 13 Q And --
- 14 A In the shoulder.
- 15 Q -- what, the stabbing fairy stabbed him the second
- 16 time?
- 17 A I am not sure who stabbed him.
- 18 Q You don't know who stabbed him the second time?
- 19 A No, sir, I do not.
- 20 Q It just happened?
- 21 A I was outside for a portion of the time. I could
- 22 not tell you what happened while I was not in there.
- 23 Q So little Megan or little Andy must have applied
- 24 all that force Dr. Woodard told us about, right, and
- 25 stabbed him seven inches with a seven-inch knife

1 through the rib, cutting the rib?

2 A I'm not sure what they did, sir.

3 Q Somebody must have done it, right, since it wasn't
4 you and you saved everybody?

5 A That's correct.

6 Q Must have been little Andy or little Megan?

7 A I'm not sure.

8 Q When he was down on the ground stabbed twice and
9 beaten, kicked in the face one great, big time,
10 apparently, he begged for his life, didn't he?

11 A I never heard him beg for his life, sir.

12 Q You never heard him say that he had a couple kids?

13 A No, sir, I did not.

14 Q You didn't tell him you had kids and that's where
15 he should have been, with his kids that night?

16 A No, sir, I did not.

17 Q You didn't say the words of Megan Crowe on the
18 stand, "You're going to die tonight, Motherfucker"?

19 A No, sir.

20 Q So everybody is lying, and you saved everybody; is
21 that right?

22 A Yes, sir.

23 Q I just want to make sure I'm understanding. You
24 saved everybody and they're all lying about it?

25 A When I stabbed him, it was only in the shoulder.

1 Q That wasn't the question I asked you.

2 A I guess that would be saving everybody, but I
3 couldn't tell you how the man died.

4 Q So after thinking he was a snitch, tying him up,
5 did you strip off his clothes?

6 A I didn't tie him up or take off his clothes, sir.

7 Q So the bruises we saw on his wrist that
8 Dr. Woodard told us about, tied so tight and fighting
9 against those bindings, you're telling me again little
10 Megan or little Andy must have done that, right?

11 A I suppose. I couldn't tell you who did it. Only
12 thing I know is when I came back in, they were over
13 there and he was being tied. I seen Megan with the
14 duct tape. I didn't see the bindings.

15 Q So then it's your testimony that Andy and Megan
16 did that, State's 32, not you; is that right?

17 A That's correct, sir. I didn't do it.

18 Q That's your testimony, Megan and Andy must have
19 done that because you didn't, right?

20 A Seriously, I didn't.

21 Q State's 31. They did all that, too, right?

22 A When the police arrived, I helped with the
23 sleeping bag and dragged him down the hallway.

24 Q You didn't wrap him up?

25 A That's what I said. I helped with the sleeping

1 bag. I helped zip it up.

2 Q You zipped up the sleeping bag, but that's all you
3 did, right?

4 A No, I helped drag it.

5 Q Did you help wrap him in the rugs?

6 A No, sir, I didn't.

7 Q So Megan and Andy must have done that?

8 A They must have. I didn't.

9 Q Megan and Andy must have tied those ropes so tight
10 that we saw that the officers had to cut away; is that
11 right?

12 A I didn't do it, sir. I couldn't tell you.

13 Q Megan and Andy, then, must have wrapped that belt
14 around the whole bundle so tight the cops had to cut it
15 away; is that right?

16 A I don't know who put the belt there.

17 Q You don't know much of anything about that night,
18 do you?

19 A All I can tell you is what I did --

20 Q Just that you stabbed a man and kicked him in the
21 face just that one time to make all those injuries,
22 right?

23 A All I can tell you is what I did, sir. I can't
24 tell you anything else.

25 Q State's 34. You didn't strip his underwear down

1 around his ankles looking for a wire?

2 A No, sir, I did not.

3 Q You told your brother to go get help, right? Was
4 that your testimony?

5 A Yes, sir, I did.

6 Q So when the police knocked on the door, help had
7 arrived. Did you run out there to meet them?

8 A When I told my brother to get help --

9 Q It's a yes or no question. Did you run out there
10 to meet the police when they knocked on the door?

11 A No, sir, I did not. No, sir, I did not.

12 Q How about when Sarah Yeager came and knocked on
13 the door? Since you were expecting help to arrive --

14 A I never heard Sarah knock on the door.

15 Q How about when the police arrived the second time?
16 Help had arrived. Did you answer the door?

17 A No, sir. Nobody knocked on the door --

18 Q It's a yes or no question.

19 A No, sir.

20 Q Were you watching that AXON video earlier in the
21 trial --

22 A Yes, sir I was.

23 Q -- where the police knocked on the door?

24 A I never seen anybody knock on the door, sir.

25 Q Okay. You poured cleaning chemicals all over his

1 body, didn't you?

2 A No, sir, I didn't.

3 Q I suppose, then, you didn't tell Andy to go wash
4 that knife that you had stabbed him with, did you?

5 A No, sir, I did not.

6 Q Or tell Megan to tell him?

7 A No, sir, I did not.

8 Q You didn't give anybody any directions in this
9 house, right?

10 A No, sir, I did not.

11 Q So these two scared-to-death 18-year olds took
12 control of the situation from you; is that right? And
13 you --

14 A I was outside, sir.

15 Q -- were just helpless after saving everybody to
16 stop this. It was just out of your control. You
17 couldn't say, "Hey, Megan, I'll push you down again and
18 stop you from doing that." Or, "Hey, Andy, scared to
19 death in the bathroom, stop doing that." It was all
20 out of your control, right?

21 A Yes, sir.

22 Q State's 57. So Megan punched herself in the face,
23 right?

24 A No, sir, she did not.

25 Q She smacked her head on a bar stool?

- 1 A On the back of the chair, yes.
- 2 Q Okay. So she's just head-butting a chair, and you
- 3 saved her from that, too right --
- 4 A Yes, sir, I did.
- 5 Q -- is that your testimony?
- 6 State's 62. What is that?
- 7 A That's the knife I stabbed Jeremy Little in the
- 8 top shoulder with.
- 9 Q While he was lying there in the floor begging for
- 10 help, you didn't help him, did you?
- 11 A No, sir, I did not. I didn't know what to do,
- 12 sir.
- 13 Q The truth is this wasn't self-defense at all, was
- 14 it?
- 15 A Yes, sir, it was.
- 16 Q The truth is you were doing drugs, and you did a
- 17 hateful thing that you can't take back; isn't that
- 18 right?
- 19 A No, sir.
- 20 Q You stabbed Jeremy Little?
- 21 A Once, yes.
- 22 Q And you stood there and you watched him bleed?
- 23 A I didn't stand there and watch him, no.
- 24 Q And you stood there and you mocked him --
- 25 A No, sir, I did not.

1 Q -- while he was begging for his kids and begging
2 for his life, didn't you?

3 A No, sir, I did not.

4 Q You stood there, and you watched him struggle with
5 every breath; every breath harder than the last one to
6 take until he died, didn't you?

7 A No, sir, I did not.

8 Q And then you tried to clean up all the evidence,
9 cleaning up the blood on the floor, pouring chemicals
10 on the body, didn't you?

11 A No, sir, I did not.

12 Q And then you tried to hide the body in the attic,
13 didn't you?

14 A I did try to hide the body in the attic.

15 Q You just stood there and watched him die --

16 A No, sir, I did not.

17 Q -- after you stabbed him?

18 State's 31. You saved everybody that night,
19 right?

20 A Yes, sir, I did.

21 MR. ALDERMAN: Nothing further, Your Honor.

22 THE COURT: Any redirect?

23 MS. LANE: Yes. Briefly, Your Honor.

24 REDIRECT EXAMINATION

25 BY MS. LANE:

1 Q Did you at any time prevent Jeremy Little from
2 leaving?

3 A No, ma'am.

4 Q And you testified that you followed Jeremy; is
5 that correct?

6 A Yes, ma'am.

7 Q And you testified that Chris followed Jeremy; is
8 that right?

9 A Yes, ma'am.

10 Q Who took Jeremy's jacket off?

11 A I'm not sure.

12 MS. LANE: Nothing further.

13 THE COURT: All right. Anything further from this
14 witness?

15 MR. ALDERMAN: Nothing further, Your Honor.

16 THE COURT: Thank you, sir. You can step down.
17 Call your next witness.

18 MS. LANE: Defense calls Christopher Burrell.

19 CHRISTOPHER EDWARD BURRELL,

20 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

21 DIRECT EXAMINATION

22 BY MS. LANE:

23 Q Mr. Burrell, state your name for the record and
24 spell your last name.

25 A Christopher Edward Burrell.

1 THE COURT: Let me get you to speak into that
2 microphone.

3 THE WITNESS: Christopher Edward Burrell,
4 B-u-r-r-e-l-l.

5 BY MS. LANE:

6 Q Where do you live, Mr. Burrell?

7 A I live in Easley, South Carolina at [REDACTED]
8 [REDACTED], I think.

9 Q Is that in Pickens County?

10 A Yes, ma'am.

11 Q Where were you on the morning of January 13th,
12 2015?

13 A Right there with my brother.

14 Q Where was that?

15 A At [REDACTED].

16 Q And who else was there?

17 A Me, my brother, Megan, Andy, and that's it.

18 Q Did you meet Jeremy Little that day?

19 A Yes, ma'am.

20 Q Where did you meet him?

21 A At Ashley Settlemyre's house.

22 Q So you were there at Megan's house when Jeremy
23 came over?

24 A Yes, ma'am.

25 Q Do you remember, were you in the house when a

- 1 fight broke out?
- 2 A Yes, ma'am.
- 3 Q Can you tell us about that?
- 4 A He come in the door and he seen a gun -- my
- 5 brother seen a gun. He was just protecting us.
- 6 Q Did you see a gun?
- 7 A Yes, ma'am.
- 8 Q Did you tell anyone that you saw a gun?
- 9 A My brother knew he had a gun. He seen it.
- 10 Q Did you see Kenny stab Jeremy?
- 11 A Yes, I did. One time.
- 12 Q Can you show us where?
- 13 A Right here (indicating).
- 14 Q And that's the only --
- 15 A That's the only time I ever -- he stabbed him.
- 16 Q What did you do after seeing that?
- 17 A I helped my -- I run out the window, told my
- 18 brother to stop.
- 19 Q I'm sorry?
- 20 A I told my brother that he fell; he's paralyzed.
- 21 He said he was paralyzed.
- 22 Q You said you ran out the window?
- 23 A Yes, ma'am.
- 24 Q And then what did you do after you got outside?
- 25 A My brother came and found me. He got the gun

1 because I had the gun, and he had the gun because he
2 told me it needed to be there with the crime scene.
3 And so after that, I told him I was going to go get
4 help. He told me to go get help, and I did.

5 Q How long was Kenny in the field with you?

6 A Five minutes at the most.

7 Q What did you talk about?

8 A I asked him just to come with me and he wouldn't.
9 He said, "I got to go back in there with her. I don't
10 want to leave her." And I said, "Okay." Then that's
11 when he asked me to go get help.

12 Q And did you do that?

13 A Yes, ma'am.

14 Q You went to Ron's house?

15 A Yes, ma'am.

16 Q What happened when you went to Ronald Danson's
17 house?

18 A I knocked on his door. He was asleep. I woke him
19 up. I said, you know, "My brother just killed
20 somebody, just stabbed somebody." And he said that he
21 thought he was dreaming. So, okay. 8 o'clock that
22 morning, we're going to the sheriff's department, and
23 they pull us over, and they take me out of the car,
24 handcuff me and take me to Walhalla Police Department
25 and question me.

1 Q And before going to Ron's house and heading over
2 to the police department, what else did you do to get
3 help?

4 A I went to Ashley Settlemyre's house.

5 Q What did you do there?

6 A I called 911.

7 MS. LANE: Nothing further from Mr. Burrell.

8 THE COURT: Mr. Alderman, your witness.

9 MR. ALDERMAN: Thank you, Your Honor.

10 CROSS-EXAMINATION

11 BY MR. ALDERMAN:

12 Q So your brother saved everybody, right?

13 A Yes, sir.

14 Q He didn't kill Jeremy?

15 A No, he did not kill Jeremy.

16 Q So just a moment ago, you said, "I went to Ron
17 Danson's house, and I woke him up and I told him, 'My
18 brother just killed -- stabbed Jeremy.'"

19 A Right.

20 Q Which was it?

21 A He stabbed him.

22 Q Okay. Mr. Burrell, were you convicted in 2014 of
23 grand larceny?

24 A Yes, sir.

25 Q I'm sorry?

- 1 A Yes, sir.
- 2 Q 2015, forgery?
- 3 A Yes, sir.
- 4 Q 2015, burglary?
- 5 A Yes, sir.
- 6 Q 2015, failure to stop?
- 7 A Yes, sir.
- 8 Q Just this year, accessory after the fact of a
- 9 felony?
- 10 A Yes, sir.
- 11 Q So were you there when Jeremy was stabbed?
- 12 A Yes, sir.
- 13 Q Why was he stabbed? Did you see him point a gun
- 14 at anybody?
- 15 A He had a gun out. It was over \$20 worth of crank.
- 16 Q So who did he point the gun at?
- 17 A It was pointed at me and my brother.
- 18 Q It's your testimony, then, that he had the gun in
- 19 his hand, and it was pointed at you and your brother,
- 20 right?
- 21 A Yeah -- well, it was pointed at my brother --
- 22 Q At your brother or you?
- 23 A At my brother. They started fighting.
- 24 Q Where was that in the house? Where were they
- 25 fighting?

1 A Right there in the kitchen.

2 Q Okay. So not right in front of the door. At the
3 kitchen, they were fighting and a gun was out?

4 A Yes, sir.

5 Q At what point was the gun pointed at you again?

6 A When my brother was trying to get it away from
7 him.

8 Q Then your brother stabbed him?

9 A Yes, to get the gun away from him.

10 Q While they were fighting in the kitchen?

11 A Yes.

12 Q Okay. So he stabbed him in the kitchen?

13 A Yes.

14 Q Okay. Not right in front of the door, but in the
15 kitchen?

16 A Well, the door is right there in the kitchen.

17 Q State's 52. So that's the kitchen, right? That's
18 the kitchen, right?

19 A No, sir. It's not the kitchen. That's right
20 there in the dining room.

21 MS. LANE: Your Honor, I've got something I need
22 to take up outside the presence of the jury.

23 THE COURT: Madam Bailiff, would you take our jury
24 to the jury room.

25 (WHEREUPON, the jury exited open court at

1 11:20 a.m.)

2 THE COURT: Yes, ma'am.

3 (Off-the-record discussion between the attorneys.)

4 MS. SIMMONS: Judge, may we step in the back
5 hallway with you?

6 THE COURT: Okay. We'll take a brief recess.

7 Sir, you are under oath. You cannot discuss your
8 testimony with anyone while we're taking a break.

9 (WHEREUPON, a recess was taken from 11:21 a.m. to
10 11:25 a.m.)

11 (WHEREUPON, the jury entered open court at
12 11:25 a.m.)

13 THE COURT: Mr. Alderman, proceed.

14 MR. ALDERMAN: Thank you, Your Honor.

15 Q So after you saw your brother stab Jeremy, he sent
16 you to go get help, right?

17 A Yes, sir.

18 Q And that's what you did, right?

19 A Yes, sir.

20 Q Went to Ashley Settlemyre's house, called 911; is
21 that right?

22 A No. She heard me talking -- yeah, that is
23 correct, but she heard me talking to my mom and my
24 grandmother when I had called, and that's when she
25 called 911.

1 Q So you called mom and grandma before 911?

2 A No. I called 911 first.

3 Q Maybe I misunderstood you. I thought you said she
4 overheard you talking to mom and grandma and then
5 called 911; did I hear that wrong?

6 A No, no. You didn't. I'm just nervous about this
7 whole situation.

8 Q I can understand that. I appreciate that.
9 You gave a statement to police that day, didn't
10 you?

11 A Yes, sir.

12 Q Were you telling the truth?

13 A Yes, sir.

14 Q So everything you told the police that day was
15 true?

16 A You talking about the statement I wrote right
17 after that happened?

18 Q Yeah.

19 A No. I don't even remember that statement. I
20 don't remember what I said.

21 Q But you remember writing it, right?

22 A Yeah, I remember writing it.

23 Q I'm going to show --

24 You permission to approach?

25 THE COURT: Yes, sir.

1 BY MR. ALDERMAN:

2 Q Whose signature is that at the bottom of that
3 page?

4 A Mine.

5 Q Into the microphone, please.

6 A Mine.

7 Q Thank you.

8 So it's your testimony today that you don't
9 remember anything that you wrote in that statement but
10 you remember everything that happened in the house,
11 correct?

12 A Yes, sir.

13 Q But you just forgot everything that you told the
14 police that very same day, correct?

15 A No, I didn't forget, but it's been so long that I
16 just --

17 Q Well, it's a written statement so we can fix that,
18 that had-been-so-long problem. So do you or do you not
19 remember writing to the police the same day of this
20 incident, "I was about to doze off. I heard a knock at
21 the door. It was the guy that was coming to sell Kenny
22 and Megan crank." Do you or do you not remember
23 writing that?

24 A I don't remember that.

25 Q Do you or do you not remember writing, "The next

1 thing I know, my brother offers him in and then stabs
2 him in the back of the neck." Do you or do you not
3 remember writing that?

4 A I do not remember that.

5 Q Do you or do you not remember writing, "The man
6 that had the crank, after he got stabbed, fell in the
7 floor and said, 'I think I'm paralyzed'?" Do you
8 remember writing that?

9 A No, sir. No, sir.

10 Q Do you remember writing, "Then, after my brother
11 stabs him, he kicks him in the face, then my brother
12 kicked him in the face repeatedly"?

