

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Charleston County

Honorable Deadra L. Jefferson, Circuit Court Judge

ORIGINAL

THE STATE,

RESPONDENT.

V.

RICKY ANTHONY SHORT,

APPELLANT

APPELLATE CASE NO 2018-000782

RECORD ON APPEAL

RECEIVED

NOV 08 2019

ROBERT M. DUDEK
Chief Appellate Defender

ALAN WILSON
Attorney General

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

DONALD J. ZELENKA
Deputy Attorney General

MELODY J. BROWN
Senior Assistant Deputy Attorney General

ATTORNEY FOR APPELLANT

J. ANTHONY MABRY
Senior Assistant Attorney General
S.C. Bar No. 11973
Post Office Box, 11549
Columbia, SC 29211-1549
(803) 734-6305

SCARLETT A. WILSON
Solicitor, Ninth Judicial Circuit

ATTORNEYS FOR RESPONDENT

INDEX

INDEX	i
MOTION TO SUPPRESS STATEMENT	1
MEMORANDUM IN SUPPORT OF DEFENDANT'S MOTION TO SUPPRESS STATEMENTS.....	3
TRANSCRIPT OF <u>JACKSON V. DENNO</u> HEARING HELD APRIL 16, 2018.....	17
TESTIMONY (IN CAMERA)	
ROBERT BAILEY	
Direct Examination by Mr. Wetmore	25
Cross Examination by Mr. Shahid	46
Redirect Examination by Mr. Wetmore.....	58
SAM RIEDEL	
Direct Examination by Mr. Wetmore	62
Cross Examination by Mr. Shahid	82
Redirect Examination by Mr. Wetmore.....	102
ANGELA JOHNSON	
Direct Examination by Mr. Wetmore	109
Cross Examination by Mr. Shahid	125
Redirect Examination by Mr. Wetmore.....	141
MOTION TO SUPPRESS STATEMENT	144
COURTS RULING.....	157
TRANSCRIPT OF TRIAL HELD APRIL 17, 2018.....	171
<u>JACKSON V. DENNO</u> HEARING	
TESTIMONY (IN CAMERA)	
ROBERT BAILEY	
Direct Examination by Mr. Wetmore	180
Cross Examination by Mr. Shahid	199
Redirect Examination by Mr. Wetmore.....	219

RUBEN SERRUDO	
Direct Examination by Mr. Wetmore	225
Cross Examination by Mr. Shahid	237
OPENING STATEMENT BY MR. WETMORE	240
OPENING STATEMENT BY MR. SHAHID	251
TESTIMONY	
JOHN O'CONNELL	
Direct Examination by Mr. Wetmore	262
Cross Examination by Mr. Shahid	275
JUSTIN INFINGER	
Direct Examination by Mr. Wetmore	298
Cross Examination by Mr. Shahid	308
CINDY BORDALLO	
Direct Examination by Mr. Wetmore	313
Cross Examination by Mr. Shahid	326
ROB WEBB	
Direct Examination by Mr. Wetmore	331
Cross Examination by Mr. Shahid	347
Redirect Examination by Mr. Wetmore	357
Recross Examination by Mr. Shahid	360
ROBERT BAILEY	
Direct Examination by Mr. Wetmore	362
TRANSCRIPT OF TRIAL HELD APRIL 18, 2018	379
TESTIMONY	
ROBERT BAILEY (CONTINUED)	
Direct Examination by Mr. Wetmore	382
Cross Examination by Mr. Shahid	418
Redirect Examination by Mr. Wetmore	447
SAM RIEDEL	
Direct Examination by Mr. Wetmore	460
Cross Examination by Mr. Shahid	487
Redirect Examination by Mr. Wetmore	501

ANGELA JOHNSON	
Direct Examination by Mr. Wetmore	509
Cross Examination by Mr. Shahid	535
Redirect Examination by Mr. Wetmore	544
RUBEN SERRUDO	
Direct Examination by Mr. Wetmore	548
Cross Examination by Mr. Shahid	560
Redirect Examination by Mr. Wetmore	565
JACQUELINE ONG	
Direct Examination by Mr. Wetmore	566
Cross Examination by Mr. Shahid	596
TRANSCRIPT OF TRAIL HELD APRIL 19, 2018	608
TESTIMONY	
SCOTT WYANT	
Direct Examination by Mr. Wetmore	612
THOMAS DARNELL	
Direct Examination by Mr. Waring	617
Cross Examination by Mr. Shahid	628
Redirect Examination by Mr. Waring	638
VERONA HERRERA	
Direct Examination by Mr. Waring	640
Cross Examination by Mr. Shahid	655
Redirect Examination by Mr. Waring	670
JENNIFER CLAYTON	
Direct Examination by Mr. Waring	672
Cross Examination by Mr. Shahid	711
JULIE ROSS	
Direct Examination by Mr. Wetmore	741
Cross Examination by Mr. Shahid	762
Redirect Examination by Mr. Wetmore	768
JOHN CAHILL	
Direct Examination by Mr. Wetmore	773
Cross Examination by Mr. Shahid	787
Redirect Examination by Mr. Wetmore	794

ERIN PRESNELL	
Direct Examination by Mr. Wetmore	796
Cross Examination by Mr. Shahid	826
Redirect Examination by Mr. Wetmore	829
STATE RESTS	831
TRANSCRIPT OF TRIAL HELD APRIL 20, 2018	835
TESTIMONY	
RICKY SHORT	
Direct Examination by Mr. Shahid	840
Cross Examination by Mr. Wetmore	907
Redirect Examination by Mr. Shahid	997
DEFENSE RESTS	1003
RENEWAL OF PRIOR MOTIONS	1004
COURT'S RULING	1006
CLOSING ARGUMENT BY MR. WETMORE	1008
CLOSING ARGUMENT BY MR. SHAHID	1023
RESPONSE TO CLOSING ARGUMENT BY MR. WETMORE	1051
JURY CHARGE	1062
VERDICT	1086
SENTENCING	1092
STATE'S EXHIBIT NO. 1 (RIGHTS FORM)	1093
STATE'S EXHIBIT NO. 3 (SEARCH WARRANT)	1094
STATE'S EXHIBIT NO. 29 (RIGHTS FORM)	1098

INDICTMENTS1099
CERTIFICATE OF COUNSEL1105

THE FOLLOWING EXHIBIT'S ARE ON FILE WITH THIS COURT:

PRE-TRIAL HEARING EXHIBIT'S:

COURT'S EXHIBIT NO. 1 (CD), COURT'S EXHIBIT NO. 2 (CD), STATE'S EXHIBIT NO. 2 (CD)

TRIAL EXHIBIT'S:

STATE'S EXHIBIT NO. 13 (CD), DEFENSE EXHIBIT NO. 13 (CD), STATE'S EXHIBIT NOS. 1-21 (PHOTOS), STATE'S EXHIBIT NOS. 23-28 (PHOTOS), STATE'S EXHIBIT NOS. 32-48 (PHOTOS), STATE'S EXHIBIT NOS. 50-57 (PHOTOS), STATE'S EXHIBIT NOS. 72-76 (PHOTOS), STATE'S EXHIBIT NO. 30 (DISK OF STATEMENT)

1 Q. Had you slept any time between?

2 A. No.

3 Q. And except for one bathroom break how
4 long did you stay in that room?

5 A. The whole time.

6 Q. Were you tired?

7 A. Yes, emotionally.

8 Q. Had you been told at that point that
9 you were under arrest for murder?

10 A. When I was talking to Ms. Johnson?

11 Q. At that hour, yes, sir.

12 A. I believe I was told that, yes.

13 Q. In answer to a question that Mr.
14 Wetmore had brought to you, you said you took
15 responsibility?

16 A. Yes.

17 Q. You took responsibility for what?

18 A. For everything.

19 Q. What's everything, Ricky?

20 A. Losing Malakia. Malakia coming around
21 there and she's not here.

22 Q. That's your fault?

23 A. Yes.

24 Q. Is that your fault because you killed
25 her?

1 A. No.

2 Q. Do you remember being in the back of
3 the patrol car, Ricky, on this night?

4 A. Yes.

5 Q. Do you remember if you said anything to
6 the police officers about Malakia's condition?

7 A. Yes.

8 Q. What do you remember asking the police
9 officers or telling the police officers?

10 A. Continue telling them she's six months
11 pregnant and can they call and get some information
12 for me to see how she is doing, check up on her.

13 Q. Is the person that we are seeing right
14 now, is this how you normally act?

15 A. Quiet? Yes.

16 Q. What you see is what you get?

17 A. Yes.

18 Q. Are you upset now?

19 A. Emotionally.

20 Q. Were you upset is that photograph in
21 Exhibit No. 19?

22 A. Very much so, yes.

23 Q. Did you kill her?

24 A. No, I did not.

25 MR. SHAHID: Thank you. Nothing

1 further, Judge.

2 THE COURT: Sir, you may step down.

3 Anything further?

4 MR. SHAHID: Let me confer with him one
5 second, Judge.

6 (Attorney confers with client.)

7 MR. SHAHID: Defense rests, Your Honor.

8 THE COURT: We will reserve motions.

9 Any rebuttal testimony from the State?

10 MR. WETMORE: Judge, can I have one
11 minute?

12 THE COURT: Yes.

13 (Off-the-record conference.)

14 MR. WETMORE: No rebuttal, Your Honor.

15 THE COURT: Bear with me one moment,
16 ladies and gentlemen. I am trying to determine if
17 your lunch is here.

18 (Brief pause.)

19 THE COURT: I am not sure whether it
20 has arrived yet. However, I will instruct you as
21 follows. Both the State and the defense have
22 rested their cases. The next part of the process
23 is closing argument and instruction. I am waiting
24 to see if lunch has arrived so I can develop a time
25 frame that we will break for lunch.

1 (Thereupon, the jury exited the
2 courtroom at 12:35 p.m.)

3 THE COURT: The defense has rested.
4 Are there any motions?

5 MR. SHAHID: Just renew those arguments
6 we made, Judge.

7 THE COURT: Would the State like to
8 respond or do you want to rely on your earlier?

9 MR. WETMORE: I would rely on my
10 earlier.

11 THE COURT: The Court will incorporate
12 its original findings of fact and conclusions of
13 law into this portion of the record as is stated
14 verbatim and will restate that the Court is
15 concerned with the existence or non-existence of
16 evidence and not its weight.

17 I have not heard anything that would
18 change that my earlier ruling. The Defendant's
19 testimony merely reiterated his statement that was
20 contemporaneously given to the police at the time
21 of this incident which has already been testified
22 to as well as a portion of it played for the jury.