13 A No, sir, I do not remember that.

14 Q Do you remember writing, "That's when me and Megan
15 started screaming, 'Stop. Please stop'?"

16 A I don't remember anything from that. Like I said,
17 we was all high.

18 Q Specifically, do you remember writing that or not?

19 A No.

20 Q Do you or do you not remember writing, "I run
21 straight to Ashley Settlemyre's house, called the law
22 and told them I was Dustin Cox and that I thought I
23 heard a couple gunshots so the law would hurry up and
24 get there faster"?

25 A Yes, I do remember. I remember that.

1 Q Do you remember writing that?

2 A No, I don't remember writing that.

3 Q Do you remember writing, "Also Kenny punches Megan
4 in the face when we were begging to stop"?

5 A I don't remember that whole statement. I don't
6 remember writing that statement.

7 Q But you do remember being there when your brother
8 punched Megan in the face, correct?

9 A Yes.

10 Q You love your brother, don't you?

11 A I do love my brother.

12 Q Do you live with your mom?

13 A Yes, sir.

14 Q Did your mom drive you up here today?

15 A Yes, sir.

16 Q Did you and your mom talk about your testimony
17 here today, what you were going to say, what you were
18 going to remember or not remember?

19 A No, sir.

20 Q So you live with your mom; you rode here with your
21 mom; your brother is on trial for murder, and you two
22 haven't talked about your testimony?

23 A The only thing we talked about was what she
24 thought, he was going to be found guilty or not.
25 That's it.

1 Q You didn't tell her what you were going to say; is
2 that your testimony?

3 A No. No.

4 Q You love your brother, don't you?

5 A Yes, I love my brother.

6 Q And that night you tried to do the right thing and
7 call for help, didn't you?

8 A I did.

9 Q And that man is dead now, correct?

10 A Yes, sir, and I'm sorry about it.

11 Q So now all you can do is try to help your brother,
12 right?

13 A It ain't like that.

14 MR. ALDERMAN: Nothing further at this time, Your
15 Honor.

16 THE COURT: All right. Any redirect?

17 REDIRECT EXAMINATION

18 BY MS. LANE:

19 Q Christopher, you testified to being outside,
20 correct?

21 A Yes, ma'am.

22 Q And Kenny was out there in the field with you; is
23 that right?

24 A Yes, ma'am.

25 Q And who was inside the house at that time?

1 A Andy and Megan.

2 Q Did you ever go back inside the house?

3 A No, ma'am.

4 MS. LANE: Nothing further.

5 THE COURT: Anything further from this witness?

6 MR. ALDERMAN: No, Your Honor.

7 THE COURT: All right.

8 Thank you, sir. You can step down.

9 MS. LANE: Defense rests.

10 THE COURT: Is there any reply testimony?

11 MS. SIMMONS: No, Your Honor.

12 THE COURT: Ladies and gentlemen, we have reached
13 the conclusion of the evidentiary stage of this trial.
14 The next stage will be closing arguments, and then we
15 will be charging you on the law. So the next stage
16 will be somewhat lengthy, so I'm going to let you go to
17 lunch early now, and we will start back at 1 o'clock.

18 So be back in the jury room shortly before
19 1 o'clock. I hope everyone has a good lunch. Remember
20 your instructions. No deliberation, no discussion with
21 third parties, and no independent research.

22 (WHEREUPON, the jury exited open court at
23 11:32 a.m.)

24 THE COURT: We'll be in recess until 1 o'clock.

25 (Lunch recess taken from 11:33 a.m. to 1:05 p.m.)

1 THE COURT: We have all the jury.

2 Anything on the record before I have the jury
3 brought in?

4 MS. SIMMONS: No, Your Honor.

5 MS. LANE: No, Your Honor.

6 THE COURT: Get our jury for us, please.

7 (WHEREUPON, the jury entered open court at
8 1:05 p.m.)

9 THE COURT: Ladies and gentlemen, we are ready to
10 proceed with the next stage of the trial, with closing
11 arguments.

12 Ms. Simmons.

13 MS. SIMMONS: May it please the court.

14 Counsel, ladies and gentlemen, first of all, I
15 want to thank you for your time and attention over the
16 course of the last two days. I have to say, we got
17 here a little sooner than I expected, and I think
18 that's probably a good thing for you guys. I know
19 parts of this trial have been difficult. There's been
20 some difficult things to watch and see, but I do
21 appreciate the attention that you all have paid
22 throughout the course of this trial.

23 First of all, I want to go over the charges with
24 you and show you the elements. The judge is going to
25 charge you on the law at the end of case, so take his

1 word as the final word, but I just want you to be able
2 to see what the elements of these crimes are.

3 Murder: The unlawful killing of a person with
4 malice aforethought. Malice aforethought is probably
5 somewhat of a foreign concept to you. Malice is a
6 wrongful act intentionally without just cause or
7 excuse. Malice can be expressed or implied.

8 Aforethought is the time where the evil is
9 conceived. There is no appreciable period of time it
10 has to exist. It can be conceived the moment a fatal
11 blow is delivered.

12 Possession of a weapon during the commission of a
13 violent crime. As I told you before, by law, murder is
14 a violent crime in the State of South Carolina. A
15 defendant convicted of murder, a violent crime, and at
16 the time visibly displayed a knife. I think the
17 evidence is clear this a knife is involved in this
18 case.

19 Kidnapping: The unlawful seizure, confining,
20 inveigling, decoying, abducting, carrying away of a
21 person by any means without authority of law. It is
22 not what you see in the movies. Someone doesn't have
23 to be bound up and thrown in a trunk. You can kidnap
24 someone just for a second. You can kidnap someone and
25 move them five feet. Kidnapping is very simple.

1 There's one other legal concept the judge is going
2 to explain to you. It's called hand of one; hand of
3 all. Even if you believe the defendant only delivered
4 the first stab wound and it wasn't in self-defense and
5 not the other, you still must convict him of murder.
6 In South Carolina, the hand of one defendant is the
7 hand of all.

8 I talked to you earlier about reasonable doubt.
9 Reasonable doubt is the kind of doubt that causes a
10 reasonable person to hesitate to act. It is not beyond
11 all doubt. Nothing in life is certain. Nothing. And
12 common sense. I told you about that at the beginning
13 of this trial. Common sense is what you need to apply
14 the reasonable doubt standard.

15 First of all, I want to talk to you about what you
16 heard from the defense, and, frankly, why it's not
17 plausible. The defense wants you to believe that the
18 defendant left the residence after the first stab
19 wound. If you were really trying to get help for
20 someone you just stabbed in self-defense, why would you
21 go back in the house and hide? Wouldn't you run to the
22 first place you could get help?

23 And speaking of help, at least three people came
24 to the door of this house. The police twice. And
25 Sarah Yeager once. And at no point did the defendant

1 run out and go, "Oh, my God, please help me. I've just
2 killed someone in self-defense." Instead he hid in the
3 house.

4 Chris Burrell. Let's talk about him, why you
5 can't believe him. You often see witness stories
6 evolve or there's minor inconsistencies. With
7 Mr. Burrell, you heard a whole new version of events
8 that completely contradicts the statement he gave on
9 January 13th of 2015. He waits almost three years to
10 tell us -- anyone that his original statement is not
11 true. He waits until October 18th of 2017? He says he
12 doesn't remember the content of that statement but
13 remembers signing it? Remembers being at the police
14 department and remembers everything else that happened
15 that day? His memory is completely selective as to
16 anything that incriminates his brother.

17 Let's talk about his story today. Jeremy came in
18 the door. "My brother saw a gun, and he was protecting
19 us." Then he said, "He had a gun pointed at my brother
20 in the kitchen." Then he said, "He had a gun pointed
21 at me in the kitchen. The gun was in one hand; my
22 brother was fighting him, and he stabbed him, one time,
23 in the kitchen." He didn't say he stabbed him at the
24 door. He says he stabbed him in the kitchen. Everyone
25 else and the physical evidence completely contradicts

1 that.

2 Then as to his phone calls, he's all over the
3 place. I called mama. I called grandma. I called
4 911. No, I called 911. I called my mama. I called my
5 grandma. No, back to the first order. The only thing
6 you can believe that came out of his mouth was that he
7 saw his brother hit Megan Crowe. Otherwise, you can't
8 believe a word he's saying. He will simply do anything
9 to protect his own brother.

10 Now, let's talk about Kenneth Collins, who
11 completely contradicts what his brother said. "I
12 opened the door. He wanted to smoke dope. I saw a gun
13 in his waistband, then I went to the bedroom to look
14 for a phone. And things got heated." Heated? Why?
15 He never told us. Just things got heated. Seems
16 pretty broad.

17 "Jeremy ran towards the door. Megan and Andy
18 walked in. I stabbed him because he had a gun in his
19 waistband." Never did he say that gun was pointed at
20 anyone before he stabbed him. Never did he say there
21 was a threat made with that gun. He only alleges the
22 gun was pulled after he stabbed Jeremy and stomped him
23 in the face. You know, that one, big stomp that caused
24 all that damage to his face.

25 In contrast to Chris Burrell, the defendant says

1 all this happened at the door in an altercation with
2 Burrell and Jeremy's shirt lifted up, and he saw a gun
3 and he was stabbed at the door. Burrell says Collins
4 was in an altercation in the kitchen, and he was
5 stabbed in the kitchen. These are not minor
6 discrepancies in their stories. They're completely,
7 one hundred percent contradictory.

8 Neither one of them claims to know anything about
9 the second fatal stab wound. Collins says that he
10 doesn't no who did the second stab wound or who tied
11 Jeremy up. That's classic minimization of guilt. He's
12 never going to admit the worst thing that he did. He's
13 not going to admit the most awful thing that he did.
14 But I would remind you there's photographs and
15 testimony that Jeremy's blood is literally on the
16 defendant's hands.

17 Let's talk about why this is not self-defense.
18 There's four elements of self-defense. And
19 self-defense requires all four elements. The defendant
20 is without fault in bringing on the difficulty. The
21 defendant in this case is not without fault. He was
22 engaged in illegal drug activity. He was smoking
23 methamphetamine, using methamphetamine, and brought the
24 victim into his home to participate in drug use.

25 Two, the defendant actually believed he was in

1 imminent danger of losing his life or sustaining
2 serious bodily injury. Jeremy was leaving. Any
3 perceived threat was over, but I submit to you there
4 was none. By the defendant's own words, never was a
5 gun pulled, never was a gun threatened.

6 A reasonably prudent person of ordinary firmness
7 and courage would have entertained the same belief. A
8 prudent person lets someone go when they're trying to
9 leave.

10 And the defendant had no other means of avoiding
11 danger. As I keep saying, let the victim go. He was
12 headed out the door.

13 Stabbing a fleeing man in the back and while he's
14 down on the floor, this defense fails on all four
15 prongs. Any perceived danger was gone. There is no
16 credible evidence to support self-defense in this case.

17 Let's talk about our case. I'll admit to you our
18 witnesses were not perfect. It's like that hold gossip
19 game in school, you know, where you tell somebody at
20 the beginning of the line something that happens, and
21 by the 20th person in the line, they mess up some of
22 the details. Some people remember different things.
23 Some people are smarter than other people. Some people
24 have better memories. You can't expect their stories
25 to perfectly match. If they perfectly matched, I

1 submit to you they probably would be lying.

2 Let's talk about Megan. You probably don't want
3 to have Megan over for dinner, but she came. She
4 showed up. She had no deals with us. The easy thing
5 for Megan to do would have been to jump on the
6 self-defense bandwagon and stay on it and try to get
7 everybody off the hook, but, no. She came here and she
8 took responsibility for her part in all this. She told
9 you the defendant that day was in a rage. He was
10 aggressive. He was not himself. His eyes were
11 different.

12 Megan told you she came in from the building; they
13 were arguing, Jeremy and Kenny. Jeremy never pulled a
14 gun, never brandished a gun, never mentioned a gun.
15 Jeremy was trying to get away, and the defendant
16 stabbed him. Jeremy fell to the floor. His blood on
17 Megan's pants, that photo is in evidence. It's where
18 it should be if he was laying in her lap after the
19 first stab wound.

20 He begged the defendant for help. Help came in
21 the form of insults, death wishes, and profanity from
22 the defendant. Help came in the form of kicks to the
23 head as the victim's blood splattered all over the
24 wall. Physical evidence shows you that, too. And,
25 ultimately, the second fatal stab wound. Megan has

1 identified this knife as the weapon and the defendant
2 has also acknowledged that.

3 And then the defendant was a ring leader for tying
4 up the body, bundling it, moving it, that itself a
5 kidnapping. Dr. Woodard told you Jeremy was alive when
6 he was tied up. He struggled.

7 A lot has been made of Megan's initial false
8 confession. She was told by the defendant to lie and
9 give the rape story or the sexual assault story. She
10 did that, and she owned up to the fact that she did
11 that in court this week. You have to remember that she
12 and Andy were 18 years old when this happened, younger
13 than the defendant, and literally would have done
14 anything he told them to do.

15 Megan's prior record is minimal, and she is not
16 some hard core criminal. I think they want to blame
17 Megan for the fatal stab wound. First, look at her.
18 She maybe weighs 100 pounds. Do you think she can
19 deliver the amount of force to literally cut bone?
20 Dr. Woodard told you it was a significant amount of
21 force to thrust a seven-inch knife into someone's back
22 and create that kind of damage.

23 And, second, why would she even want to hurt
24 Jeremy? She was in the floor, his blood all over her,
25 trying to help him. And then look at Megan's booking

1 photo. There's an injury on her head consistent with
2 being hit in the head. By the defendant. The
3 defendant told you she was banging her head on a chair,
4 which is absolutely ludicrous.

5 The only person who was a danger to anyone that
6 night was the defendant. All this effort to make Megan
7 look like a villain. Remember the defendant's own
8 words, "You're my ride or die. Tonight you make the
9 choice." And remember Andy recalled those exact words.
10 What choice did Megan really have, and what innocent
11 person says that to another person?

12 Now, let's go on to Andy, who has no prior record
13 at all and, clearly, scared to death. He has no deals.
14 He has no vested interest in any of these parties
15 anymore. He literally was in the wrong place at the
16 wrong time. He told you they came in from the
17 building, and they were arguing. Jeremy never pulled a
18 gun. Jeremy never threatened with a gun. He never
19 brandished a gun. Says the defendant was ranting about
20 snitches.

21 Jeremy was trying to get away and seemed scared
22 and the defendant stabbed him. Megan begged him to
23 stop. Jeremy fell to the floor, begged for help. Help
24 came in the form of kicks to the head.

25 Andy tells you he hid in the bathroom, and he

1 could still hear Megan's blood curdling screams. He
2 hid until the defendant broke down the door. And what
3 did the defendant tell him? "If you don't help, I'll
4 come after you and your family." Do you do that if
5 you've just killed someone in self-defense?

6 Andy admitted that this was the murder weapon. He
7 admitted he washed it in the sink. There's not going
8 to be DNA evidence on that. He also told you the
9 defendant was the ring leader for tying up alive
10 Jeremy, bundling him and moving him. As Andy said, the
11 defendant told Megan what to do, and Megan told Andy
12 what to do.

13 Let's talk about Ashley Settlemyre, the person who
14 has literally no dog in this fight. She told you Chris
15 Burrell's real story, the story he conveniently
16 doesn't remember because he's trying save his brother.

17 Kenny was on edge and ill on the day of the 12th.
18 He snapped at her, which was not normal. Nearing 5:00
19 a.m. on January 13th, Chris Burrell bangs on Ashley's
20 window screaming, "Jeremy has been killed. Kenny
21 killed him." "Killed," ladies and gentlemen. Not
22 "paralyzed," not, "injured." "Kenny killed him."

23 Upon Ashley's demand, Chris called 911. He told
24 them he was a neighbor, Dustin Cox, and there had been
25 shots fired in the area and they needed to get there.

1 He never told anyone that someone was dead. He
2 never -- when he called 911, he didn't say someone is
3 dead. He never admitted to being there.

4 Ashley also told you Sarah drove to [REDACTED]
5 to try to see what was going on. Yet again, one more
6 missed opportunity by the defendant to get help for
7 this person. The most important thing you heard from
8 Ashley, Chris' parting words to her, "Lock your door,
9 and whatever you do, don't open it for Kenny." Kenny
10 hadn't just killed someone in self-defense. He had
11 killed someone in a methamphetamine-fueled rage, and
12 Chris Burrell's words to Ashley were an ominous
13 warning.

14 You heard from law enforcement during this case.
15 You heard from Robbie Johnson, who initially went on
16 the stand. You heard from Justin Pelfrey. You saw his
17 AXON video. Does this look like a self-defense crime
18 scene? You don't get any more real than this. It's
19 the best available evidence of what this scene looked
20 like that night. Ladies and gentlemen, this is a
21 murder scene.

22 Let's talk about the defendant's statement to
23 Scott Arnold and Ronald Wilbanks, which is completely
24 different from what we heard today. He couldn't even
25 get it straight to them who Jeremy allegedly threatened

1 with a gun. He said Megan. He said him. The only
2 truth he told is that he does hate snitches and he
3 hates the police. That's the real reason Jeremy died.
4 He thought Jeremy was a snitch.

5 And the defense also wants you to believe that he
6 was subjected to some day-long interrogation. That
7 didn't happen either. I submit to you that he did tell
8 the truth when he specifically told law enforcement he
9 tied Jeremy up and drug him through the house. He's
10 adding in the threats with a gun. That's, again,
11 classic minimization of guilt. He had so many hours in
12 that attic to figure out what he was going to say. And
13 today, almost three years later, he had another story
14 to tell you.

15 And our last witness, Dr. Woodard. He told you
16 Jeremy had two injuries. They were inflicted by a
17 large knife with a clean blade, meaning it wasn't
18 serrated and it was double-edged. Not a steak knife;
19 not a flip-up pocketknife. A seven-inch-deep wound and
20 a seven-inch-long knife, one that's narrow enough on
21 the end to inflict stab wound one and wide enough to
22 inflict stab wound two. Remember, Dr. Woodard told you
23 that stab wound one hit solid bone. It hit what's
24 called your wing. It can't go very far.

25 Jeremy's head injury. Dr. Woodard told us he

1 would have essentially been punch struck, as I
2 understood it. He said he probably would have had some
3 involuntary movements and probably would have been
4 moaning. Again, exactly like the defendant told Chief
5 Wilbanks and Scott Arnold. "He wouldn't quit moaning
6 so I tied him up and gagged him."

7 Dr. Woodard also told you a simple chest tube that
8 could have been inserted in the field could have saved
9 Jeremy's life. But the defendant's callous disregard
10 for Jeremy's life sealed his fate. All those cries for
11 help ignored and left on the floor of a stranger's home
12 to die.

13 Dr. Woodard said he's been doing this 40 years.
14 He told you he's never seen a self-defense case where a
15 body was handled in this way. In fact, every single
16 law enforcement witness told you that. And if you add
17 up what they said their collective experience was, it
18 gets close to a hundred years.

19 This is where you use your common sense that I
20 told you about. Your common sense tells you that this
21 is unequivocally, absolutely not a self-defense case.
22 Jeremy didn't die immediately. This man suffered. The
23 defendant had every opportunity to get him help. By
24 his own admission, he had a phone. He called 911? No.
25 He called his mama. Law enforcement knocked on the

1 door. He didn't get help. Sarah Yeager knocked on the
2 door. Didn't get help. Law enforcement knocked on the
3 door. Again, he didn't get help.

4 They didn't immediately find Jeremy's body when
5 they were in the house. Did he jump out and say, "Here
6 he is. Help him"? No. He hid in the attic for some
7 six to eight hours.

8 Why is this murder? The unlawful killing of
9 another with malice aforethought. As the defendant
10 chased Jeremy to the door and stabbed him in the back,
11 he had malice, ill will, and hatred in his heart. The
12 same when he kicked him, he stomped him, he hit him,
13 and chose to stab him again with this knife. The same
14 when he bound him, the same when he gagged him, the
15 same when he covered his eyes, shrouded him in rugs and
16 blankets and drug him through the house. The same
17 malice and ill will when he ignored Jeremy's cries for
18 help and cries that he had children. The same malice
19 and ill will when he cursed the dying man. Same malice
20 and ill will that he had when he did nothing to help.

21 This, ladies and gentlemen, is how it ended for
22 Jeremy Little. This man is guilty of kidnapping, he is
23 guilty of possession of a weapon during the commission
24 of a violent crime, and he's guilty of murder.

25 He sure saved everybody.

1 THE COURT: All right. Ms. Lane.

2 MS. LANE: Ladies and gentlemen, there's no
3 dispute this is tragic. It's definitely tragic.
4 There's no two ways about it. On the night of
5 January 12th -- on the night of January 12th and into
6 the morning of January 13th, Andy Cobb, Megan Crowe,
7 and Kenny Collins had been back and forth from Megan's
8 house to Walhalla Gardens. Everyone had been awake on
9 a drug-fueled bender for days. Common sense we must
10 have, yes. Thinking things through rationally,
11 absolutely. But we have to remember the state of mind
12 of all of these folks on that night.

13 On that night when Andy, Megan, and Kenny got back
14 to Megan's home, Jeremy showed up a little while later.
15 Kenny testified here today. I haven't heard anything
16 that said that Jeremy was invited over, but he wanted
17 to come over to continue using drugs with Andy, Kenny,
18 Megan, and Chris.

19 You've seen and heard a lot over the last couple
20 of days. Inconsistent testimony is an understatement.
21 Andy, Megan, and Chris all conveniently remember some
22 things and not others. You've seen and you've heard
23 that Megan's fingerprints were on the duct tape, that
24 Megan participated in tying Jeremy up, that Megan wrote
25 a note and put it on the door telling her grandmother

1 that she was not home, that Megan had the bloodiest
2 clothes.

3 Megan wants us to believe that Kenny told her to,
4 and that's why she did it. Both Andy, Kenny, and Chris
5 have testified that at some point Kenny went outside of
6 that house. When he was outside, Megan and Andy were
7 inside. They didn't call 911. They didn't leave. But
8 they did have time to.

9 It's easy to point the finger at one person. The
10 question we have to ask ourselves is, if someone shows
11 up to your house carrying a weapon, are you justified
12 in believing that they are going to harm you or others,
13 and are you justified in responding in a way that
14 prevents them from doing that.

15 This is a self-defense case. The amount of force
16 used to prevent being shot and killed or someone else
17 being shot and killed, that's not -- Kenny wasn't bound
18 to only push or to only shove. He was bound to do
19 whatever it took, or he had the right to do whatever it
20 took to prevent that harm from befalling him or anyone
21 else.

22 Megan confessed to killing Jeremy once she had
23 fallen through the attic. Again, "Kenny made me do
24 it." If you're truly afraid, if you're truly fearful
25 and you're at the feet of law enforcement, the last

1 thing you do is say, "I killed someone." If the person
2 up in the attic is the person that's threatening you,
3 you are now away from them and in the presence of the
4 very people who can help and protect you. She didn't
5 take that opportunity. She confessed to murder and
6 then later changed her story and said not only did
7 Kenny do it, but Kenny made me do everything
8 thereafter.

9 So, again, you have seen and heard a lot. This is
10 true. You have seen video; you have seen photos; you
11 have seen a knife; you have heard expert testimony; you
12 have heard law enforcement testimony. What this told
13 you was the what. You know what happened.

14 Unfortunately, you know that Jeremy Little died.
15 You know when that happened. And you even know what
16 happened after he died. But the question you've got to
17 answer in order to convict Kenny Collins of murder is
18 who. And that's still a mystery because we have got
19 witnesses that haven't been truthful.

20 It is undisputed that that gun was there and that
21 it belonged to Jeremy Little. The state's statement,
22 the state's response to that is it wasn't brandished;
23 it wasn't pulled; it wasn't fired. We don't know that.
24 The state doesn't know that. It was there and it
25 belonged to him, and Kenny Collins took the stand

1 because he felt like it was up to him to make sure that
2 you heard this story from him. He didn't sugarcoat it.
3 He admitted to exactly what he did.

4 Now, it doesn't make a lot of sense to get up
5 there and say, "I did this, but I didn't do that." Why
6 not deny it all? He told this court exactly what his
7 part in this was. He told how it started, with an
8 argument. He told you that he saw the gun, that he
9 felt threatened, that he was in fear for his life, and
10 he acted in response to that.

11 Please remember when you go to deliberate that
12 you've got to be able to answer the question of who.
13 Thank you.

14 MS. SIMMONS: Ladies and gentlemen, I'll be brief.
15 You've heard enough of me.

16 The who is Kenny Collins, and this is not
17 self-defense.

18 THE COURT: Ladies and gentlemen, we have come to
19 the point in this trial where I instruct you on the
20 law. My instructions will be somewhat lengthy. They
21 will be in three parts.

22 First, the instructions that give general rules
23 that define and control the jury's duties. Secondly,
24 the instructions that state the rules of law that you
25 must apply, what the state must move to make its case,

1 ,and lastly, some rules for your deliberations.

2 The general rules begin with your duties as
3 jurors. It is your duty to find the facts from all of
4 the evidence in the case. To those facts you must
5 apply the law as I give it to you. You shall not be
6 concerned with what the law should be but what it is,
7 and you must not be influenced by any personal likes or
8 dislikes, opinions, prejudices, or undue sympathy.
9 That means you must decide the case solely on the
10 evidence before you in accordance with the law, the
11 very thing you took an oath promising to do at the
12 beginning of the trial.

13 It is your responsibility and yours alone to
14 determine the facts of this case. I would, therefore,
15 charge you that if, during the course of this trial or
16 during this charge, you are left with or given the
17 impression or feeling that I have a personal feeling
18 about the facts of this case or that I favor one side
19 or the other, I would specifically instruct you to
20 disregard that impression. Under our constitution, I
21 am not allowed to have an opinion as to the facts of
22 this case.

23 You should not be influenced by any objections or
24 the court's ruling on them. You and you alone are the
25 judges of the facts. You determine the facts by

1 evaluating or weighing the evidence that you've heard
2 during the trial.

3 What is evidence? Evidence is the sworn testimony
4 from witnesses and any exhibits that have been entered
5 into evidence. The statements by the attorneys are not
6 evidence. What they have said in opening statements,
7 closing arguments, and at other times is intended to
8 help you interpret the evidence, but it is not
9 evidence.

10 There are two types of evidence which are
11 generally presented during a trial, direct evidence and
12 circumstantial evidence. Direct evidence directly
13 proves the existence of a fact and does not require
14 deduction. Circumstantial evidence is proof of a chain
15 of facts and circumstances indicating the existence of
16 a fact.

17 Crimes may be proven by circumstantial evidence.
18 The law makes no distinction between the weight or
19 value to be given to either direct or circumstantial
20 evidence. However, to the extent the state relies on
21 circumstantial evidence, all the circumstances must be
22 consistent with each other, and when taken together;
23 point conclusively to the guilt of the accused beyond a
24 reasonable doubt. If the circumstances merely portray
25 the defendant's behavior as suspicious, then the proof

1 has failed.

2 The state has the burden of proving the defendant
3 guilty beyond a reasonable doubt, and this burden rests
4 with the state regardless of whether the state relies
5 on direct evidence, circumstantial evidence, or some
6 combination of the two.

7 What is a reasonable doubt in the law? A
8 reasonable doubt is the kind of doubt that would cause
9 a reasonable person to hesitate to act. Some of you
10 may have served as jurors in civil cases where you were
11 told that it is only necessary to prove that a fact is
12 more likely true than not true, such as by the greater
13 weight or preponderance of the evidence.

14 In criminal cases, the state's proof must be more
15 powerful than that. It must be beyond a reasonable
16 doubt. Proof beyond a reasonable doubt is proof that
17 leaves you firmly convinced of the defendant's guilt.
18 There are very few things in this world that we know
19 with absolute certainty, and in criminal cases, the law
20 does not require proof that overcomes every possible
21 doubt.

22 If, based on your consideration of the evidence,
23 you are firmly convinced that the defendant is guilty
24 of the crimes charged, you must find the defendant
25 guilty. If, on the other hand, you think there is a

1 reasonable possibility that the defendant is not
2 guilty, you must give the defendant the benefit of the
3 doubt and find him not guilty.

4 A reasonable doubt may arise from the evidence or
5 from a lack of evidence. The defendant is entitled to
6 every reasonable doubt that may arise in the case. If,
7 upon any issue of fact essential to a conviction and a
8 verdict of guilty of an offense, if you have any
9 reasonable doubt as to how that issue should be
10 resolved, it is your duty to resolve that doubt in
11 favor of the defendant. Suspicion, however strong, is
12 not evidence to sustain a conviction. The evidence
13 presented by the state must be substantial evidence
14 that tends to prove the guilt of the defendant beyond a
15 reasonable doubt.

16 As judges of the facts, you are the sole judges of
17 the credibility, that is, the believability of the
18 witnesses who have testified. And you may take into --
19 you may take into account many things when determining
20 their credibility -- the appearance and manner of the
21 witnesses on the stand sometimes referred to as the
22 demeanor of the witness; was the witness able to see,
23 hear, or know things about which the witness testified;
24 how well was the witness able to recall and describe
25 those things; did the witness have a cause or reason to

1 be biased or prejudiced in favor of the testimony he or
2 she gave; how reasonable was the witness' testimony
3 considered in the light of all the evidence in the
4 case; was the witness' testimony contradicted by what
5 the witness had said or done at another time or by the
6 testimony of other witnesses or by other evidence.
7 These are some of the factors you may consider in
8 deciding whether to believe testimony.

9 As jurors, you have the right to believe all of
10 the testimony of a witness or none of the testimony of
11 a witness. You have a right to believe a portion of
12 the testimony of a witness and discard the rest. You
13 may believe the testimony of one witness over the many
14 or the many over the one. Most certainly you do not
15 determine the matter of credibility by simply counting
16 up the number of witnesses who may have testified on
17 behalf of the parties.

18 Ladies and gentlemen, normally, a person cannot
19 give opinion testimony. Normally, a witness must
20 testify to what they either saw, heard, or sensed by
21 smell or something of that nature. However, there is
22 an exception when someone is qualified as an expert
23 because of education and experience. They are
24 permitted to give their opinion in certain areas if the
25 court qualifies them as an expert in that area.

1 You heard from an expert witness in this case.
2 This does not mean that you are required to accept that
3 opinion. Like any other witness, you may place
4 whatever weight on this person's testimony that you, as
5 the judge of the facts, deem appropriate.

6 The defendant has pled not guilty to these
7 indictments, and that puts the burden on the state to
8 prove the defendant guilty. A person charged with
9 committing a criminal offense is never required to
10 prove himself innocent.

11 I charge you that it is an important rule of the
12 law that a defendant in a criminal trial, no matter
13 what the seriousness of the charge may be, will always
14 be presumed to be innocent of that crime for which the
15 indictment was issued unless guilt has been proven by
16 evidence satisfying you of that guilt beyond a
17 reasonable doubt.

18 The presumption of innocence does not end when you
19 begin your deliberations, but it accompanies the
20 defendant throughout the trial until you reach a
21 verdict of guilt based on the evidence satisfying you
22 of that guilt beyond a reasonable doubt. The
23 presumption of innocence is like a robe of
24 righteousness placed about the shoulders of the
25 defendant which remains with the defendant until it has

1 been stripped from the defendant by evidence satisfying
2 you of the defendant's guilt beyond a reasonable doubt.

3 The presumption of innocence is not merely -- mere
4 legal theory. It is not just a legal phrase. It is a
5 substantial right to which every defendant is entitled
6 unless you, the jury, are satisfied from the evidence
7 of the defendant's guilt beyond a reasonable doubt.

8 In order to establish criminal liability, criminal
9 intent is required. For example, the mental state
10 required to be proven by the state for a particular
11 crime might be purpose, intent, knowledge,
12 recklessness, or criminal negligence.

13 Criminal intent must be proven by the state beyond
14 a reasonable doubt. Criminal intent is always a matter
15 that must be determined by the jury from the
16 circumstances surrounding the situation. There's no
17 way to prove intent to a mathematical certainty.
18 There's no way medical science can dissect a person's
19 brain and determine what that person had in mind, so
20 the law says that criminal intent may be inferred from
21 the circumstances shown to have existed.

22 This is how you make a determination of whether or
23 not the element requiring intent was present. It is
24 not necessary to establish intent by direct and
25 positive evidence, but intent may be established by

1 inference in the same way as any other fact, by taking
2 into consideration the acts of the parties and all the
3 facts and circumstances of the case.

4 Criminal intent is a mental state, a conscious
5 wrongdoing. It is up to you to determine what the
6 defendant intended to do based on the circumstances
7 shown to have existed. Criminal intent can arise from
8 action or a failure to act. It may arise from
9 negligence, recklessness, or an indifference to duty or
10 to consequences that is considered by the law to be the
11 equivalent of criminal intent.

12 A statement alleged to have been made by the
13 defendant has been admitted into evidence in this case.
14 While the court has determined that the statement is
15 admissible, I instruct you that you make the ultimate
16 decision of whether or not the defendant made the
17 statement.

18 If the defendant did make the statement, you must
19 determine whether the statement was made by the
20 defendant voluntarily and of his own free will. This
21 means that the statement was not caused by pressure,
22 force, fear, threats, coercion, or intimidation or by
23 hope or a promise of leniency or for any reward of any
24 kind.

25 In determining whether the statement was

1 voluntary, you should consider both the characteristics
2 of the defendant and the details of the questioning.
3 Some of the factors you must consider are the age of
4 the defendant, the defendant's education or lack of
5 education, the defendant's mental ability or capacity,
6 defendant' I.Q. or intelligence, defendant's background
7 and environment, place and length of detention, the
8 nature of questioning, the advice or lack thereof to
9 the defendant of his constitutional rights including
10 but not limited to the right to remain silent, that any
11 statement could be used against him in a court of law,
12 the right to have a lawyer present, that if he could
13 not afford a lawyer, a lawyer would be appointed to
14 represent him without any cost, and that he could stop
15 making a statement at any time. You must carefully
16 consider all the surrounding circumstances before you
17 give any weight to an alleged statement.

18 The state has the burden of proving beyond a
19 reasonable doubt that the alleged statement was
20 voluntary. If you determine it was, you may give the
21 statement any further consideration that you deem
22 proper. If you decide -- you must decide what weight,
23 if any, to give the alleged statement. If you
24 determine that the alleged statement was not free and
25 voluntary, then you should not consider it at all.

1 The indictments charge the defendant with murder,
2 possession of a weapon during the commission of a
3 violent crime, and kidnapping. I remind you that the
4 fact that the defendant was arrested, charged, and
5 indicted in this case is not evidence in this case and
6 cannot be considered by you as evidence of guilt in
7 this case and -- nor does it create any presumption or
8 inference of guilt. These documents are simply the
9 formal written instruments which contain the charges
10 made against the defendant. They are the formal
11 documents by which this case is brought into court.

12 The defendant is charged with murder. The state
13 must prove beyond a reasonable doubt that the defendant
14 killed another person with malice aforethought. Malice
15 is hatred, ill will, or hostility toward another
16 person. It is the intentional doing of a wrongful act
17 without just cause or excuse and with an intent to
18 inflict an injury or under circumstances that the law
19 will infer evil intent.

20 Malice aforethought does not require that malice
21 exist for any particular time before the act is
22 committed, but malice must exist in the mind of the
23 defendant just before and at the time the act is
24 committed; therefore, there must be a combination of
25 the previous evil intent and the act. Malice

1 aforethought may be express or inferred. These terms
2 "express" and "inferred" do not mean different kinds of
3 malice, but merely the manner in which malice may be
4 shown to exist. This is either by direct evidence or
5 inference from the facts and circumstances which are
6 proved.

7 Express malice is shown when a person speaks words
8 which express hatred or ill will for another, or when
9 the person prepared beforehand to do the act which was
10 later accomplished. For example, lying in wait for a
11 person or any other act of preparation going to show
12 that the deed was within the defendant's mind would be
13 express malice. Malice may be inferred from conduct
14 showing a total disregard for human life.