23 I would find that there is direct as
24 well substantial circumstantial evidence reasonably
25 tending to prove the Defendant's guilt. The Court

1 is not the finder of fact. The State is not
2 required to prove their case to the exclusion of
3 every other reasonable hypothesis. While they must
4 prove it beyond suspicion and the Court will find
5 that it has met that burden. In addition, I will
6 amend my ruling to also include reference to the
7 viability statute, that being 44-41-10, the
8 definitional section subsection L. And while that
9 is a portion of the abortion statute scheme, I
10 think it is instructive as to how states defines
11 viability and it clearly indicates within that
12 statute and I think when you consider that in
13 conjunction with the doctor's testimony it
14 corroborates that viability means that stage of
15 human development when the fetus is potentially,
16 and I think that word is instructive as well
17 because the doctors all relied on it. I would have
18 to believe that the legislature in promulgating a
19 statute would look to other authorities in terms of
20 providing definitions that being met of authority
21 as well. The human development when the fetus is
22 potentially able to live outside the mother's womb
23 with or without the aid of artificial life and
24 support systems.

25 So when I look at that in conjunction

1 with the doctor's testimony, that being the two
2 neonatologists that testified as well as the
3 medical examiner, I do not find or give -- I do not
4 believe there is any merit to the argument at least
5 for verdict purposes that the child failed to be
6 viable and therefore the elements by the direct or
7 substantial circumstantial evidence have not been
8 met regarding the murder charge, that being on
9 indictment 2016-GS-10-1699 which deals with the
10 child Miracle Frazier who expired ten days after
11 this incident, therefore, the motion for directed
12 verdict is renewed and the motion is denied.

13 As regard to exhibit that being
14 No. 7 --

15 MR. WETMORE: 72.

16 THE COURT: 72 which is the DNA report
17 of SLED's DNA analyst, that being Ms. Clayton, I'm
18 admitting the document. There was an argument made
19 that it was cumulative. I would find that it is
20 probative -- that its probative value is not
21 outweighed by its -- any potential for prejudicial,
22 that it is instructive, that it will not have any
23 tendency to mislead the jury, in fact, it will aid
24 their understanding of the testimony. In addition,
25 the Court did not discern any prejudice in the

1 admission of that document to the defense in that
2 there was a full opportunity to cross-examine the
3 witness regarding any subjective opinions included
4 in the report.

5 And I have seen those reports before.
6 They are basically data compilations to some extent
7 regarding the analysis provided. So it will be
8 admitted subject to the objection and that
9 objection is overruled based on the Court's
10 contemporaneous ruling.

11 I have already gone over the
12 instructions, but I will go over it one more time
13 just so we are all clear. Bear with me one second.

14 (STATE'S EXH. 72 in evidence.)

15 (Off-the-record conference.)

16 THE COURT: I will give an instruction
17 regarding their responsibility and my
18 responsibility, how they are to judge witness's
19 credibility and believability. I will give them a
20 general instruction regarding expert witness
21 testimony as well as the statement alleged to have
22 been made or made by the Defendant and how they are
23 to judge that and while the Court has entered it
24 based on a preponderance of the evidence it is up
25 to them to judge it based on the applicable

1 instruct you on the law applicable to the case. I
2 would ask that you give counsel your undivided
3 attention. I would ask that you give your
4 undivided attention and I will gauge as we go
5 through the process when you need breaks or
6 otherwise, but if you need one please let the
7 bailiff know or give me the high sign and we will
8 stop as needed and continue. I would ask that you
9 give counsel your undivided attention. Mr.
10 Wetmore.

11 MR. WETMORE: May it please the Court,
12 counsel, thank you all for being here. I know it's
13 been a long week and I know that you are probably
14 tired. I'm tired myself. I have a two-year old so
15 I'm always tired. Tell you too, Miracle Frazier
16 should have been two years old right about now.
17 She's not.

18 The very first time I spoke to you I
19 told you what it was that I thought happened. And
20 that has remained unchanged in my mind and I hope I
21 can convince you of it.

22 Right to the very heart of it, we go to
23 the Defendant's residence on Harper Street. Lives
24 there with his mom and the victim, Malakia Frazier,
25 are sitting in her car. She is in the driver's

1 seat. He's in the passenger seat. That is when
2 they get into the first round of their argument.
3 She is six months pregnant, presumably it's his
4 child, and they just had sex in the car. And she
5 had some indication or some belief that there was
6 another girl on his phone and that made her mad and
7 she stormed off, walked off around the
8 neighborhood. And the Defendant went inside this
9 house right here, and I would argue to you that's
10 when he got the knife. He got the knife that he
11 told you he had ones like it in his home. I would
12 argue that's when he gets the knife. Malakia
13 Frazier comes back and that's what I described as
14 the second round of the argument. And in that
15 round she has those keys in her hand and she clocks
16 him with them. What happened is she leaves this
17 mark right here above his eyebrow, maybe this mark
18 right here on his nose. That was a pretty big set
19 of keys. That would be his left side of his face
20 facing her in the car.

21 And after that the victim storms off
22 Harper down Railroad. And the Defendant comes down
23 Harper behind her, comes down Railroad behind her
24 and catches her right here at Emden Street. That
25 is where he stabs her 30 times as she makes her way

1 back up Railroad to her car. And you heard from
2 the doctor. He cut her to pieces; 30 stab wounds
3 is significant. And that amount of force and that
4 amount of blood causes these cuts to his hand.
5 Here, here, here. Fresh cuts on his right dominant
6 hand. This was a brutal attack on his pregnant
7 girlfriend, six months pregnant. And I have no
8 doubt she screams help. Because that's what you
9 will scream at someone whose your boyfriend that
10 you were trying to bring to their senses. She
11 didn't scream help me, Ricky. She screamed stop.
12 That's what you would say to your boyfriend.

13 She fights him. She fights back. I
14 want you all to take a look at this when you get to
15 the jury room and look at it. This does not look
16 like wiped blood to me, this looks like fingernail
17 marks, especially this one right here. Right here,
18 right here. That is her struggling against him.
19 That is how his DNA is found underneath her
20 fingernails, her left fingernails. The lab
21 recovered a relatively large amount of his DNA to
22 indicate a hard contact.

23 After he -- after the Defendant attacks
24 Malakia Frazier he runs and goes to hide the
25 evidence. As he is navigating all those fences

1 back there he reopens an old rip on his jeans. You
2 can tell. There was an existing rip. You can
3 tell. He tried to sew it up at one point, but it
4 got re-ripped when he jumped over the fence hiding
5 the evidence.

6 He hides it as you'll recall right here
7 less than a block from where Malakia Frazier was
8 found stabbed and this is what they found. You
9 have seen it. Probably tired of seeing it. They
10 found the black jacket which he today admitted was
11 his. They found the white thermal long sleeved
12 shirt which he said today must have been mine and
13 then they also found the knife. And as you can
14 see, too, and he didn't admit the knife was his,
15 but he said it was like his. He said he had steak
16 knives and brown wooden handles in his house, but
17 he hides the evidence right there and goes back to
18 where the victim is laying and is there when the
19 police arrive.

20 That is what I believe happened. I'm
21 going to go through the witnesses you heard and
22 make a couple of points. The first witnesses you
23 heard from are the responding officers. I would
24 characterize them as heroes. They ran to a complete
25 stranger, Malakia Frazier, did their very best to

1 keep her and the child inside of her alive. They
2 testified the Defendant stood there and showed no
3 emotion. When they learned that the Defendant was
4 the victim's boyfriend, they were in an argument,
5 yes, they detained him. And that was a very wise
6 decision.

7 Next we heard from officer Cindy
8 Bordallo. She speaks Spanish, dealt with the
9 Hispanic witness from that witness who actually saw
10 the stabbing. They are looking for a black male
11 and a black jacket. You heard from Sergeant Webb
12 who made this discovery here. This is as he saw
13 it. These items are obviously all together in the
14 same place. He testified that fabric did not look
15 wet to him. He acknowledged and I certainly hope
16 you'll consider the fact that fabric absorbs
17 moisture. Obviously something like a leaf moisture
18 will pull in, something like a jacket, like a
19 thermal shirt is going to absorb moisture. He
20 didn't see moisture on the clothes, but he did not
21 touch it. He saw it and then he backed off and
22 called in the crime scene.

23 And again the jacket is something that
24 the defense already admitted is his. The white
25 shirt must be his he said and the knife is

1 certainly like his is what he said.

2 Then we heard from Detective Bailey.
3 He's still here. He's been with us all week. This
4 case means something to him. Detective Bailey
5 noticed the scratches on his face and noticed the
6 cuts on his hand and he was the first to hear about
7 the Defendant's version of events that he cut his
8 hands on the thorns downtown trying to pick
9 flowers.

10 Next you heard from Detective Riedel.
11 He read the Defendant's rights. The Defendant
12 initialed he understood all his rights, signed at
13 the bottom of the initial of his rights and he
14 waived those rights. Now, Detective Riedel did not
15 tell the Defendant that he was becoming a suspect.
16 No question he didn't tell him that. He does not
17 have to do that. He's under no obligation to do
18 that and this is real life, people. These
19 detectives when they are looking at a violent
20 crime, they cannot show their cards to the suspect.
21 They rarely tell them everything that they know in
22 their hands and they don't have to.

23 Certainly officer or Detective Riedel,
24 he got loud with the Defendant. That's very common
25 in these interviews dealing with someone suspected

1 of a violent crime.

2 At 4:30 Detective Riedel also heard the
3 story that I characterize as ridiculous about the
4 Defendant cutting his hands, being romantic and
5 picking flowers. And then later Riedel heard the
6 story about 6:30 which is the Defendant's full
7 version of events about how he was in a heated
8 argument with the victim and some unknown other
9 person assaulted her, stabbed her 30 times. That's
10 Detective Reidel. Captain Johnson is also still
11 here. This case means something to her, too.

12 She was there and relayed to you the
13 version of events the Defendant gave at 6:30 in the
14 morning. Again, the Defendant and victim in the
15 middle of a heated argument and miraculously and
16 inexplicably somebody else does it. Somebody else
17 stabs her. After hearing that Captain Johnson was
18 involved in this being recovered, the evidence, and
19 Captain Johnson took it to the Defendant's own
20 mother and after that meeting the detective was
21 confident that the Defendant was the one who did
22 this and her advice was to charge him with the
23 crime.

24 Around 11:30 a.m. Captain Johnson
25 talked to the Defendant again and this is the part

1 that's on the video that I introduced. And I want
2 to apologize on the video you can't hear every
3 word. At my desk where I have a small speaker you
4 can hear it very clearly. In this room there's
5 speakers and it's I think harder to hear, but you
6 will have the disk back there in your jury room and
7 I encourage you to listen to it again as many times
8 as you need to. And I think on a simpler speaker
9 you will be able to hear more clearly what he said
10 and he went over what he said today.