15 Insanity caused by the use of drugs or alcohol may
16 be a defense if the insanity is permanent and destroys
17 the defendant's ability to know right from wrong.
18 However, when voluntary intoxication has not produced
19 permanent insanity, it is not a defense to a crime. A
20 person who voluntarily becomes intoxicated is just as
21 responsible for the acts committed while intoxicated as
22 when the person is not intoxicated. Voluntary
23 intoxication does not impair a defendant's ability to
24 act with malice aforethought.

25 If a crime is committed by two or more people who

1 are acting together in committing a crime, the act of
2 one is the act of all. A person who joins with another
3 to commit an unlawful act is criminally responsible for
4 everything done by the other person which happens as a
5 probable or natural consequence of the acts done in
6 carrying out the common plan and purpose.

7 For example, two people can be guilty of killing
8 another person when only one of the two had a gun,
9 there was only one bullet, and only one of the two
10 fired the shot that caused the death. If two or more
11 people are together acting together assisting each
12 other in committing the offense, the act of one is the
13 act of all, or as it is sometimes said, the hand of one
14 is the hand of all.

15 Prior knowledge that a crime is going to be
16 committed without more is not sufficient to make a
17 person guilty of that crime. Mere knowledge that
18 another person is going to commit a crime, even if the
19 defendant is present when the crime is committed, is
20 not sufficient to convict the defendant as a principal.
21 Guilt as a principal is shown by actual or constructive
22 presence at the scene as a result of prior arrangement.
23 Therefore, a finding of a prior arranged plan or common
24 scheme is necessary for a finding of guilt as a
25 principal. The state must prove beyond a reasonable

1 doubt by competent evidence the theory of the hand of
2 one is the hand of all.

3 A principal in a crime is one who either actually
4 commits the crime or who is present, aiding, abetting
5 or assisting in committing of the crime. When a person
6 does an act in the presence of and with the assistance
7 of another, the act is done by both. When two or more
8 acting with a common plan or intent are present at the
9 commission of a crime, it does not matter who actually
10 commits the crime. All are guilty. The hand of one is
11 the hand of all.

12 Present at the commission of a crime means to be
13 sufficiently near to aid and abet and assist in the
14 commission of the crime. However, mere presence at the
15 scene of a crime is not sufficient to convict one as a
16 principal on the theory of aiding and abetting. Intent
17 is also a necessary element, for there must have been a
18 common design or intent to commit the crime, and the
19 crime must have been committed pursuant thereto with
20 the person aiding and abetting by some overt act.

21 Intent means intending the result which actually
22 occurs, not accidentally or involuntarily. Intent may
23 be shown by acts and conduct of the defendant and other
24 circumstances which you may naturally and reasonably
25 infer intent. The state must prove these elements

1 beyond a reasonable doubt.

2 If you find that the state has failed to prove
3 beyond a reasonable doubt that the defendant committed
4 murder, you may consider whether the state has proved
5 beyond a reasonable doubt that the defendant committed
6 the lesser-included offense voluntary manslaughter.

7 To prove voluntary manslaughter, the state must
8 prove beyond a reasonable doubt that the defendant took
9 the life of another in a sudden heat of passion based
10 on sufficient legal provocation. Both heat of passion
11 and sufficient legal provocation must be present at the
12 time of the killing to constitute voluntary
13 manslaughter.

14 Sudden heat of passion may, for a time, affect a
15 person's self-control and temporarily disturb a
16 person's reason. The sudden heat of passion must be
17 the type that would make an ordinary person unable to
18 coolly reflect on his actions and would produce an
19 uncontrollable impulse to do violence.

20 Sufficient legal provocation must be the type that
21 would make a person of ordinary reason and caution
22 become enraged and to lose control temporarily. The
23 provocation needed for voluntary manslaughter must come
24 from some act of or related to the victim. Words
25 alone, however vulgar or insulting, are not enough to

1 be legal provocation.

2 Where death is caused by the use of a deadly
3 weapon, the words must be accompanied by some overt,
4 threatening act which could have produced the heat of
5 passion.

6 The exercise of a legal right, no matter how
7 offensive it is to another, is never sufficient legal
8 provocation for voluntary manslaughter. If the heat of
9 passion had cooled, or if there was enough time between
10 the provocation, if any, and the killing of -- for the
11 passion -- and the killing for the passion of a
12 reasonable person to cool, the killing would not be
13 voluntary manslaughter.

14 In deciding whether a reasonable person would have
15 had enough time to cool off, you should consider all
16 the circumstances surrounding the killing. You may
17 consider the nature of the provocation, if any, the
18 defendant's mental and physical state, and the
19 circumstances in relationship between the parties.

20 The defendant has raised the defense of
21 self-defense. Self-defense is a complete defense, and
22 if it is established, you must find the defendant not
23 guilty. The state has the burden of disproving
24 self-defense by proof beyond a reasonable doubt.

25 If you have a reasonable doubt of the defendant's

1 guilt after considering all the evidence including the
2 evidence of self-defense, then you must find the
3 defendant not guilty. On the other hand, if you have
4 no reasonable doubt of the defendant's guilt after
5 considering all the evidence including the evidence of
6 self-defense, you must find the defendant guilty.

7 The following elements are required to establish
8 self-defense. First, the defendant must be without
9 fault in bringing on the difficulty. If the
10 defendant's conduct was the type which reasonably
11 calculated to and did provoke a deadly assault, the
12 defendant would be at fault in bringing on the
13 difficulty and would not be entitled to an acquittal
14 based on self-defense.

15 The second element of self-defense is that the
16 defendant was actually in imminent danger of death or
17 serious bodily injury, or that the defendant actually
18 believed he was in imminent danger of death or danger
19 of serious bodily injury.

20 If the defendant was actually in imminent danger,
21 it must be shown that the circumstances would have
22 warranted a person of ordinary firmness and courage to
23 strike the fatal blow to prevent death or serious
24 bodily injury.

25 If the defendant believed he was in imminent

1 danger of death or serious bodily injury, it must be
2 shown that a reasonably prudent person of ordinary
3 firmness and courage would have held the same belief.

4 In deciding whether the defendant actually was or
5 believed he was in imminent danger of death or serious
6 bodily injury, you should consider all the facts and
7 circumstances surrounding the crime including the
8 physical condition and characteristics of the defendant
9 and the victim.

10 The defendant does not have to show that he
11 actually was in danger. It is enough if the defendant
12 believed he was in imminent danger and a reasonably
13 prudent person of ordinary firmness and courage would
14 have had the same belief. The defendant has the right
15 to act on appearances even though the defendant's
16 beliefs may be mistaken.

17 It is for you to decide whether the defendant's
18 fear of imminent -- immediate danger of death or
19 serious bodily injury was reasonable and would have
20 been felt by an ordinary person in the same situation.

21 Evidence of prior difficulties between the
22 defendant and the victim may be considered in deciding
23 whether a threat existed, whether the defendant had a
24 reason to believe that a threat existed, and how
25 serious that threat was.

1 The final element of self-defense is that the
2 defendant had no other probable way to avoid the danger
3 of death or serious bodily injury than to act as the
4 defendant did in this circumstance. A person attacked
5 on his own premises without fault has the right to
6 claim immunity from the duty to retreat. The absence
7 of a duty to retreat extends to the curtilage of a
8 home. Curtilage of a home includes outbuildings, the
9 area around the home, and gardens. The defendant had
10 no duty to retreat if, by doing so, the danger of being
11 killed or suffering serious bodily injury would
12 increase.

13 Under the theory of defense of others, one is not
14 guilty of taking the life of an assailant who assaults
15 a friend, a relative, or bystander if that friend,
16 relative, or bystander would likewise have had the
17 right to take the life of the assailant in
18 self-defense.

19 The defendant is charged with possession of a
20 weapon during the commission of or attempt to commit a
21 violent crime. The state must prove beyond a
22 reasonable doubt that the defendant was in possession
23 of a firearm or visibly displayed what appeared to be a
24 firearm or visibly displayed a knife during the
25 commission of a violent crime.

1 A firearm means any machine gun, automatic rifle,
2 revolver, pistol, or any weapon which will, is designed
3 to, or may be readily converted to expel a projectile.
4 A knife means an instrument or tool with a sharp
5 cutting blade whether or not fastened to a handle which
6 can be used to inflict a cut/or wound.

7 In order to find the defendant guilty of
8 possession of a weapon during the commission of a
9 violent crime, you must first find the defendant guilty
10 of either committing a violent crime or attempting to
11 commit a violent crime. Murder, kidnapping, and armed
12 robbery are classified as violent crimes. The state
13 must prove beyond a reasonable doubt that the weapon
14 further advanced or helped the commission of the crime.

15 The defendant is charged with kidnapping. The
16 state must prove beyond a reasonable doubt that the
17 defendant knowingly and unlawfully seized, confined,
18 inveigled, decoyed, kidnapped, abducted, or carried
19 away another person without authority of law.

20 To do a thing unlawfully is to do it willfully
21 against the law. Knowingly means with knowledge,
22 consciously, and not accidentally. Seize means to take
23 hold of suddenly or forcibly. Confine means to limit,
24 restrict, or enclose within bounds, imprison, or shut
25 up or keep in. Inveigle means to lure, entice, or lead

1 astray by false representations, promises, or other
2 deceitful means. Decoy means to lure by or as if by a
3 decoy. A decoy is something to entice a person into a
4 trap. Kidnap is to remove a person against his will by
5 unlawful force or by fraud. Abduct means to carry off
6 secretly or by force for an illegal purpose. Carry
7 away means to remove. Something done without the
8 authority of law is something which the law does not
9 sanction, permit, allow, condone, or provide
10 justification for.

11 Kidnapping does not have to be for any personal or
12 monetary gain or any illegal purpose but may be done
13 for any reason whatsoever. The state does not have to
14 prove that the defendant did all of these things.
15 Instead, if you find beyond a reasonable doubt that the
16 defendant did any of these things, you may find the
17 defendant guilty of kidnapping.

18 Ladies and gentlemen, we're almost to the point
19 where I send you to the jury room to begin your
20 deliberations. This has been a long instruction on the
21 law, but I leave you with some final thoughts.

22 You were chosen as jurors because each side
23 believed that you could be fair and impartial in
24 deciding this case. I instruct you to make use of your
25 life experiences, your good common sense, and your

1 sense of logic and reason in evaluating the evidence in
2 this case. You are not partisans for either side. You
3 have no friends to reward nor any enemies to punish.
4 You are the judges of the facts. Your sole interest is
5 to determine whether the state has proven beyond a
6 reasonable doubt that the defendant is guilty of the
7 offenses charged.

8 Be courteous with one another. Listen to the
9 views of your fellow jurors. Take the amount of time
10 necessary for you to thoroughly evaluate the evidence.
11 This case is important to both sides, as this is their
12 day in court.

13 Mr. Foreman, I'm going to go over the verdict form
14 with you.

15 Mr. Foreman, the verdict form is two pages. First
16 page has, "We, the jury, unanimously find on indictment
17 number 2015-GS-37-348 that the defendant, Kenneth
18 Strother Collins, is," and this is the indictment for
19 murder. Gives you two options, not guilty or guilty.

20 Now, let me say at the outset, place no
21 significance in the manner in which the choices are
22 placed on the page. One simply had to be put down
23 before the other.

24 Now, if you make the decision on that charge of
25 guilty, then you skip the next one and go to the second

1 page.

2 The next one is voluntary manslaughter as a
3 lesser-included offense of murder. "We, the jury,
4 unanimously find on indictment number" -- under the
5 same indictment number, but like I mentioned earlier,
6 this is a lesser-included offense, and you have the
7 same options.

8 Second page is, "We, the jury, unanimously find on
9 indictment number 2015-GS-37-349 that the defendant,
10 Kenneth Strother Collins," same two choices for the
11 kidnapping charge, not guilty or guilty.

12 And then the last one is possession of a weapon
13 during a violent crime, and it gives you the same
14 choices.

15 Now, let me point out, you may not find the
16 defendant guilty of the possession of a weapon during
17 the commission of a violent crime if you find him not
18 guilty on the other charges.

19 So just to review, you have two -- you have the
20 indictment on the first page with a lesser-included
21 offense, then you have the other two charges on the
22 second page.

23 Your verdict must be unanimous. All of you must
24 agree. Once you have reached a unanimous verdict on
25 each charge, you will check the appropriate box, and,

1 Mr. Foreman, you will sign it and date it.

2 Now, I'm going to have the bailiff take you to the
3 jury room. Do not begin your deliberations until I
4 send the verdict form back with the exhibits.

5 So, Madam Bailiff, would you take our jury to the
6 jury room.

7 (WHEREUPON, the jury exited open court at
8 2:04 p.m.)

9 THE COURT: Are there any exceptions to my charge
10 from the state?

11 MS. SIMMONS: No, Your Honor.

12 THE COURT: Are there any exceptions from the
13 defense?

14 MS. LANE: No, Your Honor.

15 THE COURT: I would like the attorneys to come
16 forward, count the exhibits.

17 Have the attorneys reviewed the proposed verdict
18 form?

19 Any objections from the state?

20 MS. SIMMONS: No, Your Honor.

21 THE COURT: Any objections from the defense?

22 MS. LANE: No, Your Honor.

23 THE COURT: Are all the exhibits there?

24 MS. SIMMONS: They are, Judge.

25 THE COURT: Okay. After the attorneys have

1 reviewed the exhibits and the verdict form,
2 Mr. Bailiff, would you take the exhibits and the
3 verdict form back to the jury room, send the alternates
4 back into the courtroom, and tell the jury they may
5 begin their deliberations.

6 (Alternate jurors entered the courtroom.)

7 THE COURT: Okay. You two served as alternates,
8 so you are finished with this trial as far as your
9 responsibilities.

10 Part of being an alternate is you would take the
11 place of a primary juror if they were unable to finish
12 the trial. So they made it through the trial, so your
13 duty is finished. You are welcome to stay if you want
14 to see how it turns out, otherwise, you are free to go
15 home today. You will need to call the phone number
16 tonight after 6 o'clock.

17 Thank you for your service.

18 It's up to you if you want to leave. You are free
19 to do so.

20 ALTERNATE JUROR: Why do we have to call the phone
21 number?

22 THE COURT: Because we may have another one
23 tomorrow.

24 ALTERNATE JUROR: Okay.

25 THE COURT: This is just Wednesday.

1 ALTERNATE JUROR: Okay.

2 THE COURT: And they have another one tomorrow.

3 Now, the clerk will have the phone number after
4 6 o'clock tonight.

5 ALTERNATE JUROR: Okay.

6 THE COURT: Thank you.

7 (Alternate jurors exited the courtroom.)

8 THE COURT: We'll now go into recess.

9 (WHEREUPON, court in recess, pending verdict, from
10 2:11 p.m. until 3:13 p.m.)

11 THE COURT: I have been informed that we have a
12 verdict.

13 Mr. Bailiff, would you get our jury, please.

14 (WHEREUPON, the jury entered open court at
15 3:14 p.m.)

16 THE COURT: All right.

17 Mr. Foreman, has the jury reached a verdict?

18 JURY FOREMAN: We have, Your Honor.

19 THE COURT: Would you hand that verdict to the
20 bailiff, please, sir.

21 Madam Clerk, would you publish the verdict.

22 THE CLERK: In the matter of the State of South
23 Carolina versus Kenneth Strother Collins, we, the jury,
24 unanimously find on indictment number 2015-GS-37-348
25 that the defendant, Kenneth Strother Collins, is guilty

1 of murder.

2 On indictment number 2015-GS-37-349, we, the jury,
3 unanimously find that the defendant, Kenneth Strother
4 Collins, is guilty of kidnapping.

5 On indictment number 2015-GS-37-348, we, the jury,
6 unanimously find that the defendant, Kenneth Strother
7 Collins, is guilty of possession of a weapon during a
8 violent crime.

9 Ladies and gentlemen of the jury, if this was your
10 verdict and remains your verdict, please so indicate by
11 raising your right hand.

12 Let the record reflect that all members of the
13 jury have affirmed their verdict.

14 THE COURT: Anything further from the state for
15 the jury before I send them back?

16 MS. SIMMONS: No, Your Honor.

17 THE COURT: Anything from the defense?

18 MS. LANE: No, Your Honor.

19 THE COURT: All right.

20 Mr. Bailiff, would you take our jury back to the
21 jury room just briefly.

22 (WHEREUPON, the jury exited open court at
23 3:15 p.m.)

24 THE COURT: We're going to take a short recess
25 before sentencing to allow both sides to prepare

1 anything they would like to present to the court for
2 sentencing.

3 Is there anything for the record before we take a
4 break?

5 MS. SIMMONS: No, Your Honor.

6 MS. LANE: No, Your Honor.

7 THE COURT: Okay. We'll be in recess.

8 Let me see the two alternates.

9 (WHEREUPON, a recess was taken from 3:16 p.m. to
10 3:27 p.m.)

11 THE COURT: For sentencing, this is what I would
12 like our procedure to be. I'm going to hear from the
13 state, anything about his record that you would like to
14 point out. If there's any representative of the victim
15 that wishes -- or any family members of the victim that
16 wish to address the court, I'll finish with the state,
17 and then I'm going to turn it over to you, Ms. Lane,
18 and any persons that you wish to have speak, anything
19 your client would like to present, I'll hear from the
20 defendant last.

21 Okay. Ms. Simmons.

22 MS. SIMMONS: Judge, Mr. Collins, as we pointed
23 out earlier, does have a pretty substantial prior
24 record for his young age. He has been convicted of
25 petty larceny. He's been convicted of malicious injury

1 to property in 2010, receiving stolen goods, breach of
2 peace in 2010. He had a probation violation in 2011,
3 false information in 2011. 2012, malicious injury to
4 personal property, failure to stop for a blue light,
5 burglary second degree, grand larceny, resisting
6 arrest, and malicious injury. And that's in 2012.

7 Your Honor, in 2014 he had an assault and battery
8 third degree charge that he did plead guilty on that
9 involved another sharp object, a box cutter, that he
10 attacked somebody with, and he had been released just a
11 few days prior to this incident when he had pled guilty
12 on that charge.

13 Judge, it's our position that he is an extreme
14 danger to our community. While he's been incarcerated,
15 he has assaulted correctional officers twice. His
16 behavior has not gotten better when he has been sober
17 and been in jail. We believe that he is a danger.

18 Judge, you heard all the testimony in this case,
19 and you heard that Mr. Little suffered. This was a
20 horrible, horrible death. And we believe that you
21 should consider a life sentence for Mr. Collins.

22 Chief Wilbanks would like to speak from the
23 Walhalla Police Department, and the victim's daughter
24 and her mother would like to speak.

25 CHIEF WILBANKS: Your Honor, we believe, due to

1 the circumstances, the victim, how he suffered and
2 died, we also believe the defendant deserves life.

3 THE COURT: Thank you, Chief.

4 MS. NEWMAN: Hi.

5 THE COURT: Yes, ma'am.

6 MS. NEWMAN: My name is Kelly Newman, N-e-w-m-a-n.
7 I just wanted to say that this man has hurt my family a
8 lot, and that my little ten-year-old brother has to
9 live without a father and without anybody other than --
10 (Microphone malfunction.)

11 THE COURT: Is there any way we could turn that
12 down some?

13 THE CLERK: I'm working on it.

14 MS. NEWMAN: -- his mother to raise him and
15 support him, and it's very hard for them right now, and
16 it's very hard for me and my family, and I think this
17 man should go to jail for the rest of his life because
18 my father was no threat. He didn't like hurting
19 people, and he didn't hurt people. And my dad was a
20 good man who took care of his family and helped the
21 community and helped people however he could, and he
22 didn't deserve what he got, and he should be in jail
23 for that and punished because my dad did no wrong in
24 that house.

25 THE COURT: Thank you, ma'am.

1 MS. MOORE: My name is Reba Moore, M-o-o-r-e, and
2 I am the mother of Jeremy's firstborn, Katerina. She's
3 15 now. But the day this occurred, she was 12 years
4 old, in sixth grade, and I had to go pick my baby up
5 from school and explain to her that her daddy was gone.
6 It's the hardest day of my life. As a mom, nobody
7 should have to do that.

8 I know lots of people in this situation are hurt.
9 I know he has kids, and I know they're hurting, and I
10 know they're going to hurt, and I'm sorry for that, but
11 he made a decision that night to do what he did. And
12 all my daughter is left with is a few memories of her
13 dad locked in her heart and her spirit, and she's got a
14 few candid photos, a jacket very similar to what he was
15 wearing the night he was killed, and an empty Skoal can
16 with just a small trace of smell that reminds her of
17 her daddy, and that's all she's got left. And he
18 misses everything. He misses softball. He misses
19 volleyball. He misses her graduation. He misses her
20 wedding. She'll be the first one, other than one
21 person, out of both sides of our family to graduate
22 high school, and I'm so proud of her for that, and I
23 know he would be, too.

24 And she's a beautiful girl and he'll -- he won't
25 get to see all that because that was taken from him,

1 and it was taken from her. And for that, I think it
2 should be a life for a life. And, I'm sorry, but I
3 think it should. Thank you.

4 THE COURT: Thank you, ma'am.

5 MS. SIMMONS: Nothing further, Your Honor.

6 THE COURT: All right. Ms. Lane.

7 MS. LANE: May it please the court. Your Honor,
8 as mentioned by the state, Mr. Collins is 26 years old.
9 We stand here at the mercy of the court asking that he
10 not have to spend life in prison. He does have two
11 sons. He is remorseful for everything that happened on
12 January 13, 2015.

13 Hopefully, there is a way that we can rehabilitate
14 people like Mr. Collins, and life in prison may not do
15 that, so I'm asking that he not be sentenced to life,
16 that his age is considered, his family is considered,
17 his small children are considered in the court's
18 sentencing decision.

19 THE COURT: Do you have any family members that
20 wish to address the court?

21 MS. LANE: This is defendant's mother, Tamatha
22 Collins.

23 MS. COLLINS: My name is Tamatha Collins,
24 T-a-m-a-t-h-a. I would like to say that we're deeply
25 sorry for the man's family, but we didn't ask him --

1 you know, Kenneth didn't ask him to come up there.
2 Kenneth didn't ask him to fight with him in the door.
3 Kenneth didn't ask him to pull the gun. You know, he
4 wanted to protect himself and everyone in the house.
5 And when the other defendants go up, the codefendants,
6 they will tell you there was a gun. Kenneth would not
7 have just took the gun. Kenneth fought with the man.
8 Kenneth had, you know, marks, too.

9 Kenneth has two kids, and, you know, they're going
10 to grow up, too, but it's not our fault nor their fault
11 that this happened. This happened because two girls
12 took the man's money out of a wallet, Ashley Settlemyre
13 and Sarah Yeager. He went up there looking for his
14 money. It was not \$20. He went up there with an
15 attitude, so Sarah and Ashley said. I don't know.
16 That's hearsay.

17 But my son does not deserve life in prison for
18 protecting his own home and himself.

19 THE COURT: Thank you ma'am.

20 MS. COLLINS: But I feel like if he had had
21 treatment -- you know, he didn't have a mental
22 evaluation. He didn't have anything but throwed in a
23 jail cell and fed three times a day. He's had no
24 counseling. He's had no mental help whatsoever from
25 anybody, law enforcement, therapy, nobody. And I think

1 he needs therapy as to what we just saw and, you know,
2 what everyone has saw. There's got to be some kind of,
3 you know, immunity here because he was not one hundred
4 percent in the wrong. He was at home.

5 THE COURT: Thank you, ma'am.

6 MS. COLLINS: Thank you.

7 THE COURT: Did you have anything further?

8 MS. LANE: No, Your Honor.

9 THE COURT: All right. Mr. Collins, do you have
10 anything you would like to say?

11 THE DEFENDANT: No, sir, I don't.

12 THE COURT: All right. If there's nothing
13 further, this will be the sentence of the court.

14 I will say at the outset, drugs are a terrible,
15 terrible thing. We have a methamphetamine problem in
16 this community, in this state. I've heard testimony
17 now in a case that's gone on three days for a tragic,
18 tragic event, and this was induced by the consumption
19 of methamphetamines. Sale and the use of
20 methamphetamines led to a life being taken away, a life
21 being snuffed out; led to another life that's being
22 taken away in a different way. I don't know what other
23 result can happen with methamphetamines other than
24 that. Death and prison are the logical ends, and I see
25 that on a regular basis in criminal court, and it's

1 very frustrating.

2 This is a terrible case, and this will be the
3 sentence of the court.

4 On 2015-GS-37-348, defendant will be confined in
5 the Department of Corrections for a term of 30 years.
6 No contact with the victim's family.

7 2015-GS-37-349, defendant will be confined to the
8 Department of Corrections for a term of 20 years
9 consecutive.

10 Then on 2015-GS-37-348, he will be confined to the
11 Department of Corrections for a term of five years
12 concurrent.

13 Good luck to you, sir.

14 MS. SIMMONS: Thank you, Judge.

15 (WHEREUPON, proceedings concluded at 3:43 p.m.)

16 ***END OF REQUESTED TRANSCRIPT OF RECORD***

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STATE OF SOUTH CAROLINA
COUNTY OF OCONEE

INDICTMENT

APR 13 2015

At a Court of General Sessions, convened on _____, the
Grand Jurors of Oconee County present upon their oath:

MURDER

That Kenneth Strother Collins did in Oconee County, on or about on or about January 13, 2015, unlawfully and with malice aforethought, either express or implied, kill Jeremy Lee Little by means of stabbing the victim, and the victim died as a proximate result thereof. All in violation of §16-3-10, *South Carolina Code of Laws* (1976, as amended).

POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME

That Kenneth Strother Collins did in Oconee County on or about January 13, 2015 while committing the crime of Murder, a crime of violence, have in his possession a knife, all in violation of Section 16-23-490, Code of Laws of South Carolina, (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



DAVID RHYS WAGNER
DEPUTY SOLICITOR

APP'X 278

FILED OCONEE, SC
BEVERLY H. WHITFIELD
CLERK OF COURT
2015 APR 15 PM 4 19

DOCKET NO. 2015-GS-37- 00348

The State of South Carolina
County of Oconee

COURT OF GENERAL SESSIONS

APR 13, 2015, TERM

THE STATE

VS.

KENNETH STROTHER COLLINS

INDICTMENT FOR

MURDER

SC Code: § 16-03-0010
CDR Code: 0116

POSSESSION OF A WEAPON DURING
THE COMMISSION OF A VIOLENT
CRIME

SC Code: § 16-23-0490
CDR Code: 0549

WITNESSES

Walhalla Police Dept.
Paul J. Harris

ARREST WARRANT NUMBER

H665760, 2015A3720400009

ACTION OF GRAND JURY

true bill

Foreperson of Grand Jury
Date:

APR 13 2015

VERDICT

Foreperson of Grand Jury
Date:

10/18/17

APR 15 2015
X 279

ENTERED
COMPUTER

STATE OF SOUTH CAROLINA
COUNTY OF OCONEE

INDICTMENT

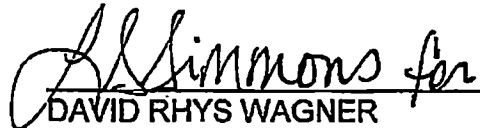
APR 13 2015

At a Court of General Sessions, convened on _____, the
Grand Jurors of Oconee County present upon their oath:

KIDNAPPING

That Kenneth Strother Collins did in Oconee County, on or about the on or about January 13, 2015, unlawfully seize, abduct, confine, inveigle, decoy, kidnap, abduct, or carry away Jeremy Lee Little, by any means whatsoever, without the authority of law. This is in violation of §16-3-0910 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


DAVID RHYS WAGNER
DEPUTY SOLICITOR

APP'X 280

FILED OCONEE, SC
BEVERLY H. WHITFIELD
CLERK OF COURT
2015 APR 15 PM 4 19

DOCKET NO. 2015-GS-37- 00349

The State of South Carolina
County of Oconee

COURT OF GENERAL SESSIONS

APR 13 2015, TERM

THE STATE

VS.

KENNETH STROTHER COLLINS

INDICTMENT FOR

KIDNAPPING

SC Code: § 16-03-0910
CDR Code: 0095

WITNESSES

PAUL HARRIS

Walhalla Police Dept.
Paul J. Harris

ARREST WARRANT NUMBER

2015A3720400010

ACTION OF GRAND JURY

True Bill

Foreperson of Grand Jury
Date:

APR 13 2015

VERDICT

Foreperson of Grand Jury
Date:

10/17/14

APX 281

ENTERED
JB
COMPUTER

COUNTY OF OCONEE
STATE VS.

KENNETH STROTHER COLLINS

AKA: _____
 Race: _____ Sex: M Age: 26
 DOB: _____ SS#: _____
 Address: _____
 City, State, Zip: Walhalla, SC 29691
 DL# _____ SID# SC01814471

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was
 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

INDICTMENT/CASE#: 2015GS3700348
 A/W: 2015A3720400009
 Date of Offense: 01/13/2015
 S.C. Code §: 16-23-0490
 CDR Code #: 0549

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45
 (CSC w/minor 1st or Lewd Act)

The charge is: ☒ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury, (def.'s initials)
 The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTORNEYS:

Lindsey Satterfield Simmons 70224
 Lindsey Satterfield Simmons, Deputy Solicitor SC Bar # Defendant

[Signature] 101544
 Attorney for Defendant SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center,
 for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
 and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and or payment
 of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____
 months/years and subject to South Carolina Department of Probation, Parole and Pardon 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. 1010 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 Employment
 Payment Terms: _____ Obtain GED ☐

☐ Set by SCDPPPS _____

Recipient: _____

*Fine: _____ \$ _____
 §14-1-206 (Assessments 107.5%) \$ _____
 §14-1-211 (A)(1)(Conv. Surcharge) \$100 \$ 100.00
 §14-1-211 (A)(2)(DUI Surcharge) \$100 \$ _____
 §56-5-2995 (DUI Assessment) \$12 \$ _____
 §56-1-286 (DUI Breath Test) \$25 \$ _____
 Proviso 61.6 (Public Def/Prob) \$500 \$ _____
 §14-1-212 (Law Enforce. Funding) \$25 \$ 25.00
 §14-1-213 (Drug Court Surcharge) \$150 \$ _____
 §50-21-114 (BUI Breath Test Fee) \$50 \$ _____
 §56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____
 3% to County (if paid in installments) \$ 3.75

TOTAL \$ 128.75

Clerk of Court/Deputy Clerk: *Beverly H. Whitfield*
 Court Reporter: *Diane Mascengil*
 SCCA/217 (07/2016)

Attend Voc. Rehab. Or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐

Random Drug/Alcohol Testing ☐

Fine may be pd. in equal consecutive weekly/monthly

pmts. of \$ _____ Beginning _____

\$ _____ Paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel,
 Proviso 61.6 requires \$500 be paid to Clerk
 during probation and shall be collected before any
 other fees.

Presiding Judge: *[Signature]*

Judge Bar ID: 13554 Judge Code: 2152

Sentence Date: APR 18 2015

COUNTY OF OCONEE
STATE VS.

KENNETH STROTHER COLLINS

AKA: _____
Race: _____ Sex: M Age: 26
DOB: _____ SS#: _____
Address: _____
City, State, Zip: Walhalla, SC 29691
DL# _____ SID# SC01814471

INDICTMENT/CASE#: 2015GS3700348
A/W: H665760
Date of Offense: 01/13/2015
S.C. Code §: 16-03-0010
CDR Code #: 0116

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was
TO: Murder

In violation of § 16-03-0010 of the S.C. Code of Laws, bearing CDR Code # 0116

☒ CONVICTED OF or ☐ PLEADS

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45

(CSC w/minor 1st or Lewd Act)

The charge is: ☒ As indicted, ☐ Lesser Included Offense,

☐ Defendant Waives Presentment to Grand Jury, (def.'s initials)

The plea is: ☒ Without Negotiations or Recommendation,

☐ Negotiated Sentence,

ATTEST:

Lindsay Satterfield Simmons 70224
Lindsay Satterfield Simmons, Deputy Solicitor SC Bar # Defendant

[Signature] 101544
Attorney for Defendant SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center,
for a determinate term of 30 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: 2015 GS 37349

☒ 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. 1010 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 Employment

Payment Terms: _____

Obtain GED ☐

☐ Set by SCDPPPS _____

Attend Voc. Rehab. Or Job Corp. _____

Recipient: _____

May serve W/E beginning _____

*Fine: _____ \$ _____

Substance Abuse Counseling ☐

§14-1-206 (Assessments 107.5%) \$ _____

Random Drug/Alcohol Testing ☐

§14-1-211 (A)(1)(Conv. Surcharge) \$100 \$ 100.00

Fine may be pd. in equal consecutive weekly/monthly

§14-1-211 (A)(2)(DUI Surcharge) \$100 \$ _____

pmts. of \$ _____ Beginning _____

§56-5-2995 (DUI Assessment) \$12 \$ _____

\$ _____ Paid to Public Defender Fund

§56-1-286 (DUI Breath Test) \$25 \$ _____

Other: No contact with victims

Proviso 61.6 (Public Def/Prob) \$500 \$ _____

Am-ly.

§14-1-212 (Law Enforce. Funding) \$25 \$ 25.00

§14-1-213 (Drug Court Surcharge) \$150 \$ _____

§50-21-114 (BUI Breath Test Fee) \$50 \$ _____

§56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

3% to County (if paid in installments) \$ 3.75

TOTAL \$ 128.75

☐ Appointed PD or appointed other counsel,
Proviso 61.6 requires \$500 be paid to Clerk
during probation and shall be collected before any
other fees.

Clerk of Court/Deputy Clerk: *Beverly H. Whitfield*
Court Reporter: *Diane Marcengio*
SCCA/217 (07/2016)

Presiding Judge: *[Signature]*
Judge Bar ID: 19558
Sentence Date: APR 18 2015

COUNTY OF OCONEE
STATE VS.

KENNETH STROTHER COLLINS

AKA:

Race:

Sex: M

Age: 26

DOB:

SS#:

Address:

City, State, Zip: Walhalla, SC 29691

DL#

SID# SC01814471

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: Kidnapping

In violation of § 16-03-0910 of the S.C. Code of Laws, bearing CDR Code # 0095

☐ NON-VIOLENT☒ VIOLENT☐ SERIOUS☒ MOST SERIOUS☐ Mandatory GPS☐ §17-25-45(CSC w/minor 1st or Lewd Act)

The charge is:

☒ As indicted,☐ Lesser Included Offense,☐ Defendant Waives Presentment to Grand Jury.

(def.'s initials)

The plea is:

☒ Without Negotiations or Recommendation,☐ Negotiated Sentence,☐ Recommendation by the State.

ATTEST:

Lindsey Satterfield Simmons, Deputy Solicitor SC Bar # 70224

Defendant

Attorney for Defendant

101544
SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center,
for a determinate term of 20 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: 2015GS 37348☒ 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. 10/10 Days 775☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic
Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION:☐ Deferred☐ Def. Waives Hearing☐ Ordered

PTUP

Total: \$ _____ plus 20% fee: \$ _____

_____ days/hours Public Service Employment

Payment Terms: _____

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 61.6 (Public Def/Prob)

\$500

\$

§14-1-212 (Law Enforce. Funding)

\$25

\$

25.00

§14-1-213 (Drug Court Surcharge)

\$150

\$

§50-21-114 (BUI Breath Test Fee)

\$50

\$

§56-5-2942(J) (Vehicle Assessment)

\$40/ea

\$

3% to County (if paid in installments)

\$

\$

3.75

TOTAL

\$

128.75Clerk of Court/Deputy Clerk: Beverly H. WhitfieldCourt Reporter: Diane Marcengio

SCCA/217 (07/2016)

Presiding Judge: [Signature]Judge Bar ID: APP 18184Sentence Date: 10/10/15

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,

A handwritten signature in black ink, appearing to read 'David Alexander', is written over a horizontal line.