11 He said he didn't remember what
12 happened, he didn't know why he followed her.
13 Didn't know how he ended up on top of her. He was
14 sure it was all his fault. He never meant to bring
15 on this terrible situation. Says he was sorry.
16 Sorry she was ever even involved with him. He said
17 he does not deserve forgiveness and there's nothing
18 he can do about it now.

19 And I would argue these are not the
20 words of an innocent man. And he didn't explain
21 them like he came up with today. I want you to
22 listen to it, please, watch it as many times as you
23 feel that you need and I hope that you can hear it
24 better on a simpler system.

25 Next we heard from crime scene

1 Investigator Ong and she among other things
2 documented the trail, blood trail of the victim,
3 Malakia Frazier. As you can see she is staggering
4 up Railroad Avenue, start of the crime scene
5 staggering up where she is found. Crime scene
6 officer captured that blood trail and showed it to
7 you. And then when the evidence was found that
8 crime scene officer came back out and collected
9 these items of clothing and what she told you is
10 that the white shirt and the black jacket were both
11 wet, were both damp. And they were so wet and so
12 damp, in fact, that she hung them to dry them
13 before they could be packaged.

14 Also as the crime scene officer now
15 when she recovered that jacket and picked it up,
16 she didn't rip the jacket apart. She didn't go in
17 every pocket, go in every corner of it. The reason
18 why is because she is trying to preserve the
19 evidence on that jacket. She collected it, she
20 dried it because it was wet and she packaged it.
21 She sent it off to the lab.

22 And in that approach she did not
23 realize that there was a small stocking cap inside
24 of it. And the defense has made some issue of this
25 so I am going to make some issue with it, too.

1 At the lab you heard from the witnesses
2 from SLED as the agent at the lab witness told you
3 is it not uncommon to open up these packages and
4 they will find other items that the crime scene
5 officers did not find because they did not
6 thoroughly search. Like the cap. What this
7 witness told you is that cap had no blood stains on
8 it, in fact, had no discernable DNA on it. So
9 there's no way that cap, that little, tiny cap
10 contaminated anything in this case. That's
11 unreasonable. It's a small black cap tucked in
12 that jacket and she didn't see it. The reason she
13 didn't see it because she wasn't searching the
14 jacket. She was preserving the evidence to be sent
15 to the lab. They found it. They tested it and
16 they cleared it from contaminating anything.

17 The lab also got compelling results on
18 this knife. You have the victim's blood and the
19 Defendant's blood. On the black jacket you have
20 the victim's blood and the Defendant's DNA. On the
21 white long sleeve thermal shirt again you have the
22 victim's blood and the Defendant's DNA. This is
23 strong evidence. And if you have questions, if you
24 have questions about where this all played out, I
25 hope those results will show you exactly. I hope

1 they will firmly convince you of what happened.

2 The lab also tested some other things.
3 They tested the boxer shorts that the Defendant was
4 wearing. And they had the victim's blood on them.
5 And also perhaps more telling, they tested DNA from
6 the victim's fingernails and the Defendant's DNA
7 and they characterized it as a large amount
8 indicative of a struggle. And they assigned their
9 findings very high percentages and those
10 percentages don't even begin to account for the
11 fact that the Defendant and the victim were in a
12 relationship and the fact the Defendant and the
13 victim were in an argument. Strong evidence from
14 the lab.

15 Yesterday we heard from also the
16 doctors and they testified that baby Miracle, she
17 suffered from lack of oxygen and a lack of blood
18 because of the attack on her mother. She was at
19 the time 24 and 5/7 weeks, 24 weeks five of the
20 seven days of the next one. So a little over six
21 months. The doctors testified that she was viable.
22 In fact, our state statute considers her to be
23 viable. She is over 24 weeks, far too late for the
24 developmental age to be part of an elective
25 abortion. She was viable and the doctors talked

1 about it and they saw that spark of life inside of
2 Malakia Frazier. They saw it as a viable spark of
3 life. I think Mr. Shahid referred to it as a flip
4 of a coin. They didn't see it that way. They saw
5 it as fingers crossed. Prayers. They didn't see
6 it as a flip of the coin. They saw the spark of
7 life and they were right. The baby was delivered.
8 The baby achieved viability and the baby lived for
9 two weeks. The baby's cause of death as you heard
10 is complications of premature birth due to the
11 maternal assault. That's what killed her. And I
12 would argue to you that it is fundamentally unfair
13 for this man to kill the baby's mother such that
14 the baby had to be delivered prematurely and then
15 seek to escape responsibility for this based on the
16 baby's prematurity. That's fundamentally unfair
17 and I hope that you won't let it happen.

18 Today we heard from the Defendant and
19 he admitted that the black jacket involved in the
20 crime was his. He admitted that the long sleeve
21 white thermal shirt must have been his and he
22 admitted that the knife involved in the crime was
23 like this. But he would have you believe that he
24 was generous and that he gave his jacket used in to
25 the crime to a homeless man. He would have you

1 believe that he was romantic, that he braved these
2 thorny flowers to pick for his girlfriend. He
3 would have you believe that is No. 3 horribly
4 unlucky and that he was involved in a heated
5 argument that led to a physical confrontation with
6 his girlfriend and as she stormed off inexplicably
7 someone else stabbed her 30 times.

8 A particularly bad argument, they were
9 both angry, he described it as escalating, she
10 struck him with the keys, she stormed off. And he
11 would have you believe that somebody else attacked
12 her. And I would argue to you that's ridiculous.
13 Not reasonable. Shows deception. And I would
14 argue to you that shows a complete lack of respect
15 for Malakia Frazier and Miracle Frazier, the whole
16 Frazier family, for you the jury.

17 I'm going to talk about some legal
18 terms. I have to prove my case beyond a reasonable
19 doubt it is called. And I want to stress the word
20 reasonable. That doesn't mean I have to prove my
21 case beyond all doubt. Very few things that we can
22 know beyond all doubt. You don't have to be that
23 confident in this case.

24 If you are firmly convinced that he is
25 guilty then it is your duty to find him guilty.

1 You took an oath and if I have left you firmly
2 convinced it is your duty to find him guilty. I
3 hope that you will. Also the judge will talk to
4 you about another concept called transferred
5 intent. Basically an actor's intention to kill one
6 victim can be transferred to all of the victims he
7 may kill. For instance, if you believe that the
8 Defendant meant to kill Malakia Frazier, but maybe
9 not the baby, Miracle Frazier, he is still guilty
10 of the murder as to Miracle Frazier. Because the
11 intent of the one victim was transferred to the
12 other. That's called transferred intent.

13 The Defendant has been charged and
14 indicted for three crimes. The first is in my
15 opinion the easiest, the weapons charge. If you
16 believe that the Defendant is guilty of murder as
17 he is charged or voluntary manslaughter, the lesser
18 charge, he's automatically guilty of possession of
19 a weapon during the commission of that crime.
20 Because those crimes are statutorily and certainly
21 logically violent crimes. So if you believe he did
22 either one of those crimes he's guilty of the
23 weapons charge.

24 You will have the opportunity to
25 consider a lesser included charge called voluntary

1 manslaughter and that is when you kill someone in a
2 heat of passion without any kind of malice. You
3 will be given that option.

4 Now, remember the Defendant told you
5 today all morning that he didn't do it. He said it
6 was somebody else. But if you believe he is guilty
7 of the lesser of voluntary manslaughter you will
8 have that option.

9 He is charged and indicted on two
10 counts of murder. That's what we indicted for.
11 That is what we have. He has one count of murder
12 for the victim Malakia Frazier and one count of
13 murder for the victim Miracle Frazier because her
14 life counts, too. And murder is defined as the
15 killing of a person or certainly a viable baby with
16 malice aforethought. And doesn't require planning
17 or lengthy premeditation. It could be performed
18 like that. The malice could occur instantly. And
19 you have murder. So that begs the question what is
20 malice? Malice is defined as the intent to injure
21 somebody, wickedness, that sort of thing. Ill
22 will.

23 So I want you to think about that. I
24 want you to think seriously about what it's like to
25 take this knife right, here, okay, and stab

1 somebody 30 times with it. I want you to think
2 about the effort, the time that takes, 1, 2, 3, 4,
3 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18,
4 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30.
5 That is malice and that is murder. I ask that you
6 find him guilty.

7 THE COURT: Mr. Shahid.

8 MR. SHAHID: May it please the Court,
9 it is 3:15 on Friday afternoon in downtown
10 Charleston. It is absolutely glorious outside. A
11 perfect spring day. I suspect you are thinking
12 what in the world am I doing here. I have to sit
13 in these chairs a full week and listen to something
14 gruesome. I have to watch this prosecutor take a
15 knife and make 30 stab wounds. I want to be home.
16 I want to be at school. I want to be at my work or
17 with my friends.

18 3:15 on Friday afternoon in beautiful
19 downtown Charleston on a spring day. This family
20 over here is sitting in this room thinking where is
21 my daughter? Where is my friend? My niece? Where
22 is my two-year old granddaughter that I am not
23 holding right now? It is 3:15 on Friday afternoon
24 on a beautiful spring day in downtown Charleston.
25 Two little boys are asking where is my daddy.

1 The anguish in this room is heavy. It
2 reminds me of a fog coming out of Charleston
3 harbor. It is messy. It is dark. Disrupts
4 everything. It ain't pleasant.

5 You have a heavy job to do. This case
6 isn't about you, not about the solicitor, not about
7 these detectives sitting in the room. It's not
8 about the family. It's about Ricky Short.

9 If you lose focus of that you can lose
10 focus of what your responsibility is. If you lose
11 your compass you are not going to fulfill your
12 legal obligation. This case is about whether or
13 not Ricky Short is guilty of murder. This case is
14 whether or not Ricky Short is guilty of killing the
15 mother of his son. This case is whether or not
16 Ricky Short is guilty of killing the mother of the
17 yet unborn child and then Miracle baby. And you
18 have to pass judgment on Ricky Short and nobody
19 else.

20 You have a legal obligation to listen
21 to all of the evidence and pay close attention,
22 dissect this evidence to the best of your ability,
23 go back into the jury room and render a fair and
24 true verdict.

25 As I said to you early on, or had the

1 opportunity to address you, Ricky is presumed
2 innocent. That means he's innocent as I am
3 standing in front of you right now. That
4 presumption of innocence carries with him while you
5 are in this jury room. The State has to prove his
6 guilt beyond a reasonable doubt.

7 Not just I think he's guilty, not just
8 I don't like this case because a baby died. Not
9 because this woman was stabbed 30 times
10 unnecessarily. None of that. This is guilt beyond
11 a reasonable doubt. That he went out, he
12 preplanned at some point in time and made a
13 determination to kill this woman and baby she was
14 carrying.

15 Your verdict must be unanimous. That
16 means every one of you have to agree to those
17 elements. The judge is going to read to you the
18 instruction on the law, what your roadmap is going
19 to be, the legal roadmap to determine how to
20 measure this out and how to reach a verdict. The
21 judge is going to give some instructions about
22 reasonable doubt, presumption of innocence, the
23 indictment is not evidence, it's just a charge.
24 The judge is going to read to you the elements of
25 murder and elements of voluntary manslaughter, a

1 lesser included offense.

2 Let me walk through some of the facts
3 with you to maybe help you. When I finish my
4 closing argument I'm going to sit down and I'm not
5 going to have the opportunity to come back out and
6 address you. Mr. Wetmore is going to do that. So
7 if I forget something, if I leave something out, I
8 apologize right now. I am trying to put together
9 for you a summation of what I think the evidence is
10 and how it all weaves together.

11 Thank you for being here. I thanked
12 you when you were initially sworn in and I won't
13 have a chance to talk to you again. Let's go
14 through some of the facts that are not disputed.

15 Fact. Ricky Short and Malakia Frazier
16 were together most of the afternoon into the night
17 of October the 10th, 2015. Undisputed fact.
18 Undisputed fact that Malakia and Ricky were the
19 parents of one son. Fact. She was pregnant with
20 their second child together. Fact. There were
21 apparently no issues that they had between one
22 another or between their families. Fact. Their
23 son spent a good deal of time with Ricky and his
24 mother. Was supposed to spend the night at his
25 house that evening. Fact. Ricky and Malakia went

1 to Wal-Mart together dressed in her halter top and
2 short pants, him in his white T-shirt and blue
3 jeans around 8:15, 8:30. Fact. Ricky fixed her
4 taillight. Fact. They had sexual intercourse
5 together at Park Circle, consensual sexual
6 intercourse together. Fact. They went to her
7 house to get some seizure medicine for their son
8 when he was going to spend the night at their house
9 and needed his medication. Fact. They had an
10 argument. Got heated. They were cussing at one
11 another. Yelling at one another. Using words you
12 wouldn't use in church.

13 Fact. She left for a period and came
14 back. Fact. They had a second argument. Fact.
15 She slapped him in the head with her car keys.
16 Fact. He laughed at her, probably incited the
17 argument a little bit more. Fact. She got out of
18 the car. Fact. She went down Harper Street toward
19 Railroad. Those are the facts undisputed.

20 How does that help you? If you listen
21 to the prosecutor, there had to be a time in which
22 all of that happened, being together all day,
23 having sex, having the son, knowing their son is
24 going to spend the night at this house, Ricky, with
25 a cold blooded, depraved, malicious, mean spirit,

1 god awful, evil devil with horns and tail planned,
2 set out, intentionally, maliciously went into his
3 house, grabbed the knife, grabbed a black jacket,
4 grabbed a hat, grabbed a shirt and chased her down
5 and killed her like a dog. Based on those facts.

6 After fixing her taillight, knowing his
7 son is coming back to his home. He was going to
8 kill his mother. You have to find him guilty based
9 on those facts. You have to find him guilty of
10 being a no good son of a gun. Ready to do that?
11 Is that true? Is he a no good son of a gun? A
12 cold hearted, mean spirited, depraved of any moral
13 fiber in his body? Murderer is not just a
14 murderer, a baby killer. Killed his son's mom.
15 Based on those facts undisputed. Undisputed.
16 Ready to do that? That's what your judgement has
17 to be.

18 Let's go through some more facts.
19 Ricky waited on the hood of the car for a period of
20 time. Cooled off. This is a routine that they
21 have. She gets angry, cools off a little bit. It
22 happened that same night. She had to cool off a
23 little bit. She came back. Second time Ricky
24 decided he better go check on her. Gets to the
25 corner of Railroad and Harper Street. It is dark.

1 Way after 11:00. He knows his family is coming
2 back at some point. His mom took his oldest son
3 back to his mom. And he comes down to the corner
4 of Harper and Railroad and he heard some noise,
5 stop, stop. Hightails it down to Railroad. I will
6 show you the picture in a second. It is dark. Not
7 well lit. What does he find? Ms. Frazier in a
8 pool of blood. His reaction isn't what the hell
9 happened? His reaction is get her help. There is
10 blood everywhere. We will find out what happened
11 later. The police have made -- just a worthless
12 bum because he didn't say what happened. What the
13 reaction should be of any person I submit to you
14 would be oh my, God, there is blood. Let's get
15 help. Let's get the address. What's going on. I
16 need to get an ambulance over here and he takes off
17 his shirt and puts it under her head. He stands
18 next to people who don't speak English.

19 What good are they telling him what
20 happened? I propose the best thing to do is to say
21 oh, my God, let's get some help over here. There's
22 blood everywhere. Something is really awful. He
23 called his mom and said something really bad
24 happened to her. I think she's dead. Undisputed.

25 And he's there. He waits. He is the

1 one who called 911. Nobody else calls 911. Other
2 people standing around there, folks you saw waving
3 the police, they are not the ones who called 911.
4 People coming out of the trailer, they don't call
5 911. Who calls 911? Ricky Short. Undisputed.
6 Fact. He sits there waiting for the police to show
7 up. Police come up. Go oh, my God, you see the
8 picture. I showed it to you. They think he's just
9 a cold blooded killer because he's not showing any
10 emotion. That looks like he is distraught. What
11 the hell happened? What's going on? He's
12 arrested. I don't care what you call it. Within
13 15 minutes of the police showing up he is their
14 suspect. They are looking at him No. 1. They
15 don't wait for facts to come in the case. They
16 have already talked to him, hands behind his back,
17 sitting in the back of a patrol all the time going
18 how is she doing? Call the ambulance. You heard
19 that evidence from him, the testimony undisputed.
20 He's a cold hearted murderer and he is asking about
21 how is his girlfriend doing, telling them she's six
22 months pregnant. I guess he's a cold hearted
23 murderer. That's what they want you to believe.
24 They didn't bring those facts up, did they? We
25 did. The first officer, he confirmed it. He asked

1 about it. Guy called 911, stuck in the back of the
2 car, not worried about himself. How is she doing.
3 That's testimony. You see the picture of his hand
4 over his head going what's going on. What the hell
5 happened. Undisputed fact. Undisputed facts. How
6 about that?

7 That's reasonable doubt. Those facts
8 alone are a reason for you to find him not guilty.
9 That's not a made up fact. That's not a theory.
10 That's fact. You can find him not guilty. If I
11 sit down and shut up right now you can find him not
12 guilty. You have a reason to find him not guilty
13 based on what I just told you within your
14 parameters. It's a reasonably logical thing
15 knowing those facts.

16 Now, police come. He's in a patrol
17 car. Police label him as a witness, person of
18 interest. He is not a crime suspect. So two
19 officers come out, Officer Bordallo and Officer
20 Riedel. They speak Spanish. They have two Spanish
21 speaking officers there. They determine, the
22 police determine, not Peter Shahid, they determine
23 that those Hispanic witnesses are what? Just some
24 fly by people who happened to be outside watching
25 all this going on. Well, no. Oh, no. They are

1 eyewitnesss. Eyewitnesss. What does an eyewitness
2 mean? With my own eyes I observe firsthand what
3 happened. I as the eyewitness know who took this
4 knife or some knife and stabbed that woman 30
5 times. I have that information. I possess it. I
6 can tell you what happened. And of course that
7 person sat right here in this witness chair, didn't
8 they? That person sat right in this witness chair
9 and told you what they recounted happened that
10 night, didn't they? Oh, I am sorry. Forgot about
11 that. Knowing that they are Hispanic, knowing that
12 they are transient, that person was not kept here.
13 They didn't keep tabs on this witness, most
14 important witness in this whole case is absent.
15 Just like that chair is right now, empty.

16 What did they do with that most
17 important witness, the most critical witness they
18 could find? The eyewitness who could identify,
19 perhaps shed some light on what took place? Took
20 her down to the police station, gave her some
21 coffee, sat her down, recorded her statement.
22 Oops. Forgot about that part.

23 Didn't do that either, did they? All
24 the commotion going around, the EMS truck is there,
25 bunch of police cars are around there. Sitting

1 outside. Go to the little park outside. Take her
2 statement. She ain't here to tell us what
3 happened. A piece of information we could have
4 used. Maybe wouldn't even be here right now. We
5 don't know that. Empty chair. Guess what, folks?
6 Reasonable doubt. That's reasonable doubt. One
7 thing we know for certain undisputed, one thing we
8 know for certain, the police possessed information
9 the eyewitness had given them and in spite of the
10 eyewitness account that the police had right after
11 the police show up, interview the witness, is that
12 Ricky is not a suspect.

13 What does that tell you? You can draw
14 your conclusions from that. Reasonable doubt.
15 Reasonable doubt. Based on the interview at the
16 scene at that hour at that time based on the
17 eyewitness account Ricky is not a prime suspect.
18 By the way, where are these two live witnesses when
19 the police show up? Next to Malakia Frazier. And
20 who is next to Malakia Frazier when they show up?
21 Ricky Short.

22 Now, if Ricky Short was the person who
23 stabbed her and the two eyewitness are right there,
24 you think those two eyewitnesses would be jumping
25 up and down going arrest this guy, arrest this guy.

1 He killed her. We saw it. Here's the guy right
2 there. Arrest him. These are eyewitnesses. He is
3 standing right next to them on his knees. Guess
4 what? Reasonable doubt.

5 You don't have to rely on science.
6 Reasonable doubt. How about that. There's more.
7 There's more. He did not become a suspect until
8 after they tell us that his stories are
9 inconsistent. Well, inconsistent with whom? With
10 what? With whom? What inconsistencies? Have we
11 heard from the inconsistent witnesses? You saw on
12 the tape all these other folks waving these police
13 on. Where are those people to tell us what are the
14 inconsistencies. I'm going to be waving like they
15 are waving. Hey, police officer, tell us about
16 inconsistencies. Where are they? Reasonable
17 doubt. Reasonable doubt. I am not making this up.
18 You heard all this from the witness stand. He
19 doesn't become a suspect, a primary suspect, until
20 4:30 in the police's eyes. That's when they read
21 him the Miranda warning. The police say they are
22 out to get the truth. That's fair. That's what we
23 want the police to do. They got a job to do. It
24 is tough. These guys, they worked the case pretty
25 hard. It is not easy being a police officer. We

1 expect a lot out of them and we should. That's
2 their job. We want them to protect us. We want
3 them out there solving crimes. That's their job.