David Alexander
Appellate Defender

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

ATTORNEY FOR APPELLANT

This 11th day of March, 2019.

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Oconee County

Honorable R. Scott Sprouse, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

KENNETH STROTHER COLLINS,

APPELLANT

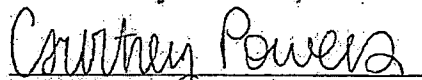
CERTIFICATE OF SERVICE

I certify that a copy of the Record on Appeal in the above-referenced case has been served upon Melody J. Brown, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 11th day of March, 2019.



Tyler Cheney
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 11th day of March, 2019.

 (L.S.)

Notary Public for South Carolina

My Commission Expires: May 2, 2027.

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Oconee County

Honorable R. Scott Sprouse, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

KENNETH STROTHER COLLINS,

APPELLANT

APPELLATE CASE NO. 2017-002282

FINAL BRIEF OF APPELLANT

DAVID ALEXANDER
Appellate Defender

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

ATTORNEY FOR APPELLANT

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STATEMENT OF ISSUE ON APPEAL

Whether, in the interests of judicial economy, this Court should vacate appellant's sentence for kidnapping because he was also sentenced for the same victim's murder?

STATEMENT OF THE CASE

On April 13, 2015, an Oconee County grand jury indicted appellant for murder, kidnapping and a weapons charge. R. 275 – 278. On October 17, 2017, appellant's trial began after conducting jury selection and pretrial motions the day before. R. 1. Appellant was tried before the Honorable R. Scott Sprouse and a jury. R. 1. Lindsey Satterfield Simmons and Jason C. Alderman represented the State. R. 1. Angela Lane represented appellant. R. 1. The jury convicted appellant on all counts. R. 118, l. 11 – 119, l. 13. Judge Sprouse sentenced appellant to thirty years' imprisonment for murder, a consecutive twenty years' imprisonment for kidnapping, and a concurrent five years' imprisonment on the weapons charge. R. 126, l. 12 – 127, l. 13. This appeal follows.

STANDARD OF REVIEW

“Determining the proper interpretation of a statute is a question of law, and this [c]ourt reviews questions of law de novo.” First Citizens Bank & Tr. Co., Inc. v. Blue Ox, LLC, 422 S.C. 461, 466, 812 S.E.2d 418, 420 (Ct. App. 2018), reh'g denied (Apr. 26, 2018), cert. denied (Aug. 3, 2018) (internal quotations omitted).

ARGUMENT

In the interests of judicial economy, this Court should vacate appellant's sentence for kidnapping because he was also sentenced for the same victim's murder.

Appellant was indicted for the murder of Jeremy Lee Little ("Little"). R. 275 – 276. Appellant was convicted of Little's murder. R. 265, l. 14 – 266, l. 1. Judge Sprouse sentenced appellant to thirty years' imprisonment for Little's murder. R. 274, ll. 4 – 6. R. 279.

Appellant was also indicted for kidnapping Little. R. 277 – 278. The jury convicted appellant of kidnapping Little. R. 266, ll. 2 – 4. Judge Sprouse sentenced appellant to a consecutive term of twenty years' imprisonment for kidnapping Little. R. 274, ll. 7 – 9. R. 281

Appellant's kidnapping sentence is improper because the kidnapping statute forbids such a sentence when a defendant is also sentenced for the murder of the same victim. S.C. Code Ann. § 16-3-910. The kidnapping statute provides:

Whoever shall unlawfully seize, confine, inveigle, decoy, kidnap, abduct or carry away any other person by any means whatsoever without authority of law, except when a minor is seized or taken by his parent, is guilty of a felony and, upon conviction, must be imprisoned for a period not to exceed thirty years **unless sentenced for murder** as provided in section 16-3-20.

S.C. Code Ann. § 16-3-910 (emphasis added). "Our courts have long held, where an appellant has been sentenced for murder of a victim, this code section precludes a sentence for kidnapping of that victim, and any such sentence should be vacated." State v. Vick, 384 S.C. 189, 201-202, 682 S.E.2d 275, 281 (Ct. App. 2009); see also Owens v. State, 331 S.C. 582, 584-585, 503 S.E.2d 462, 463 (1998); State v. McCall, 304 S.C. 465, 470, 405 S.E.2d 414, 416-417 (Ct. App. 1991), overruled on other grounds by Brightman v. State, 336 S.C. 348, 352, 520 S.E.2d 614, 616 (1999); State v. Livingston, 282 S.C. 1, 8, 317 S.E.2d 129, 133 (1984); State v. Perry, 278 S.C. 290, 495, 299 S.E.2d 324, 327 (1983); State v. Copeland, 278 S.C. 572, 597, 300 S.E.2d 63, 77-78 (1982). In

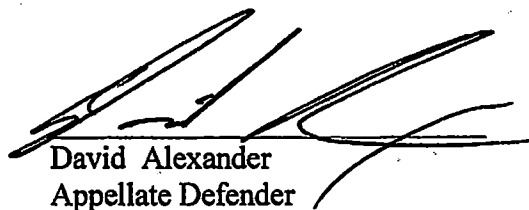
Perry, the Court vacated consecutive life sentences for kidnapping and murder. Perry at 324, 327, 299 S.E.2d at 491, 495-96. See also State v. Joyner, 289 S.C. 436, n.1, 346 S.E.2d 711, n.1 (1986) (calling trial court's attention on remand to the kidnapping statute where trial judge sentenced defendant to consecutive sentences for kidnapping and murder).

In Vick, the State acknowledged it was "error to sentence a defendant for the kidnapping of a victim whom he is also convicted of murdering, and that when a defendant is convicted of murder, any sentence for kidnapping of the victim should be vacated." Vick at 201, 682 S.E.2d at 281. Despite its acknowledgment, the State opposed vacating the admittedly improper sentence because no objection was raised at trial. Id. This Court vacated the kidnapping sentence over the State's preservation objection.

Just as in Vick, this Court should address the merits of the issue in the interest of judicial economy. Should this Court decline to reach this issue, appellant could raise this issue in an application for post-conviction relief as a claim of ineffective assistance of trial counsel for failing to object to an improper sentence. Based upon section 16-3-910 and its interpretation, appellant's sentence for kidnapping is improper. Thus, judicial economy weighs heavily in favor of this Court addressing the merits of the claim at this time. Appellant respectfully requests this Court address the merits of the issue and vacate the kidnapping sentence.

CONCLUSION

For the foregoing reasons, this Court should vacate appellant's sentence for kidnapping.



David Alexander
Appellate Defender

ATTORNEY FOR APPELLANT

This 28th day of March, 2019.

CERTIFICATE OF COUNSEL

The undersigned certifies that to the best of my ability this Final Brief of Appellant complies with Rule 211(b), SCACR, and 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."

March 28, 2019

A handwritten signature in black ink, appearing to read 'David Alexander', written over a horizontal line.

David Alexander
Appellate Defender

S.C. Commission on Indigent Defense
Division of Appellate Defense
1330 Lady Street, Suite 401
Post Office Box 11589
Columbia, South Carolina 29211-1589

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Oconee County

Honorable R. Scott Sprouse, Circuit Court Judge

THE STATE,

RESPONDENT,

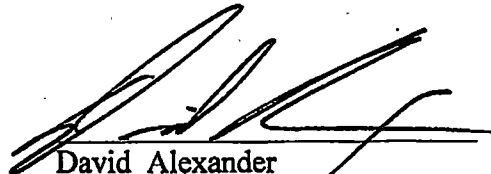
V.

KENNETH STROTHER COLLINS,

APPELLANT

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the Final Brief of Appellant in the above referenced case has been served upon Melody J. Brown, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 28th day of March, 2019.



David Alexander
Appellate Defender
ATTORNEY FOR APPELLANT

SUBSCRIBED AND SWORN TO before me
this 28th day of March, 2019.

Courtney Powers (L.S.)
Notary Public for South Carolina
My Commission Expires: May 2, 2027.

STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM OCONEE COUNTY
Court of General Sessions
R. Scott Sprouse, Circuit Court Judge

The State,

Respondent,

v.

Kenneth Strother Collins,

Appellant.

Appellate Case No. 2017-002282

FINAL BRIEF OF RESPONDENT

ALAN WILSON
Attorney General

DONALD J. ZELENKA
Deputy Attorney General

MELODY J. BROWN
Senior Assistant Deputy Attorney General
S.C. Bar No. 14244
Post Office Box 11549
Columbia, South Carolina 29211-1549
(803) 734-6305

DAVID R. WAGNER
Solicitor, Tenth Judicial Circuit
100 South Main St.
Anderson, South Carolina 29624
(864) 260-4046

ATTORNEYS FOR RESPONDENT

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APPELLANT'S STATEMENT OF ISSUE ON APPEAL

Whether, in the interest of judicial economy, this Court should vacate appellant's sentence for kidnapping because he was also sentenced for the same victim's murder?

RESPONDENT'S COUNTER STATEMENT OF ISSUE ON APPEAL

Whether this Court should address appellant's sentencing issue when the issue is patently unpreserved; there is no exceptional circumstance to warrant addressing the issue to prevent imminent and actual prejudice in light of appellant's thirty year sentence for murder; and, the State of South Carolina provides a method for post-conviction relief which is more comprehensive as to the entire matter?

Alternatively, if the Court should agree to hear the unpreserved issue, should the entirety of the sentence be vacated and this matter be remanded to the trial judge for resentencing to allow the judge the opportunity to correct the error in his sentencing structure?

RESPONDENT'S STATEMENT OF THE CASE

An Oconee County grand jury indicted Kenneth Strother Collins ("appellant") in April 2015 for murder, possession of weapon during the commission of a violent crime, and kidnapping. (2015-GS-37-348 and 349). (R. pp. 275-278). Angela N. Lane, Esq., represented appellant on the charges.

A jury was selected and sworn on October 16, 2017. The Honorable R. Scott Sprouse presided over the trial proceedings. Judge Sprouse heard pretrial motions including a motion for immunity from prosecution under the Protection of Persons and Property Act. After denial, the jury trial continued on October 17-18, 2017. The jury convicted as charged. (R. pp. 265-266). Judge Sprouse sentenced appellant to an aggregate term of fifty (50) years: thirty (30) years imprisonment for murder; twenty (20) years, consecutive to the murder sentence, for the kidnapping conviction, and five (5) years, concurrent, on the weapons conviction. (R. p. 274, lines 4-12).

This timely appeal follows.

RESPONDENT'S STATEMENT OF FACTS

Appellant Collins stabbed the victim in this case, Jeremy Lee Little, twice in the back in the early morning hours of January 13, 2015 at a residence in Oconee County. The residence was the home of Collins' girlfriend, Megan Crowe. (R. p. 38, line 20 – p. 39, line 1). At the time of the murder, Collins was staying in Crowe's home along with Crowe and Chris Burrell, Collins' brother. (R. p. 39, lines 9-13). Crowe's friend, Andy Cobb, was visiting. (R. p. 39, lines 5-15). Crowe explained the group was using drugs, in particular methamphetamine and Klonopin. (R. p. 39, lines 16-21). Crowe testified that Collins was under the influence of drugs at the time: "It was completely different from anything I ever seen. ... his eyes were just completely discolored, and his attitude ... he was real violent." (R. p. 40, lines 1-3). The State's evidence demonstrated Collins stabbed, beat, and stabbed Little again in the belief that he was an informant working for police.

Crowe explained that Collins had purchased drugs from Little on the 12th. (R. p. 40, lines 15-19). Collins still owed Little for the drugs and was to go to the Crowe residence to collect the remainder of the money and also "to do some more meth ... and party" with the group. (R. p. 40, line 24 – p. 41, line 5). When he arrived, Crowe testified she and Cobb stepped outside the home to wait for the payment to be concluded, and Crowe explained to Cobb that she had become suspicious of Little. (R. p. 41, lines 13-24; R. p. 71, lines 15-16). Crowe testified that upon her return into the home, she heard Collins threaten Little, and understood that Collins thought Little was an informant. (R. p. 42, lines 12-16). Crowe testified she had Little pull up his shirt to show that he was not wearing a wire:

... he raised his shirt and it was nothing there. So when - - I just told him just to leave, just to avoid complication and everything. And he went to go leave and

Kenny [Collins] I guess either didn't believe it that he wasn't a snitch or something, but Kenny [Collins] stabbed him and he fell onto the carpet.

(R. p. 42, lines 17-22). She testified Little was stabbed "going out of the kitchen into the living room." (R. p. 42, lines 23-25). Cobb confirmed that Little "made a break for the door" and Collins followed him to stab him in the back. (R. p. 71, line 21- p. 72, line 2).

After Collins stabbed the Little, Little fell to the floor, stated he was paralyzed and begged for mercy. (R. p. 43, lines 1-6). Crowe testified Collins went to another room and Crowe took Little's head into her lap and talked to him. (R. p. 43, lines 7-11). Collins returned, hit Crowe, then kicked Little's head out of her lap so hard that Little's head "bounced off" the doorframe. Collins then stabbed him again. (R. p. 43, lines 12-16). Cobb testified that Collins cursed at victim and that Collins "stomped him in the face multiple times." (R. p. 72, lines 6-15).

Collins ordered Crowe to get duct tape, and Collins stripped Little of his clothes, finding a gun in the process which he kept. They then rolled Little's body in a carpet. Fearing they may be discovered by officers who had at that point been called, Collins directed Crowe and Cobb to move Little to a back room in the home and for Crowe and Cobb to go into the attic to avoid detection. (R. p. 43, line 19 – p. 44, line 10). Cobb testified Collins threatened Cobb and his family in order to get Cobb to cooperate. (R. p. 72, lines 19-23).

Officers eventually located the group in the home and Collins gave a verbal statement that Officer Ronald Wilbanks reiterated for trial:

He stated that he met the guy ... and bought some dope. He said that the guy was the law. And when I asked him if he thought he was a police officer, he said to me a snitch, which was the same thing to him.

He went on to say the guy came down to his house to do some dope and that the guy pulled a gun on Megan and he then stabbed him in the back.

Kenny went on to say that that the guy didn't die for a long time and was making sounds, so he tied him up and put stuff around his mouth to quiet him down.

Kenny said he pulled the guy's pants down looking for a wire because he thought he was an informant for the police.

Kenny went on to say that he then wrapped him up and drug him down the hallway into another room.

Kenny then changed his story and said that the guy pulled a gun on him, at which time he stabbed him because he hated a snitch.

(R. p. 99, at 21 – p. 100, line 12). Officer Scott Arnold was also present and testified similarly concerning Collins' verbal statement. (R. p. 108, line 6 – p. 109, line 3).

Investigating officers noted blood in the living area and kitchen areas of the home, including "some type of splatter upon the door frame." (R. p. 116, line 19 – p. 118, line 6).

Forensic pathologist Dr. Brett Woodard testified that Little's body presented two stab wounds to the back, blunt trauma and wounds from binding. (R. p. 157, line 4 – p. 161, line 3). He also noted internal "subarachnoid hemorrhage" from the head wound, which would be from a significant impact injury. (R. p. 166, line 8- p. 167, line 15).

As noted above, the jury found Collins guilty of murder, kidnapping and possession of a weapon during the commission of a violent crime. (R. p. 265, line 22 – p. 266, line 8).

At sentencing, Judge Sprouse made the following observation:

I will say at the outset, drugs are a terrible, terrible thing. We have a methamphetamine problem in this community, in this state. I've heard testimony now in a case that's gone on three days for a tragic, tragic event, and this was induced by the consumption of methamphetamines. Sale and the use of methamphetamines led to a life being taken away, a life being snuffed out; led to another life that's being taken away in a different way. I don't know what other result can happen with methamphetamines other than that. Death and prison are the logical ends, and I see that on a regular basis in criminal court, and it's very frustrating.

This is a terrible case. ...

(R. p. 273, line 14 – p. 274, line 2).

The judge thereafter crafted and imposed a fifty-year sentence which he accomplished by ordering the kidnapping sentence be served consecutive to the murder sentence. (R. p. 274, lines 4-12).

ARGUMENT

Appellant's sentencing issue is patently unpreserved and not available for review on the merits. There is no exceptional circumstance to warrant addressing the issue to prevent imminent and actual prejudice in light of appellant's thirty year sentence for murder; and, the State of South Carolina provides a method for post-conviction relief which is more comprehensive as to entire matter. Alternatively, if addressed on the merits, the entirety of the sentence should be vacated as the sentence structure was intended to result in a fifty-year sentence

Standard of Review:

"In criminal cases, the appellate court sits to review errors of law only." *State v. Wilson*, 345 S.C. 1, 5, 545 S.E.2d 827, 829 (2001). "In order for an issue to be preserved for appellate review, it must have been raised to and ruled upon by the trial judge." *State v. Dunbar*, 356 S.C. 138, 142, 587 S.E.2d 691, 693 (2003).

"[A] challenge to sentencing must be raised at trial, or the issue will not be preserved for appellate review." *State v. Johnston*, 333 S.C. 459, 462, 510 S.E.2d 423, 425 (1999). An exception to the general preservation rule exists to allow swift address of a sentencing issue where "there is the real threat that Defendant will remain incarcerated beyond the legal sentence due to the additional time it will take to pursue" post-conviction relief. *Id.*, 333 S.C. at 464, 510 S.E.2d at 425.

Discussion:

By operation of statute, the structure given the sentence in this case is legally incorrect. It is an error of law. This appeal is one of many fairly recent appeals seeking to vacate a kidnapping sentence on direct appeal where a sentence was imposed for the kidnapping of the murder victim contrary to S.C. Code § 16-3-910 but there was no objection to the sentence. It differs as the sentence imposed for kidnapping was not concurrent to the murder sentence and the sentencing

structure indicates a different result was intended. Ordering a consecutive sentence evidences the sentencing judge's intent to sentence appellant to a fifty-year term. The failure to object at sentencing takes on new meaning. Thus, this appeal is clearly distinguishable from cases where a concurrent sentence was simply vacated on appeal. Appellant is not entitled to a windfall and sentence reduction by failing to properly object before the sentencing judge. At a minimum, should the Court wish to address the issue, rather than vacating only the kidnapping sentence on appeal, the sentence as a whole should be vacated and this case remanded for new sentencing.