4 They are supposed to be in the
5 courtroom right now watching the trial. That's
6 their job. But also this interview is 12 hours
7 long. Twelve hours long. You come in with this
8 advisement of rights, you take that back with you
9 in the jury room.

10 Ricky had one simple question. Am I a
11 suspect? Well, sort of dance around that a little
12 bit. And also we don't want to tip our hand. If
13 you are looking for Mr. Short to give you honest
14 answers why is it so hard for you to give him an
15 honest response? How does that tip your hand? How
16 does that tell you about what they know? Okay, the
17 police are allowed to lie a little bit, hold things
18 back, not telling the suspect who they believe who
19 did it and everything. That's police protocol. I
20 got it. Yell at him, they scream at him, cuss at
21 him, tell him to shut up? To be subjected to five
22 sets of interviews in a 12-hour period first by
23 Detective Bailey, then by Detective Bailey and
24 Detective Riedel and Officer Johnson and Captain
25 Johnson. Five sets. Five sets. I bet it was just

1 the way they were describing it hey, Ricky, enjoy
2 yourself, baby. He's in there for 12 hours without
3 a shirt on. Didn't sleep. Straight. The mother
4 of his child just died. I'm sure it was lovely and
5 pleasant for him.

6 The bad cop, good cop routine. I guess
7 we are human beings. Officer Johnson in there
8 questioning him. I guess he could have given
9 better responses. My goodness gracious, folks,
10 after 12 hours of being in that room one pee break
11 what would you expect him to say? Are you going to
12 fault him for all the things he should have done
13 better?

14 After 12 hours of interrogation after
15 you have been lied at, screamed at, told to shut
16 up, demeaned. I guess so. Maybe that's the idea
17 of guilt beyond a reasonable doubt. It's not.
18 It's not guilt beyond a reasonable doubt.

19 The police had the opportunity and they
20 did take a swab and stick it in Ricky's mouth and
21 get his DNA. They had the opportunity available to
22 them to take a swab and swab his hands of blood and
23 answer that question for us. Is that blood on your
24 hands or not? They didn't do that. I guess that's
25 reasonable doubt too. It could be.

1 They had an opportunity to test his
2 shoes. Is there blood on the shoes? Is there
3 grass on the shoes that he ran through the yards
4 with a footprint back there on Fuller Street area
5 backyards? No. Did you try to match his shoes up
6 with any footprints back there? No. Guess what?
7 That's reasonable doubt. You don't have that
8 information. That's almost as blatant as the empty
9 chair. Reasonable doubt. Did they test the blood
10 on his knees? No. Reasonable doubt.

11 Now, let's go over the police's theory
12 on this case. Sort of like the Beatles magical
13 mystery tour. So this is their theory of what
14 happened. Ricky and girlfriend are sitting in
15 their car almost all day, argument one and two.
16 They buy that. They get heated. She slaps him
17 with the keys she gets mad. So she walked down the
18 street and he sees this as an opportunity to go in
19 the house, grab the knife and jacket, wait a few
20 minutes. She goes all the way down to here. Ricky
21 chases her down here. This is their theory of the
22 case. Stabs her at this point. She runs away from
23 him and finally comes to this point right here.

24 Eyewitness come up, watch what's going
25 on, Ricky then runs off and he runs down somehow

1 and circles back around and dumps the clothes right
2 here. Dumps the clothes, gets back to this house
3 over here, circles back and comes all the way back
4 over here while the two people are standing there
5 and he's the first one to call 911. Nobody saw him
6 except maybe I guess because we don't know the
7 eyewitnesses I because they are not -- nobody else
8 in this residential area heard her screams, saw
9 anything, saw him run through the woods, saw him go
10 over Mr. Wilson's fence. Mr. Wilson didn't see
11 anything either. Dump this stuff, go by this house
12 and come back all the way over here. He did that
13 within the time frame that they weaved. Then he
14 called 911.

15 That's their theory of the case. Now,
16 just doesn't make any sense. She has her car keys.
17 Her car is here. She is coming back. Why kill
18 someone in the residential area over here? He
19 knows she's coming back sooner or later. Car is at
20 his house. But physically the time frame of him
21 doing all that just doesn't add up. Doesn't make
22 any sense. That's reasonable doubt.

23 The police Sergeant Webb, very nice
24 fellow, testifies when he finds these items they
25 were inconsistent with the surrounding area. When

1 he finds the knife, sees it right here, the jacket
2 and the thermal shirt. Here is State's Exhibit
3 No. 51. Y'all take the picture back to your room
4 with you and look at that picture and tell me where
5 the moisture is on this knife. Tell me where the
6 moisture is on that knife. Should be a drop of
7 water somewhere on that knife. Certainly when you
8 have to move it you can see the water. Look at the
9 water. Right here. Right here. Right here. Over
10 here. Certainly when you move the grass around,
11 that vegetation around, certainly you expect water,
12 don't you think? What does that tell you? It
13 tells you that the jacket and the shirt and the
14 knife weren't placed there around 11:30 on Saturday
15 night. Reasonable doubt.

16 Somebody else put it there some other
17 time. Ricky didn't have the opportunity to do
18 that. He's been detained. Back of the patrol car.
19 You look at the photographs they have on there. It
20 is covered in blood certainly. I will show you a
21 picture of the jacket. State's Exhibit 55.

22 This is the right sleeve. If you want
23 to take that jacket out back in the jury room, take
24 some of those gloves with you. Take that jacket
25 out. Look at the right sleeve. Now, if a person

1 is wearing that jacket holding this knife and
2 stabbing somebody 30 times as Mr. Wetmore just
3 demonstrated to you, you got the object in your
4 hand and you are striking and coming up, striking
5 and you are coming up what's happening? Blood is
6 coming out.

7 Now this is their theory, their theory
8 is there is so much blood coming out, it is the
9 police's theory, the State's theory, there is so
10 much blood coming of out repeated, repeated that
11 his hand slips and causes marks, cuts on his hands,
12 okay? They believe he strikes so many times on
13 Exhibit 27 that these cuts are caused by the knife
14 slipping and coming down. What does that mean to
15 you? Think about this for a second. So much blood
16 is coming out, so much liquid coming out I lose the
17 grip of the knife. What should happen? Which
18 should be on the sleeve?

19 Oh, blood along this whole sleeve,
20 don't you think? If you are striking somebody as
21 many times and their story is so such much blood is
22 coming out on their hand that is slipping you would
23 think the blood would slip down their arm, down to
24 their sleeve or the spatter would come and end up
25 on their sleeve? I'm not making this up. You can

1 use your common sense. You are entitled to use
2 that. We encourage you to use your common sense.
3 Wouldn't there be a puddle of blood, some blood, a
4 drop of blood? Something? Of course DNA folks
5 came and testified oh, yeah, we found her blood on
6 the sleeve right here. Well, they did a scraping
7 of the cuff and the neck. Not a blood scraping, a
8 scraping for dead cells, DNA. Look at the jacket.
9 I am not making this up. That's right here. The
10 blood she noticed, folks, is right here which they
11 don't test and right here where they cut up.
12 That's the blood they tested. Not on the sleeve.
13 No evidence about that whatsoever. But it must
14 have been so much blood his hand slipped. That's
15 why the cut is on his fingers.

16 By the way, Mr. Wetmore didn't mention
17 this little tid bit of information. Police went in
18 Ricky's home, his trailer. Defendant's Exhibit,
19 Exhibit No. 6, you know what they found? They
20 found a drawer full of steak knives. Oh. I am
21 sorry. They didn't.

22 Now, folks, if there is anything of
23 evidentiary value that came out of that house don't
24 you think we would see that as Exhibit No. 1 or 2
25 or 3 or 10? I would take that knife out of that

1 house and put it up to this knife right here and go
2 oh, look what we found? Lo and behold Exhibit 1
3 and Exhibit 2. This knife came out of momma's
4 home. Look at it, folks. It's identical or very
5 similar. Set of steak knives. The police went to
6 the house. Two officers testified nothing of any
7 value came out of it. Guess what? That's
8 reasonable doubt. That's reasonable doubt.

9 There's more. Let me talk about the
10 DNA stuff. Now, when we think about DNA it's
11 really good evidence. It really is. It's science.
12 Some good stuff. One thing that DNA cannot do, DNA
13 evidence cannot tell you how long it's been there.
14 There's no time limit on DNA. To infinity and
15 beyond I guess, but there's no time limit on DNA.
16 We know that from when people go off and try to
17 find their ancestors. That's why I asked that
18 question of one of the SLED folks. We also know
19 that from them they didn't start testing this
20 material until six months after October of 2015.
21 In once instance they waited almost a year
22 and-a-half before they tested it. So what you
23 should get from that is a very clear understanding
24 when did that DNA get there? We don't know. We
25 don't know how it got there or the time sequence

1 that got it there. We don't know when this jacket
2 and thermal shirt and knife got there. We don't
3 know. We just don't know.

4 So it tells us that at some point in
5 time somebody wore the jacket, someone's blood is
6 on this jacket, someone handled the knife, someone
7 wore that thermal shirt. That's what we know.
8 That's what they call the ownership part of it.
9 That's a fact. That's what we know about DNA. Let
10 me go through some of the stuff with you on the
11 DNA. One of the last things they talked about was
12 the nail clippings, the left and right nail
13 clippings of Ms. Frazier and the clippers. Well,
14 lo and behold the major contributor on the nail
15 clippers is Ms. Frazier. Well, of course they are.
16 The clippers used to clip the fingernails. I guess
17 that was a surprise to them. Guess what? The
18 clippings from her right are from two folks. One
19 of them is Ms. Frazier. I guess we didn't know
20 that. So we are a little surprised. But it
21 doesn't tell you who the other person was. We are
22 not sure of the second person. From the left there
23 are two folks. Ricky is the major. Ricky is the
24 major. Now, that just -- if Malakia Frazier
25 contributed that, it's her nail clippings.

1 Wouldn't you think the nail clippings from the
2 person they take it from would be the major? Okay.
3 It's one in six gazillion, whatever number we can't
4 wrap our heads around statistically. But on the
5 left clippings it is two folk and Ricky is the
6 major, but she's not. Now, guess what? They had
7 sex. They are intimate, touching their bodies all
8 over one another. I asked the analyst from SLED
9 isn't it possible that maybe having sex and you
10 find Ricky's dead cells underneath her nail
11 clippings? Yeah. We are supposed to be surprised
12 about that. Okay.

13 Talk about the thermal shirt. Remember
14 the words they used when they did the clippings?
15 Looked like blood? Presumptive blood. Presumptive
16 blood. Now, that sort of struck me as a little odd
17 because it's not conclusive blood. They presume it
18 is blood. They did a little testing and it changed
19 colors. Presume it is blood, but they are not
20 telling you it's blood. We think that it is blood,
21 but the DNA is that of Ms. Frazier. We know that
22 from the thermal shirt. But from under the arm
23 section of the thermal shirt is both Ricky and her.
24 Not the presumptive blood part. It means they both
25 wore it. What evidence is there she wore it? What

1 person came in here and told you when Malakia
2 Frazier wore that shirt? DNA is DNA. So she wore
3 the shirt. When? How? How long ago? That's the
4 question that DNA does not answer for you. It
5 doesn't tell you the date and time in the
6 occurrence of the DNA being on there. It's there.
7 Okay? The knife. Reasonable doubt. No
8 fingerprints. Not one. They dusted. Couldn't
9 find one fingerprint. Guess what's not on the
10 blade of the knife? Blood. Blood. There's no
11 blood on the blade of the knife, this area that's
12 striking the poor woman 30 times. There is not a
13 speck of blood. Reasonable doubt. Reasonable
14 doubt. No fingerprints, no blood.

15 How long has their
16 DNA been on that? There's two spots, one is a
17 presumptive blood, the other was a swab. Not the
18 blood. A swab meaning at that point they both
19 handled it. Reasonable doubt. The jacket I went
20 over with you about the blood not being on the
21 sleeve. I mentioned earlier to you they found her
22 blood up here. When was that blood placed there?
23 We don't know. It is her blood. Her presumptive
24 blood. Where is the blood on the sleeve? Not
25 tested. They didn't test the blood on this part.

1 Who else's blood could have been on here? We don't
2 know. Reasonable doubt.

3 The jacket has him wearing it. He wore
4 it. We don't know when that got there.
5 Interesting thing about the DNA is the boxer
6 shorts. No. 11. Now, boxer shorts, take the bag
7 out and look at the bag. It's the same boxer
8 shorts you see right there. If you look at the
9 picture Ricky kneeling down you can see why the
10 blood is on his boxer shorts. Pretty obvious.
11 Guess what? After having sex, I don't want to be
12 too graphic with you, you put your pants back on.
13 Touching your body. No DNA is coming back from
14 Ricky on those boxers. Ricky's DNA is not shown on
15 those pants. He has got them on, there they are.
16 We know he's got them on. DNA is good evidence.
17 It is pretty reliable stuff. But how reliable is
18 DNA when it can't even pick up the man's own DNA on
19 his pair of underwear?

20 Now we talk about the hat. Just by
21 magic shows up. Poof. Just shows up. No one
22 bothered to check the coat to see about the hat.
23 You would think that someone put the hat on their
24 head, I'm kind of bald, maybe my hair follicles
25 wouldn't show up on that, but certainly if I am

1 running through the woods wearing that cap chasing
2 around to get rid of the stuff here I would be
3 sweating and my DNA would show up on the hat. They
4 got three people wearing the hat. Three people.
5 Some magical mystery hat that shows up in the
6 jacket and they can't tell us who it is. Somebody
7 else. A stranger. If you don't want to believe
8 that Ricky gave it to a homeless person maybe that
9 helps you a little bit understand that maybe he did
10 give it to a homeless person. Think about that for
11 just a second. The hat is found in the jacket with
12 someone they can't identify as three people and the
13 hat is inside the jacket meaning somebody who
14 possessed the hat wore it who is not affiliated
15 with any of this. Perhaps. Guess what, folks?
16 That's reasonable doubt. That's reasonable doubt.

17 I'm going to talk to you about
18 something and I will sit down, something that's
19 unpleasant. And that's about the viability of this
20 young child. I don't want to talk about it, but
21 you need to hear it. It's unpleasant. This child
22 you have -- the judge will instruct you about
23 viability. It reads as follows. The judge will
24 read to you. Viable means or viability means that
25 stage of human development when the fetus is

1 potentially able to live outside of the mother's
2 womb with or without the aid of artificial aid life
3 support systems. For the purposes of this chapter
4 or this definition the legal presumption is thereby
5 created by viability occurs no sooner than the 24th
6 week of pregnancy. No earlier than and this being
7 the 24 week and five days.

8 Now, you have to make a decision
9 whether or not that child was viable. That's going
10 to seem unpleasant you. That's part of your
11 obligation. The medical testimony is that fetus
12 developed at that stage is 50 percent rate of
13 mortality, 50/50 rate. I submit to you, folks,
14 50/50 is not reasonable doubt. Reasonable doubt is
15 beyond 50 percent.

16 We know for certain that this child was
17 born way premature and I didn't mean to be flippant
18 when I asked the medical examiner those questions,
19 but she was trying to explain to us about how this
20 child was developed with the arms and legs and the
21 eyes and mouth and the lips. I wasn't being
22 flippant. Those are important parts of our body
23 obviously, we want our fingers and our toes, our
24 hands, arms and legs, our nose and lips. That is
25 not essential to us existing. What is essential to

1 us existing are two very important parts of our
2 body, development of our heart and development of
3 our lungs. Lungs got to be able to intake and
4 exhale air.

5 Now, unfortunately or fortunately
6 depending how you about feel about all this stuff,
7 I guess you have to set aside your personal
8 feelings about this. In the Roman Catholic church
9 they have a very clear line, that life the church
10 teaches begins at the point of conception. There
11 is no gray area. Maybe that's the standard we
12 should have. Life begins at the time of
13 conception. Kind of like that idea. Because we
14 know that a fetus eventually grows. It becomes us.
15 Human beings. But that's not the standard with
16 which you are to measure. Not what the Catholic
17 church teaches or your own personal moral feelings
18 about life when it begins or what is viable.
19 Viable begins when that child is able to live
20 outside mom. Lungs are well developed to sustain
21 them. Their heart is well developed to sustain.
22 That just wasn't the case.

23 Because of that you will have to come
24 back with a verdict of not guilty on baby Miracle
25 and that's going to break a lot of people's hearts

1 based on that technicality. But that's the law.
2 The judge will instruct you what I just read. I
3 ask you to do that. The judge is going to instruct
4 you about manslaughter, killing of another human
5 being in the heat of passion. So perhaps you think
6 he did it. Perhaps you just ignore all the
7 examples I have given you about these. You think
8 Ricky did this, killed this woman. Then you need
9 to take into consideration seriously what's called
10 a lesser included offense. That's manslaughter.
11 Manslaughter is the killing of another human being
12 with some kind of heat of passion, some kind of get
13 mad. You have an argument, yell and scream. He
14 lost sight of himself and 30 stab wounds is
15 indicative of a heat of passion crime. Somebody
16 personal and close.

17 So if you disbelieve portions of
18 Ricky's explanation and testimony you have the
19 option of finding him guilty of manslaughter and
20 not guilty of murder.

21 It's a tough case. You have been very
22 attentive, listened to me. I thank you so much.
23 Ricky thanks you for giving him the opportunity to
24 have his day in court. As I said at the very
25 beginning of my statements, this case is not about

1 you or the prosecutor or the police or Ms.
2 Frazier's family. It's about Ricky. After giving
3 to him due care and due consideration I ask you to
4 find him not guilty. Thank you.

5 THE COURT: Ladies and gentlemen of the
6 jury, we are going to take advantage of this break
7 to give you a brief break. During the break please
8 do not discuss the case and please leave your note
9 pads in your seats.

10 (Thereupon, the jury exited the
11 courtroom at 4:09 p.m.)

12 THE COURT: Probably take them about
13 five minutes. Feel free to stretch your legs if
14 you want.

15 (A recess transpired.)

16 (Whereupon the jury entered the
17 courtroom at 4:21 p.m.)

18 THE COURT: Ladies and gentlemen of the
19 jury, we will now resume. Mr. Wetmore, you may
20 proceed when you are ready.

21 MR. WETMORE: Please the Court, last
22 part and you are done. Mr. Shahid told you this
23 case is about the Defendant and he's right. It's
24 about the Defendant. But it is also about those
25 victims as well. This is their week in court.

1 This is their family's week in court. I would
2 agree that the Defendant and the victim had a
3 relatively normal afternoon and evening with each
4 other. But about at 11:00, 11:30 night something
5 changed. They were in an argument. More serious
6 than had been in the past is what he testified to.
7 Defendant said he was angry. And he described the
8 argument as escalating. And there's a pretty good
9 likelihood the victim struck him in the face and he
10 was mad. And she stormed off. He would have you
11 to believe that someone else intervened and stabbed
12 her 30 times. That's just not reasonable. To stab
13 somebody 30 times is very personal. That's not
14 just a random act. And I want you to think about
15 that. That's just not reasonable and to follow
16 their logic you have this couple in a very heated
17 argument that's one of the worst they have ever had
18 and involves a sore subject, child they have and
19 his infidelity and all this stuff. She smacked him
20 and it is not logical that someone else would then
21 stab her 30 times.

22 They mentioned that Hispanic witness
23 and this witness saw what happened. The victim was
24 stabbed and died right at the driveway and she is
25 nowhere to be found. I can tell you that.

1 Certainly looked for her. Police looked for her.
2 Remember this victim died right in her driveway.
3 And I sure think I would probably move too after
4 something like this happened. So please don't
5 fault the police or the State or the victim's
6 family. Don't fault them because the Hispanic
7 witness is no longer here.

8 Now, they made a lot of talk about how
9 long the Defendant was in the interview room and he
10 was not questioned the whole time. There were
11 every bit as many breaks as there were questions.
12 And what comes out from him, from the Defendant, in
13 these interviews is that weeks before he gave the
14 exact jacket used in the crime to a homeless
15 person. And that is not believable. That shows
16 deception. He tells the police that he cut his
17 hands a few days before on thorny flowers downtown.
18 That shows deception and is not believable. And he
19 describes his situation like there's this
20 escalating intense argument for 30 minutes or so.
21 And then he goes back around for round two.
22 There's the smack with the keys and he is telling
23 the detectives that someone else came in and
24 stabbed the victim 30 times and that's just not
25 reasonable. I don't want you to believe that.

1 This is what he is telling these detectives and
2 they don't believe him. I don't believe him. I
3 hope you don't believe him. It's that deception
4 that certainly made this process last a while.

5 In the end he does in my opinion come
6 clean to a certain extent with Captain Johnson.
7 And I urge you to listen to this clip. I trust
8 that you will. To be doing your duty you need to
9 go back there and listen to that. And when you
10 hear it I don't think you are going to say man,
11 that guy was just worn down and just said whatever
12 popped into his head. I don't think you are going
13 to say that. When you hear his words you are going
14 to say no amount, no amount of cussing is going to
15 make him say that he didn't do that. He never says
16 the words it wasn't me. It's not me. You got the
17 wrong guy. He doesn't say that. And rest assured,
18 if I was in that position I would be saying nothing
19 but that. And yet he says everything but that.
20 Please just listen to it. I hope that you can hear
21 it more clearly.