Analysis

S.C. Code § 16-3-910 provides:

Whoever shall unlawfully seize, confine, inveigle, decoy, kidnap, abduct or carry away any other person by any means whatsoever without authority of law, except when a minor is seized or taken by his parent, is guilty of a felony and, upon conviction, must be imprisoned for a period not to exceed thirty years *unless sentenced for murder as provided in Section 16-3-20.*

(emphasis added).

"The statute does not mandate a vacation of the kidnapping conviction" but "merely provides that either the life imprisonment sentence or the death penalty sentence required in a murder conviction shall be sufficient punishment." *State v. Perry*, 278 S.C. 490, 495–96, 299 S.E.2d 324, 327 (1983). If such a sentence is imposed, it is considered "ineffective." *See State v. Council*, 335 S.C. 1, 6, 515 S.E.2d 508, 510 n. 2 (1999). "The [Supreme] Court has summarily vacated life sentences for kidnapping when the defendant received a *concurrent* sentence under the murder statute." *Owens v. State*, 331 S.C. 582, 585, 503 S.E.2d 462, 463 (1998) (collecting cases) (emphasis added). Of particular note here, the sentence for murder in this case is a term of years, not a life imprisonment sentence or a death sentence. Even so, the statute ties the matter to

the murder statute which also has a minimum sentence of thirty years. S.C. Code § 16-3-20. It is not disputed that Collins failed to object to the sentence. (See FBOA, p. 5).

The general rule is that “[i]ssues not raised and ruled upon in the trial court will not be considered on appeal.” *Dunbar*, 356 S.C. at 142, 7 S.E.2d at 693-94. “Our courts have ‘consistently refused to apply the plain error rule.’” *State v. Passmore*, 363 S.C. 568, 583, 611 S.E.2d 273, 281 (Ct. App. 2005) (quoting *Jackson v. Speed*, 326 S.C. 289, 306, 486 S.E.2d 750, 759 (1997)). In particular, the Supreme Court of South Carolina has “consistently held that a challenge to sentencing must be raised at trial, or the issue will not be preserved for appellate review.” *Johnston*, 333 S.C. at 462, 510 S.E.2d at 425. Respondent submits there is discord in application of our preservation rules in this area. Applying the general rule, and the exception from *Johnston*, appellant’s issue should be considered procedurally barred.

Here, there was no objection to the sentence below, and no request the court reconsider the kidnapping sentence imposed. Judge Sprouse was clear in his thought process for sentencing. He expressed this was a “terrible case” and imposed a fifty (50) year sentence. (R. pp. 273-274). The judge could have imposed a fifty (50) year sentence on murder conviction alone; but structured the sentence intentionally to reach the same result. See S.C. Code § 16-3-20 (A) (“A person who is convicted of or pleads guilty to murder must be punished by death, or by a mandatory minimum term of imprisonment for thirty years to life.”). “[W]hether multiple sentences should run consecutively or concurrently is a matter left to the sound discretion of the trial judge.” *State v. Barton*, 325 S.C. 522, 531, 481 S.E.2d 439, 444 (Ct. App. 1997). But there is a limitation. “Judicial discretion in sentencing, in suspending sentences, and in designating that sentences run concurrent or consecutive is subject to statutory restriction.” *State v. De La Cruz*, 302 S.C. 13, 15, 393 S.E.2d 184, 186 (1990). Thus, if by operation of statute the sentence imposed for kidnapping

is ineffective, the sentencing structure was imposed in error and the entire sentence must be vacated. Yet, any relief due would be granted without a preserved issue before the Court, which disrupts settled preservation rules. In this case, due to the length of the sentence, allowing appellant to challenge the kidnapping sentence in post-conviction relief, along with any other collateral challenges that may be brought, causes no irreparable prejudice to appellant, inflicts the least damage to the structure of judicial review, and does not “disrupt our settled rules on issue preservation,” which was an expressed concern in *Johnston*.

In *Johnston*, the court decided to expedite the correction of the sentencing error even though it was unpreserved, but only due to “exceptional circumstances,” i.e., the real concern the defendant would remain incarcerated beyond the legal maximum sentence if she were to be referred to post-conviction relief where the error in sentencing was conceded in the appeal. *Id.* The *Johnston* exception does not apply in a case such as the instant one where there is no danger of serving time beyond the maximum imposed. Other precedent from this Court follows that logic.

For example, in *State v. Passmore*, 363 S.C. 568, 585–86, 611 S.E.2d 273, 282–83 (Ct. App. 2005), this Court considered applicability of the *Johnston* exception in regard to an unpreserved challenge to an already expired contempt sentence. The panel found:

We find the exceptional circumstance carefully carved out by the *Johnston* court is not present here. Appellant has already served the duration of her sentence; therefore, she does not face the threat of continuing incarceration beyond the legal sentence. *Johnston* does not control.

The panel concluded, in the absence of a properly preserved issue or recognized exception: “Appellant will be forced to seek redress through the avenue of post-conviction relief.” *Id.* The Court included the parenthetical quote: “In criminal cases, although the failure of an attorney to preserve an issue at trial will preclude appellate review of that issue, it may nonetheless be a

ground in a civil action for post-conviction relief as a claim of ineffective assistance of counsel.” (quoting Toal, Vafai, and Muckenfuss, *Appellate Practice in South Carolina* at 62 (2d ed. 2002)). *Id.*, 363 S.C. at 586, 611 S.E.2d at 283.

In *State v. Vick*, though, this Court expanded the Supreme Court *Johnston* exception finding the sentence for kidnapping, though unpreserved, would be vacated in light of: the concession by the State that the sentence was improper, judicial economy, and that the same issue would likely be addressed in a later post-conviction relief action. *State v. Vick*, 384 S.C. 189, 682 S.E.2d 275 (Ct. App. 2009). This Court concluded:

...because the State concedes the kidnapping sentence was erroneously imposed, and in light of the fact our courts recognize there may be exceptional circumstances allowing the appellate court to consider an improper sentence even though no challenge was made to the sentence at trial and have further summarily vacated in matters such as the one at hand, in the interest of judicial economy we vacate the clearly erroneous kidnapping sentence.

Vick, 384 S.C. at 203, 682 S.E.2d at 282.

In support of judicial economy, the Court of Appeals’ panel in *Vick*, cited two cases: *S. Bell Tel. & Tel. Co. v. Hamm*, 306 S.C. 70, 75, 409 S.E.2d 775, 778 (1991) and *Jeter v. S.C. Dep’t of Transp.*, 369 S.C. 433, 441 n. 6, 633 S.E.2d 143, 147 n. 6 (2006). *Id.* Both of those cases are civil cases, and do not contemplate an option for post-conviction relief. Further, the *Bell Telephone* opinion reflects the court actually found “the trial court properly considered the issue,” but would at any rate address and resolve a novel constitutional issue regarding a right of privacy to a publically offered, widely available, service. 306 S.C. at 75, 409 S.E.2d at 778. The *Jeter* case resolved a venue issue in a matter that had two other trials and was likely to be tried a third time, 369 S.C. at 441, 633 S.E.2d at 147 n. 6.

Here, in a criminal appeal context where post-conviction relief is available for issues not preserved for direct appeal review, appellant should not be excused from adherence to the general preservation rules. Should appellate courts routinely cite judicial economy to address unpreserved errors, the exception becomes the rule, which undermines the scope and purpose of the Post-Conviction Relief Act, see S.C. Code §§ 17-27-10 et seq., and our state supreme court's rejection of the clear error rule. Moreover, such action may tend to inhibit rather than promote judicial economy.

For example, where an appellate court on direct appeal would vacate a kidnapping sentence on the basis of the statutory prohibition, and a subsequent post-conviction relief court should vacate only the murder sentence, the appellate action has created more work for subsequent courts. Resentencing would have to occur on the kidnapping or there would be no active sentence for the kidnapping conviction that was not otherwise disturbed. This was not the concern in *Owens* which was on PCR appeal. See 331 S.C. at 583, 503 S.E.2d at 463. Further, as *Council*, instructs the sentencing is not unconstitutional, or otherwise infirm such that a resentencing is mandated; rather, the sentence imposed is simply ineffective by virtue of the statute expressing the murder sentence is sufficient punishment. 335 S.C. at 6, 515 S.E.2d at 510 n. 2. In channeling this matter to post-conviction relief, there is no specter of longer incarceration than what is due, and no premature setting aside of a sentence which could become effective and proper, after post-conviction relief consideration of the entire matter with action on the murder sentence.

Respondent would agree it is also true that an action in post-conviction relief could result in the murder conviction being affirmed and the kidnapping sentence vacated. If that would be the only possible result, then the most recent trend of vacating the sentence on direct appeal would

tend to be supported. *See Vick, supra.*¹ However, that is not the only possible result, and the more prudent path – and actually more judicially economical path – would be to allow the entire matter to proceed normally into post-conviction relief.

Thus, Respondent respectfully asks this Court to apply the well-established preservation rules and find the instant issue barred from review on direct appeal. Alternatively, if this Court disagrees and wishes to consider the argument on the merits, Respondent respectfully submits the entirety of the sentence should be vacated and the matter remanded for resentencing.

¹ See also *State v. McKnight*, 2017 WL 4838470, at *1 (S.C. Ct. App. Oct. 18, 2017) (unpublished); *State v. Howard*, 2016 WL 6609708, at *1 (S.C. Ct. App. Nov. 9, 2016) (unpublished); *State v. Singleton* (Frank Terrance III), 2015 Westlaw 2125696 (S.C.App. May 6, 2015) (unpublished); *State v. Miller* (Antonio), 2014 Westlaw 6488693 (S.C. App. Nov. 19, 2014) (unpublished); *State v. Inman*, 2014 WL 2737603, at *1 (S.C. Ct. App. May 21, 2014) (unpublished); *State v. Grant*, 2012 WL 10861335, at *1 (S.C. Ct. App. July 11, 2012) (unpublished); *but see State v. Scott*, 2018 Westlaw 5045987 (S.C.App. Oct. 17, 2018) (finding issue on appeal procedurally barred). Respondent does not cite these cases for authority, but simply to factually reflect the trend after *State v. Vick*. See Rule 268(2), SCACR (“Memorandum opinions and unpublished orders have no precedential value and should not be cited except in proceedings in which they are directly involved.”).

CONCLUSION

For all of the foregoing reasons, it is respectfully submitted that the judgment, conviction, and sentence of the lower court should be affirmed. Alternatively, if the Court should entertain the appeal on the merits, Respondent submits the correct remedy in these circumstances would be to vacate the entirety of the sentence and remand to the trial judge for resentencing.

Respectfully submitted,

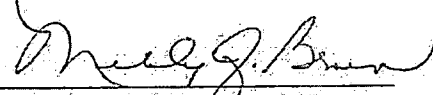
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March 26, 2019.
Columbia, South Carolina.

STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM OCONEE COUNTY
Court of General Sessions
R. Scott Sprouse, Circuit Court Judge

The State,

Respondent,

v.

Kenneth Strother Collins,

Appellant.

Appellate Case No. 2017-002282

CERTIFICATE OF COUNSEL

The undersigned certifies that this Final Brief of Respondent complies with Rule 211(b), SCACR, and does not include, or partially redacts, personal data identifiers, Re Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings, 375 S.C. 56, 650 S.E.2d 462 (2007)(requiring redaction of social security numbers, names of minor children, financial account numbers, and home addresses).

Respectfully submitted,

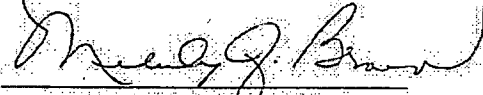
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APP'X 315

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Columbia, South Carolina.

APP'X 316

STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM OCONEE COUNTY
Court of General Sessions
R. Scott Sprouse, Circuit Court Judge

The State,

Respondent,

v.

Kenneth Strother Collins,

Appellant.

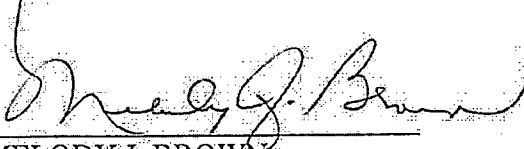
Appellate Case No. 2017-002282

PROOF OF SERVICE

I, Melody J. Brown, certify that I have served the *Final Brief of Respondent* on Appellant by depositing copies in the interagency mail for delivery to his attorney of record, addressed as follows:

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This 26th day of March, 2019.



MELODY J. BROWN
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APP'X 317

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

The State, Respondent,

v.

Kenneth Strother Collins, Appellant.

Appellate Case No. 2017-002282

Appeal From Oconee County
R. Scott Sprouse, Circuit Court Judge

Unpublished Opinion No. 2020-UP-012
Submitted October 1, 2019 – Filed January 15, 2020

VACATED

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Assistant Deputy Attorney General Melody Jane Brown,
all of Columbia; and Solicitor David Rhys Wagner, Jr.,
of Anderson, all for Respondent.

PER CURIAM: Kenneth Strother Collins appeals his convictions and sentences
of thirty years' imprisonment for murder, a consecutive twenty years' imprisonment

APP'X 318

for kidnapping, and a concurrent five years' imprisonment for possession of a weapon during the commission of a violent crime. On appeal, Collins argues the trial court erred by improperly sentencing him on his kidnapping conviction because it also sentenced him for the murder of the same victim. The State argues this issue is not preserved for this court's review and should be raised in an application for post-conviction relief. However, because the State concedes the kidnapping sentence is improper, we find an exceptional circumstance exists allowing this court to consider the improper sentence, and we vacate the improper twenty year kidnapping sentence that was imposed consecutively pursuant to Rule 220(b), SCACR, and the following authorities: *State v. Vick*, 384 S.C. 189, 197, 682 S.E.2d 275, 279 (Ct. App. 2009) ("In criminal cases, an appellate court sits to review errors of law only. [This court is] bound by the trial court's factual findings unless they are clearly erroneous." (quoting *State v. Wilson*, 345 S.C. 1, 5-6, 545 S.E.2d 827, 829 (2001))); S.C. Code Ann. § 16-3-910 (2015) (providing a person convicted of kidnapping "must be imprisoned for a period not to exceed thirty years *unless sentenced for murder* as provided in [s]ection 16-3-20 [of the South Carolina Code (2015)]." (emphasis added)); *State v. Johnston*, 333 S.C. 459, 462, 510 S.E.2d 423, 425 (1999) ("[A] challenge to sentencing must be raised at trial, or the issue will not be preserved for appellate review."); *Vick*, 384 S.C. at 201, 682 S.E.2d at 281 ("Our courts have long held, where an appellant has been sentenced for murder of a victim, [section 16-3-910] precludes a sentence for kidnapping of that victim, and any such sentence should be vacated."); *State v. Bonner*, 400 S.C. 561, 564, 735 S.E.2d 525, 526 (Ct. App. 2012) ("[A]n exception to the general rule of issue preservation exists authorizing the appellate court to consider an unpreserved issue in the interest of judicial economy under appropriate circumstances."); *Vick*, 384 S.C. at 203, 682 S.E.2d at 282 ("[B]ecause the State concedes the kidnapping sentence was erroneously imposed, and in light of the fact our courts recognize there may be exceptional circumstances allowing the appellate court to consider an improper sentence even though no challenge was made to the sentence at trial and have further summarily vacated in matters such as the one at hand, in the interest of judicial economy we vacate the clearly erroneous kidnapping sentence."); *Bonner*, 400 S.C. at 567, 735 S.E.2d at 528 (holding an exceptional circumstance existed "because the State concede[d] in its brief that the trial court committed error by imposing an improper sentence").¹

¹ We find the State's request to vacate and remand the entire sentence for resentencing is improper because neither party raised any issues relating to Collins's sentence for murder or his sentence for possession of a weapon during the commission of a violent crime or argued the sentences were improper. Therefore,

VACATED.²

LOCKEMY, C.J., and KONDUROS and HILL, JJ., concur.

Collins's thirty year sentence for murder and concurrent five year sentence for possession of a weapon during the commission of a violent crime stand.

² We decide this case without oral argument pursuant to Rule 215, SCACR.

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Oconee County
Honorable R. Scott Sprouse, Circuit Court Judge
Appellate Case No. 2017-002282

THE STATE,

Respondent,

vs.

KENNETH STROTHER COLLINS,

Appellant.

**RESPONDENT'S PETITION FOR REHEARING
AND
SUGGESTION FOR REHEARING EN BANC**

Through an unpublished decision issued on January 15, 2020, this Court erased Appellant's consecutive twenty-year sentence for kidnapping and undid the trial judge's sentencing intention of imposing an unquestionably-permissible fifty-year term of imprisonment upon Appellant after Appellant was convicted of heinously murdering his victim in what appeared to be a methamphetamine-fueled paranoid rage. State v. Collins, Op. No. 2020-UP-012 (S.C. Ct. App. filed Jan. 15, 2020). In doing so, this Court found the presence of a lone "exceptional circumstance"—the State's candid acknowledgement of error—permitted it to vacate Appellant's kidnapping sentence despite the fact Appellant did not raise any objections to that sentence during trial, which wholly denied the trial judge any opportunity to address the error Appellant improperly held back for this Court. Pursuant to Rule 221(a) of the South Carolina Appellate Court Rules, Respondent ("the State") respectfully petitions for rehearing

because this Court overlooked and misconstrued our State's important issue preservation requirements in finding it appropriate to vacate Appellant's kidnapping sentence under the circumstances involved in Collins's case.