22 Mr. Shahid presented my version of the
23 facts and I don't exactly agree with how he
24 characterized them so I will state them again. By
25 the end of the night the Defendant was wearing a

1 black jacket, long sleeve white thermal shirt and a
2 white T-shirt. Of course he had on jeans. He
3 still had them on when he was arrested. They were
4 sitting outside up here almost midnight in October.
5 It was a little chilly. He put on a jacket and
6 long sleeved shirt. First stage in the argument
7 victim leaves, walks around the neighborhood to
8 cool off. At that point I believe the Defendant
9 went inside and got that knife. They just argued
10 for 30 minutes. This is a nasty argument. And he
11 armed himself.

12 Then so she comes back for round two of
13 the argument. Again a heated argument. Very sore
14 subject and she strikes him. This is when after
15 she left and he said that's it. I'm going after
16 her and he did. I don't believe for a minute he
17 sat out there on top of the car doing nothing for
18 five to seven minutes. I don't believe that at
19 all.

20 I believe she smacked him, she took off
21 and he was right there behind her and I believe
22 that they fussed all the way down this road and
23 right here he caught up to her and that's when he
24 attacked her. And he attacked her and attacked her
25 and attacked her all the way back up here as she is

1 weaving trying to get back to her car which is over
2 here and she falls right there. And what he does
3 is he comes through this wooded residential area,
4 comes out into here, jumps a fence, tucks his stuff
5 down in here and trots right back out to where she
6 is. Didn't take him very long. He didn't go very
7 far.

8 When he goes over here to this spot
9 where they find it right here. He takes off --
10 first of all, he throws down the knife right there.
11 Takes off his jacket and the white shirt and he
12 sheds the outer clothing. Then works his way where
13 she is laying. That's what I think happened. And
14 I hope that you will think the same thing, too.

15 The next person to touch these items
16 right here is the crime scene officer. When the
17 crime scene officer said that the jacket and the
18 shirt were wet. He said they were damp. They so
19 were damp they couldn't be packaged up. They are
20 packaged in these paper bags and they had to put
21 them in a dryer and dry them. They had made a
22 large amount of effort to make a point that this
23 stuff is not wet, it is not wet. Leaves, they are
24 wet. That's not wet. They want you to somehow be
25 confused by it, but the first person, in fact, the

1 only person to touch those items said they were wet
2 and they had to be dried.

3 I do agree with Mr. Shahid's statement
4 that there was a great deal of blood. That means
5 stabs, the doctors describe the disruption of the
6 jugular vein and part of the heart. It is awful.
7 I can't image how much blood there was. It was
8 everywhere and it got all over Defendant's
9 clothing. There's no question about that and if
10 the story ended here I can see how you could say
11 well, you know, looks like it might be him, but,
12 you know, I have a reasonable doubt. If the story
13 ended there I can see how you may have a reasonable
14 doubt.

15 What I want you to do is I want you to
16 think about what evidence you have that resolves
17 those doubts for you and that is the irrefutable
18 science. The knife, the victim and Defendant's
19 blood on it. And something about blood, it doesn't
20 just mean it's been handled in the past throughout
21 history as they would suggest. Blood means that
22 there's an injury present.

23 And so that's important. It is not
24 just a matter of well, maybe I used that to eat a
25 steak a year ago. Doesn't work that way. We are

1 talking about fresh blood. Victim's blood,
2 Defendant's blood on the knife.

3 On the jacket the victims's blood,
4 again not from her wearing the jacket. This is the
5 victim's blood from having a horrible stabbing.
6 And the Defendant's DNA. They don't test every
7 single blood spot on that jacket. They don't do
8 that. They described the process to you. The
9 scientist stood there yesterday and she said we
10 test presumptive. We find all the presumptive
11 spots and we find the one we think is the darkest
12 concentration. That's the one we test. And that's
13 what they did on this jacket. They found the
14 victim's blood and then ownership parts they found
15 the Defendant's DNA.

16 It's the same with the shirt. White
17 shirt. They find the victim's blood. Again, not
18 just a matter of touch the shirt or maybe wearing
19 the shirt, they find her blood which means that she
20 was being stabbed while she was in contact with the
21 shirt. Again, the Defendant's DNA. This takes the
22 case from well, maybe there's a reasonable doubt to
23 no, you are firmly convinced. You should be firmly
24 convinced with this DNA evidence.

25 Further, in the sense of DNA, at the

1 autopsy of Malakia Frazier they clipped her
2 fingernails. What they were looking for was DNA
3 under these fingernails and they found the
4 Defendant's and what they described was high
5 quantities which is indicative of scratching. He
6 has fingernail marks on his face. Look at it.
7 Think about experiences in your life. That looks
8 like a fingernail scratch and not just a swipe of
9 blood that he got on his hands. And the
10 Defendant's own boxers down to his underwear is
11 soaked with the victim's blood. Tested positive
12 for the victim's blood. I would argue that the
13 defense in some fashion mischaracterized the
14 findings of the lab, but you will have their report
15 and you all are smart people. You can read. And
16 it's a little bit of a complicated document, but
17 you can read it. And I think that you will be
18 confident in these findings. I would argue, too,
19 this is incredible to me that they are questioning
20 this DNA. The Defendant himself today on the stand
21 admitted to you that the jacket was his. The
22 jacket found at the scene of the crime. He said
23 that's mine. Same with the shirt. He said well,
24 must be mine.

25 And then the knife. He wouldn't come

1 out say and the knife. He said well, we have some
2 like it. No, the police did not gather any knives.
3 The Defendant himself told you we have some like
4 that so to me strikes me as being a little bit
5 disingenuous to question the DNA that would prove
6 ownership when he himself has testified in this
7 case.

8 On the difficult subject of Miracle
9 Frazier, that baby at the time Defendant assaulted
10 her mother, that baby was viable as defined by
11 South Carolina legislature. Viability means that
12 stage of human development when a fetus is
13 potentially able to live outside the mother's womb
14 with or without the aid of artificial life support.
15 This baby, Miracle Frazier, was 24 weeks, almost
16 25 weeks, over six months, was potentially able to
17 live outside the mother with the aid of artificial
18 life support. And that's just the viability part.
19 The doctors wrestled with that I'm sure as they do
20 probably all the time. I can't imagine what they
21 do. They wrestle with that viability concept and
22 they saw that spark of life and they delivered that
23 baby. So we are past the idea of viability. They
24 achieved viability. Miracle lived for two weeks in
25 the NICU.

1 I have said it before and I will say it
2 again. It is incredibly fundamentally unfair this
3 man could kill the mother such that the baby has to
4 be born premature and escape punishment because the
5 baby is premature. That's just wrong.

6 Now, the weapons charge, possession of
7 a weapon during the commission of a violent crime, I
8 would argue to you that's almost automatic. If you
9 believe he is guilty of either murder or
10 manslaughter that's a foregone conclusion he's
11 guilty of possession of a knife. He has been
12 indicted for murder two counts, one for each victim
13 and you will have the option of voluntary
14 manslaughter, a lesser charge. Again two counts,
15 one for each victim.

16 Now, in listening to his closing
17 argument Mr. Shahid did a great job of raising some
18 questions. I would urge you to listen to those
19 questions, consider them, but in the end look at
20 the big picture whether that is reasonable and
21 think about what is most likely and if you are
22 firmly convinced he's guilty of it.

23 But the best read I can get on their
24 defense is this wasn't me. But if you don't buy
25 that, give me the lesser included offense. That to

1 me appears to be what their position is. Defendant
2 testified today wasn't me. Somebody else. We were
3 in the middle of a passionate argument and it
4 escalated and she stormed off. She hit me and
5 stormed off, but somebody else did this. Very
6 personal killing. Somebody else did this. That
7 was his testimony today.

8 Today he also said to you that the
9 jacket that was involved in the crime he gave to
10 some unknown homeless guy. He cuts his hands on
11 these flowers. Most important this does not add
12 up. I don't want it to make sense to you either.
13 In the midst of this heated argument someone else
14 stabs the victim. He says the jacket is his, shirt
15 must be his, the knife is like his. DNA makes that
16 link for you. You don't have to be concerned about
17 that. The DNA links the Defendant and the victim
18 all to the crime. They would have you to believe
19 it's not me, but if you think it's me give me the
20 lesser included.

21 I would ask you to find him guilty of
22 what he is charged with and that's murder two
23 counts as well as the weapons charge. Thank you.

24 THE COURT: When the Court is giving
25 instructions there's to be no movement in the

1 gallery, please. Check your phones to make sure
2 they are off. If one goes off it will be taken and
3 it will not be returned to you. Does anyone need
4 to go to the restroom?

5 Ladies and gentlemen, you and I have
6 certain duties to perform. As the trial judge it
7 is my responsibility to preside over the trial of
8 this case. I also have the duty to pass upon or
9 rule upon the admissibility of evidence which has
10 been offered during the trial. You are to consider
11 only the competent evidence that is before you.
12 You are to consider only the testimony that has
13 been presented from the witness stand together with
14 any exhibits which have been made a part of the
15 record in this case.

16 I also have the additional duty to
17 charge or instruct you on the law applicable to
18 this case. As the presiding judge I'm the sole
19 judge of the law of this case. And it is your duty
20 as jurors to accept and apply the law as I now
21 state it to you. If you have a preconceived idea
22 as to what the law is or what the law ought to be
23 in a case or in this case and it should not agree
24 with what I now tell you the law is, you are
25 obligated under your oath to abandon this

1 preconception on your part because you are sworn to
2 accept the law and apply the law precisely as I now
3 state it to you.

4 In every case in this court before --
5 tried before a jury the jury becomes the sole and
6 exclusive judges of the facts. You, the jury, are
7 the judges of the facts in this case. This Court
8 is the judge of the law. The Constitution of our
9 state has declared that a trial judge shall not
10 intimate, state, comment upon or make any statement
11 to a trial jury about the facts in a case. Since
12 you, the jury, are the sole judges of the facts in
13 this case you are not to infer anything from what I
14 have said during the progress of this trial in
15 ruling upon the admissibility of evidence or
16 otherwise or anything that I say now to you during
17 the course of this instruction that I have any
18 opinion about this facts. The law does not allow
19 me to have an opinion about the facts.