Significantly, in South Carolina, issue preservation requirements are a fundamental component of appellate procedure. Gaddy v. Douglass, 359 S.C. 329, 350, 597 S.E.2d 12, 23 (Ct. App. 2004). The key purpose of those requirements is "to give the trial court a fair opportunity to rule on the issues, and thus provide [the appellate court] with a platform for meaningful appellate review." Queen's Grant II Horizontal Prop. Regime v. Greenwood Dev. Corp., 368 S.C. 342, 373, 628 S.E.2d 902, 919 (Ct. App. 2006). Through their enforcement and application, the trial court is *guaranteed* a fair opportunity "to rule properly after it considered all relevant facts, law, and arguments." I'On, L.L.C. v. Town of Mt. Pleasant, 338 S.C. 406, 422, 526 S.E.2d 716, 724 (2000). Moreover, when consistently applied, issue preservation requirements serve to dissuade a party from underhandedly attempting to reserve a vice in order to take a chance at a favorable result from a jury or appellate court without first giving the trial judge a chance to address the matter and potentially immediately correct it in a manner that might not be as favorable to the party. See State v. Penland, 275 S.C. 537, 538, 273 S.E.2d 765, 766 (1981) ("One may not preserve a vice until he learns what the result will be and then, take advantage of the error on appeal."); see also State v. Torrence, 305 S.C. 45, 64, 406 S.E.2d 315, 326 (1991) (Toal, J., concurring in result for the majority) ("The primary danger associated with the doctrine [permitting appellate review of unpreserved errors] is that a defendant will deliberately refrain from objecting to an error which occurs during trial. This is what is referred to by some as 'sandbagging'. Of course, a contemporaneous objection requirement to preserve

legal errors operates to procedurally preclude a defendant from allowing error to occur at trial and then complaining of it on appeal.”).

For an issue to be preserved for appellate review pursuant to our issue preservation requirements, the issue must have been: (1) raised to and ruled upon by the trial court; (2) raised by the appellant; (3) raised in a timely manner; and (4) raised to the trial court with sufficient specificity. State v. Rogers, 361 S.C. 178, 183, 603 S.E.2d 910, 912-913 (Ct. App. 2004); see also JEAN HOEFER TOAL ET AL., APPELLATE PRACTICE IN SOUTH CAROLINA 185 (3rd ed. 2016) (identifying the four requirements that must be met in order for an issue to be properly preserved for appellate review). If an issue is not presented to and ruled upon by the trial judge, it cannot be raised for the first time on appeal. State v. Freiburger, 366 S.C. 125, 135, 620 S.E.2d 737, 742 (2005); see State v. Patterson, 324 S.C. 5, 19, 482 S.E.2d 760, 767 (1997) (“Appellant is limited to the grounds raised at trial.”). Critically, as our appellate courts have repeatedly recognized, plain error review is simply not permitted in South Carolina. See State v. Sheppard, 391 S.C. 415, 421, 706 S.E.2d 16, 19 (2011) (“[T]he plain error rule does not apply in South Carolina state courts.”); State v. Burroughs, 328 S.C. 489, 496, 492 S.E.2d 408, 411 (Ct. App. 1997) (“South Carolina has no ‘plain error’ rule.”).

Therefore, based on our issue preservation rules, a criminal defendant is required to contemporaneously object to an alleged sentencing error during trial in order to preserve an issue with a sentence for appellate review. State v. Salisbury, 330 S.C. 250, 276, 498 S.E.2d 655, 669 (Ct. App. 1998). Importantly, a defendant’s failure to timely object to or seek modification of a sentence in the trial court precludes him from pursuing the issue on appeal. State v. Winestock, 271 S.C. 473, 475, 248 S.E.2d 307, 308 (1978); see State v. Garner, 304 S.C. 220, 222, 403 S.E.2d 631, 632 (1991) (“No objection to sentencing was raised at trial and this issue is not

properly before the court.”); State v. Shumate, 276 S.C. 46, 47, 275 S.E.2d 288, 288 (1981) (“A defendant’s failure to timely object to or seek modification of his sentence in the trial court precludes him from presenting his objection for the first time on appeal. Appellant’s contention was not advanced at the probation revocation hearing where the results were most favorable to him. By failing to object to or seek modification of the revocation sentence in the trial court he is now foreclosed from doing so on appeal.” (citations omitted)).

Notably though, in State v. Johnston, 333 S.C. 459, 463-464, 510 S.E.2d 423, 425 (1999), our Supreme Court crafted a very specific and limited exception to our issue preservation requirements. In that case, Johnston was convicted of conspiracy to possess marijuana with intent to distribute and was sentenced—without objection—to a term of imprisonment of ten years for that offense despite the fact the maximum sentence statutorily authorized was only five years. Id. at 462, 510 S.E.2d 424. Johnston subsequently appealed her sentence, and, on appeal, this Court affirmed on issue preservation grounds since no objections were raised during trial. Id. at 461, 510 S.E.2d at 424. Thereafter, the Supreme Court granted a petition for a writ of certiorari, reversed, and remanding for resentencing. Id. In doing so, the Supreme Court noted it had “consistently held that a challenge to sentencing must be raised at trial, or the issue will not be preserved for appellate review.” Id. at 462, 510 S.E.2d at 425. However, the Supreme Court found Johnston’s case involved “exceptional circumstances” because: (1) the State had conceded error in regard to the sentence; *and* (2) a “real threat” existed Johnston would be incarcerated beyond the permissible sentencing range for her conviction if she was forced to pursue relief through a post-conviction relief action. Id. at 463-464, 510 S.E.2d at 425. Based on those *limited* circumstances and those limited circumstances alone, the Supreme Court remanded Johnston’s case for resentencing despite the fact the sentencing issue had not been preserved

during trial. Id. at 464, 510 S.E.2d at 425. Importantly though, the Supreme Court expressly cautioned its holding in Johnston's case was based on the "unique" facts involved, which "demand[ed] an expedited result," and was "not intended to disrupt our settled rules on issue preservation and PCR applications." Id. at 464, n. 3, 510 S.E.2d at 425.

Subsequent to the decision in Johnston, this Court expressly—and correctly—recognized the limited nature of that case's holding in State v. Passmore, 363 S.C. 568, 611 S.E.2d 273 (Ct. App. 2005), and declined to apply Johnston's carefully-crafted exception beyond its express limits. See State v. Passmore, 363 S.C. 568, 585-586, 611 S.E.2d 273, 282-283 (Ct. App. 2005) ("We find the exceptional circumstance carefully carved out by the Johnston court is not present here. [Passmore] has already served the duration of her sentence; therefore, she does not face the threat of continuing incarceration beyond the legal sentence. Johnston does not control. . . . Regrettably, [Passmore] has suffered a violation of her right to a jury trial in this case. However, because she failed to raise an objection at trial, we are compelled to let the unconstitutional sentence stand."). However, at other times, this Court has irreconcilably addressed unpreserved sentencing issues that did not squarely fall within the limited exception created in the Johnston decision by expanding it to allow plain error review solely when doing so would purportedly serve the interests of "judicial economy." See State v. Bonner, 400 S.C. 561, 564, 735 S.E.2d 525, 526 (Ct. App. 2012) ("[A]n exception to the general rule of issue preservation exists authorizing the appellate court to consider an unpreserved issue in the interest of judicial economy under appropriate circumstances."); State v. Vick, 384 S.C. 189, 202, 682 S.E.2d 275, 282 (Ct. App. 2009) ("While the case at hand does not present a threat that Vick will remain incarcerated beyond the legal sentence as in Johnston, our courts have, in the past, 'summarily vacated' sentences for kidnapping where such sentences were precluded by § 16-3-910 because

the defendant received a concurrent sentence under the murder statute.” (citations omitted)); but see Johnston, 333 S.C. at 462, n. 2, 510 S.E.2d at 425 (“[N]one of these cases addressed error preservation. Thus, they provide no support for Defendant’s position here.”).

Respectfully, just as this Court recognized in Passmore, the limits of the decision in Johnston are clear, and our state’s fundamental issue preservation requirements remain applicable outside of the limited circumstances of that case, which involved a “real threat” Johnston would be incarcerated beyond the permissible sentencing range for her conviction if she was immediately granted relief. Johnston, 333 S.C. at 463-464, 510 S.E.2d at 425; see also Hutto v. S. Farm Bureau Life Ins. Co., 259 S.C. 170, 173, 191 S.E.2d 7, 8-9 (1972) (“It is, of course, settled law that a case cannot be considered as a binding precedent on a legal point that was not argued in the case and not mentioned in the opinion.” (citation and internal quotations omitted)). Collins does not face that threat, and the circumstances of his case do not demand an expedited result. Instead, he received a thirty-year sentence for murder, which undeniably will *not* have run its course such that he will begin serving his kidnapping sentence before he has a legitimate opportunity to seek relief through the readily-available avenue of post-conviction relief.¹ See S.C. Code Ann. § 17-27-20(A)(3) (recognizing one of the express grounds upon which a person may seek and obtain post-conviction relief is when “the sentence exceeds the maximum authorized by law”); see Passmore, 363 S.C. at 586, 611 S.E.2d at 283 (“Appellant will be forced to seek redress through the avenue of post-conviction relief.”); see also Torrence, 305 S.C. at 61, 406 S.E.2d at 324 (Toal, J., concurring in result for the majority) (abolishing the doctrine of in favorem vitae based, in part, on the fact “[o]ther mechanisms of protection and of

¹ Notably, in his appellate brief, Collins fully acknowledged he “could raise [his] issue in an application for post-conviction relief as a claim of ineffective assistance of trial counsel for failing to object to an improper sentence.” (App. Br. p. 5).

relief have now been created for the criminal defendant which safeguard the defendant and render the protections afforded by in favorem vitae surplusage”). Therefore, the “exceptional circumstances” present in Johnston’s case are simply not present in Collins’s, and the lone fact the trial judge improperly structured Collins’s sentence—without objection—in a manner not permitted by the language of the kidnapping statute did not permit this Court to ignore our State’s plain and well-articulated issue preservation requirements. Johnston, 333 S.C. at 463-464, 510 S.E.2d at 425; see State v. Walker, 252 S.C. 325, 327-328, 166 S.E.2d 209, 210 (1969) (declining to address Walker’s appellate contention the sentence he received could not have properly been imposed “on the elementary ground that the question was not raised below”); State v. Head, 330 S.C. 79, 87, 498 S.E.2d 389, 393 (Ct. App. 1997) (instructing an appellate court “cannot address unpreserved errors”).

In conclusion, Collins unquestionably had a full and fair opportunity to contemporaneously object to his sentence below, which would have obviously been the most expeditious and economical matter of obtaining correction of any issue he had with the sentence, and simply failed to do so. See State v. Williams, 303 S.C. 410, 411, 401 S.E.2d 168, 169 (1991) (“A defendant must object at his first opportunity to preserve an issue for appellate review.”); see also State v. Ballew, 83 S.C. 82, ___, 63 S.E. 688, 690 (1909) (“The general principle that a party can not take his chances of a successful issue, reserving vices in the trial, of which he has notice, for use in case of disappointment, is universally recognized and obviously just.”); cf. State v. Lopez, 82 S.C. 368, ___, 64 S.E. 144, 144 (1909) (“The Circuit Court was in no way called upon to make a ruling and made no ruling upon the subject. There was nothing to prevent counsel raising the question in the Circuit Court. Hence there is nothing to review.”). Based on that failure, Collins denied the trial judge an opportunity to address any issue he may

have with his sentence, and, pursuant to the mandates of South Carolina's issue preservation requirements, this Court could not properly address a sentencing issue for the first time on appeal as a result. See State v. Hoffman, 312 S.C. 386, 393, 440 S.E.2d 869, 873 (1994) ("A contemporaneous objection is required to properly preserve an error for appellate review."); see also State v. Berry, 418 S.C. 500, 503-504, 795 S.E.2d 26, 28 (2016) (vacating the analysis of the Court of Appeals because it addressed an issue that was not properly preserved for appellate review); cf. State v. Hale, 284 S.C. 348, 355, 326 S.E.2d 418, 423 (Ct. App. 1985) ("Hale concedes that no exception was taken to the 'Allen' charge in the trial court. Having denied the trial judge an opportunity to cure any alleged error by failing to object to the charge, Hale cannot properly raise the issue for the first time on appeal.").

Accordingly, for all the foregoing reasons coupled with the reasons raised in the State's appellate brief, the State respectfully urges this Court to reconsider this matter pursuant to Rule 221(a) of the South Carolina Appellate Court Rules, vacate its prior opinion, and issue a new opinion correctly finding Collins's issue with his sentence was not properly preserved for appellate review since he did not raise any objections to his sentence in the trial court.² See Johnston, 333 S.C. at 462, 510 S.E.2d at 425 ("[A] challenge to sentencing must be raised at trial, or the issue will not be preserved for appellate review."). By doing so, this Court will ensure the goals of our issue preservation requirements are promoted and will prevent the trial

² Moreover, even if this Court stands by its decision not to apply South Carolina's issue preservation requirements to Appellant's sentencing challenge as the State believes it is required to do, the State urges this Court to apply that decision equally and fairly to all parties and reconsider its decision to reject the State's request for a remand for a full resentencing hearing, which will ensure the trial judge has an opportunity to effectuate his sentencing intention within the confines of the law, purely on issue preservation grounds. See Payne v. Tennessee, 501 U.S. 808, 827 (1991) ("Justice, though due to the accused, is due to the accuser also. The concept of fairness must not be strained till it is narrowed to a filament. We are to keep the balance true." (citation, brackets, and internal quotations omitted)).

judge's sentencing intention from being unjustly subverted on appeal—without oral argument—solely based on an unpreserved error that might have intentionally been withheld from the trial judge on strategic grounds so as to deny him an opportunity to impose the fifty-year sentence he believed was appropriate through means indisputably available to him under the law. See S.C. Code Ann. § 16-3-20(a) (authorizing a trial judge to sentence a defendant convicted of murder to a sentence of at least thirty years up to life without parole); cf. Torrence, 305 S.C. at 65-66, 406 S.E.2d at 326 (Toal, J., concurring in result for the majority) (“[S]ome attorneys may allow errors to occur as a matter of trial strategy [when issue preservation rules are not applied]. A defense attorney may, for example, desire that certain improper arguments by the State be heard by the jury, or that the jury be charged a certain erroneous charge. The defense attorney will thus allow the ‘error’ to occur, based on the thinking that the introduction of the argument or charge into the case would *benefit* the client due to the nature of the case or the circumstances involved. Also, defense counsel may decide as a strategic matter not to object because his objection would highlight the erroneous evidence, argument, or charge.”). Furthermore, pursuant to Rule 219(b) of the South Carolina Appellate Court Rules, the State respectfully suggesting this Court rehear the matter en banc in order to resolve the lack of uniformity that exists between its decision in Passmore and the irreconcilable decisions that have followed it. See Rule 219(a), SCACR (explaining “rehearing en banc is not favored and ordinarily will not be ordered *except* (1) when consideration by the full court is *necessary to secure or maintain uniformity of its decisions*, or (2) when the proceeding involves a question of exceptional importance”).

Respectfully submitted,

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January 30, 2020

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Oconee County
Honorable R. Scott Sprouse, Circuit Court Judge
Appellate Case No. 2017-002282

THE STATE,

Respondent,

vs.

KENNETH STROTHER COLLINS,

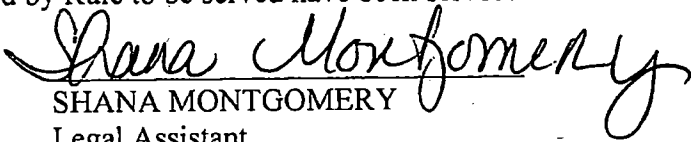
Appellant.

PROOF OF SERVICE

I, Shana Montgomery, certify I have served the within Respondent's Petition for Rehearing and Suggestion for Rehearing En Banc on Appellant by sending two copies of the same to:

David Alexander, Esq.
S.C. Commission on Indigent Defense
Division of Appellate Defense
Post Office Box 11589
Columbia, SC 29211

I further certify all parties required by Rule to be served have been served.
This 30th day of January, 2020.


SHANA MONTGOMERY
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APP'X 331

The South Carolina Court of Appeals

The State, Respondent,

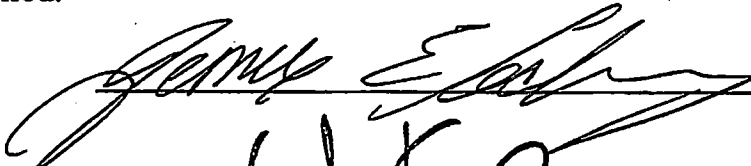
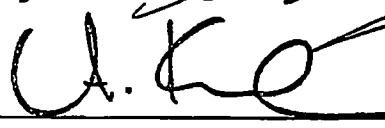
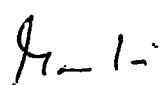
v.

Kenneth Strother Collins, Appellant.

Appellate Case No. 2017-002282

ORDER

After careful consideration of the petition for rehearing, the Court is unable to discover that any material fact or principle of law has been either overlooked or disregarded, and hence, there is no basis for granting a rehearing. Accordingly, the petition for rehearing is denied.

 C.J.
 J.
 J.

Columbia, South Carolina

cc:

Alan McCrory Wilson, Esquire
Melody Jane Brown, Esquire
David Alexander, Esquire
Donald J. Zelenka, Esquire
David Rhys Wagner, Jr., Esquire

FILED

March 9, 2020

APP'X 332

Mark Reynolds Farthing, Esquire
The Honorable R. Scott Sprouse



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
CHIEF DEPUTY CLERK

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March 09, 2020

Mr. Mark Reynolds Farthing, Esquire
PO Box 11549
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Re: The State v. Kenneth S. Collins
Appellate Case No. 2017-002282

Dear Counsel:

Enclosed is a copy of an order of the panel denying your petition for rehearing. Your petition for rehearing en banc was distributed to the judges, but it has been rejected. *See* Rule 219, SCACR.

Very truly yours,

V. Claire Allen, Deputy

CLERK

cc: Alan McCrory Wilson, Esquire
Melody Jane Brown, Esquire
David Alexander, Esquire
Donald J. Zelenka, Esquire
David Rhys Wagner, Jr., Esquire

APP'X 334