20 This is a matter solely for you, the
21 jury, to determine. As jurors then it is your duty
22 as I have instructed to determine the effect, the
23 value, the weight and the truth of the evidence
24 presented during this trial. Necessarily you must
25 assess the credibility of witnesses who have

1 testified in this case.

2 Credibility is simply a legalistic term
3 meaning the believability of each witness. It
4 becomes your duty as jurors to analyze and to
5 evaluate the evidence. Some of the things you may
6 consider as you decide whether or not to believe a
7 witness's testimony about a particular matter
8 include what was the manner and appearance of the
9 witness who testified, was he or she
10 straightforward or hesitant in answering, was the
11 testimony of a witness consistent or inconsistent,
12 how did the witness come to know the fact that he
13 or she testified to, or what was his or her ability
14 to know those facts, is there some reason a witness
15 would want to give the testimony that would help or
16 hurt one side or the other, in other words, was the
17 witness biased or prejudiced. And was the
18 testimony of a witness strengthened or weakened by
19 other testimony or evidence.

20 I further instruct you that in
21 determining the question of the credibility or
22 believability of witnesses who have testified you
23 may believe one witness as against several
24 witnesses or several witnesses as against one
25 witness. You may believe a part of the testimony

1 of a witness and reject the remaining part of the
2 testimony of that same witness.

3 If you have a good and sound reason you
4 may believe the testimony of a witness in its
5 entirety or reject the testimony of a witness in
6 its entirety. You may consider the demeanor of a
7 witness, that is, the manner and appearance of the
8 witness from the witness stand.

9 Ladies and gentlemen, you can believe
10 as much or as little of each witness's testimony as
11 you think appropriate. As I have instructed, you
12 are the finders of the facts. And it is for you to
13 give the weight, value and effect to the testimony
14 that you believe it should receive.

15 Our rules of evidence ordinarily do not
16 permit witnesses to testify to opinions or
17 conclusions. An exception to that rule exists for
18 witnesses we call expert witnesses. A witness who
19 by their education, training and experience has
20 become an expert in some art, science, profession
21 or calling may state an opinion as to relevant and
22 material matters in which the witness claims to be
23 an expert and may also state the reasons for the
24 opinion.

25 You should consider any expert opinion

1 received in evidence in this case like any other
2 evidence. Give it the weight you think it
3 deserves. If you decide that the opinion of an
4 expert is not based on sufficient education,
5 training and experience or if you conclude that the
6 reasons given in support of the opinion are not
7 sound or that the opinion is outweighed by other
8 evidence, you may disregard the opinion entirely.
9 An expert witness's testimony is to be given no
10 greater weight than that of other witnesses simply
11 because the witness is an expert. And you are not
12 required to accept an expert's opinion even though
13 it is not contradicted.

14 I further instruct you that there is --
15 there is a statement or statements alleged to have
16 been made by the Defendant which have been admitted
17 into evidence. While the Court has determined that
18 the statement is admissible, I instruct you that
19 you make the ultimate decision of whether or not
20 the Defendant made the statement.

21 If the Defendant did make the statement
22 you must determine whether the statement was made
23 by the Defendant voluntarily and of his own free
24 will. This means that the statement was not caused
25 by pressure, force, fear, threats, coercion or

1 intimidation or hope or a promise, of a leniency or
2 a reward of any kind. In determining whether the
3 statement was voluntary you should consider both
4 the characteristics of the Defendant and the
5 details of the questioning. Some of the factors
6 that you must consider are the age of the
7 Defendant, the Defendant's education or lack of
8 education, the Defendant's mental ability or
9 capacity, the Defendant's IQ or intelligence, the
10 Defendant's background and environment, the place
11 and length of detention, the nature of the
12 questioning, the advice or lack thereof to the
13 Defendant of his constitutional rights, including
14 but not limited to the right to remain silent, that
15 any statement could be used against him in a court
16 of law, the right to have a lawyer present, that if
17 he could not afford a lawyer a lawyer would be
18 appointed to represent him without any cost and
19 that he could stop making a statement at any time.

20 You must carefully consider all of the
21 surrounding circumstances before you give any
22 weight to an alleged statement. The State has the
23 burden of proving beyond a reasonable doubt that
24 the alleged statement was voluntary. If you
25 determine it was you may give the statement any

1 further consideration that you deem proper. You
2 must decide what weight, if any, should be given to
3 the alleged statement. If you determine the
4 alleged statement was not the free and voluntary
5 statement of the Defendant you should not consider
6 the statement at all.

7 Ladies and gentlemen, there are two
8 types of evidence which are generally presented
9 during a trial, direct evidence and circumstantial
10 evidence. Direct evidence is the testimony of a
11 person who claims or asserts to have actual
12 knowledge of a fact such as an eyewitness.
13 Circumstantial evidence is proof of a chain of
14 facts and circumstances indicating the existence of
15 a fact. The law makes absolutely no distinction
16 between the weight or value to be given to either
17 direct or circumstantial evidence, nor is a greater
18 degree of certainty required of circumstantial
19 evidence than of direct evidence. And as I have
20 explained, crimes may be proven by circumstantial
21 evidence and the law makes no distinction between
22 the weight or value to be given to either direct or
23 circumstantial evidence. However, to the extent
24 the State relies on circumstantial evidence all of
25 the circumstances must be consistent with each

1 other and when taken together point conclusively to
2 the guilt of the accused beyond a reasonable doubt.
3 If these circumstances merely portray the
4 Defendant's behavior as suspicious the proof has
5 failed.

6 The State has the burden of proving the
7 Defendant guilty beyond a reasonable doubt and this
8 burden rests with the State regardless of whether
9 the State relies on direct evidence, circumstantial
10 evidence or some combination of the two.

11 Ladies and gentlemen, you should weigh
12 all of the evidence in this case. After weighing
13 all of the evidence if you are not convinced of the
14 guilt of the Defendant beyond a reasonable doubt,
15 you must find the Defendant not guilty.

16 Conversely, if you are convinced of the
17 guilt of the Defendant beyond a reasonable doubt
18 then you must find him guilty. I instruct you the
19 fact that the Defendant was arrested, charged and
20 indicted is not evidence in this case and cannot be
21 considered by you as evidence of guilt in this
22 case, nor does it create a presumption or inference
23 of guilt.

24 This documentation, ladies and
25 gentlemen, are simply the formal written

1 instruments which contain the charge or charges
2 made against a Defendant. They simply serve as the
3 formal documentation by which the case is processed
4 or brought into this court. The Defendant has pled
5 not guilty to the indictments and that plea puts
6 the burden on the State to prove the Defendant
7 guilty because a person charged with committing a
8 criminal offense in South Carolina is never
9 required to prove himself innocent. I instruct
10 you, madam forelady, ladies and gentlemen, that it
11 is an important rule of the law of evidence that
12 the Defendant in a criminal trial no matter what
13 the seriousness of the charge or charges made
14 against him may be will always be presumed innocent
15 of the crime for which he is indicted unless his
16 guilt has been proven by evidence satisfying you of
17 his guilt beyond a reasonable doubt.

18 The presumption of innocence does not
19 cease when you retire to deliberate, but it
20 accompanies the Defendant from the time of his
21 arraignment throughout the trial until you reach a
22 verdict in this case. Our Supreme Court has said
23 that the presumption of innocence is like a robe of
24 righteousness placed about the shoulders of the
25 Defendant. And it remains with him and assigns him

1 to that class the innocent until that presumptive
2 robe of righteousness has been stripped from his
3 person by evidence satisfying you of guilt beyond a
4 reasonable doubt.

5 Madam forelady, ladies and gentlemen,
6 the presumption of innocence is not a mere legal
7 theory. It is not just a legal phrase. It is a
8 substantial right to which every Defendant is
9 entitled unless you, the jury, are satisfied from
10 the evidence of his guilt beyond a reasonable
11 doubt. The State has the burden of proving the
12 Defendant guilty beyond a reasonable doubt. Some
13 of you may have served as jurors in civil cases
14 where you were told that it was only necessary to
15 prove that a fact is more likely true than not true
16 such as by the greater weight of the evidence or
17 the preponderance of the evidence.

18 In criminal cases the State's proof
19 must be more powerful than that. It must be beyond
20 a reasonable doubt. Proof beyond a reasonable
21 doubt is proof that leaves you firmly convinced of
22 the Defendant's guilt. There are very few things
23 in this world that we know with absolute certainty.
24 And in criminal cases the law does not require
25 proof that overcomes every possible doubt. If

1 based on your consideration of the evidence you are
2 firmly convinced that the Defendant is guilty of
3 the crime charged, you must find the Defendant
4 guilty.

5 If on the other hand, you think there
6 is a real possibility that the Defendant is not
7 guilty you must give the Defendant the benefit of
8 that doubt and find him not guilty. The Defendant
9 is charged with murder. The State must prove
10 beyond a reasonable doubt that the Defendant killed
11 another person with malice aforethought. Malice is
12 hatred, ill will or hostility towards another
13 person. It is the intentional doing of a wrongful
14 act without just cause or excuse and with an intent
15 to inflict an injury or under circumstances that
16 the law will infer an evil intent. Malice
17 aforethought does not require that malice exists
18 for any particular time before the act is
19 committed, but malice must exist in the mind of the
20 Defendant just before and at the time the act is
21 committed.

22 Therefore, there must be a combination
23 of the previous evil intent and the act. Malice
24 aforethought may be express or inferred. These
25 terms, express and inferred, do not mean different

1 kinds of malice, but merely the manner in which
2 malice may be shown to exist. That is either by
3 direct evidence or by inference from the facts and
4 circumstances which are proven. Express malice is
5 shown when a person speaks words which express
6 hatred or ill will for another or when a person
7 prepared beforehand to do the act which was later
8 accomplished.

9 For example, lying in wait for a person
10 or any other act of preparation going to show that
11 the deed was within the Defendant's mind would be
12 express malice. Malice may be inferred from
13 conduct showing a total disregard for human life.
14 I instruct you that facts are proven beyond a
15 reasonable doubt sufficient to raise an inference
16 of malice to your satisfaction. This inference
17 would simply be an evidentiary fact to be taken
18 into consideration by you along with the other
19 evidence in the case and you may give it the
20 weight, value and effect you decide it should
21 receive.

22 I further instruct you that under the
23 doctrine of transferred intent the actor's intent
24 to kill his intended victim is said to be
25 transferred to his actual victim. All that is

1 required of murder is the mental state of malice
2 provided by the attempt to kill a human being
3 coupled with an act which caused the death of a
4 human being.

5 I further instruct you that under South
6 Carolina law viability means that state of human
7 development when the fetus is potentially able to
8 live outside the mother's womb with or without the
9 aid of artificial life support assistance. I
10 instruct you that if you find the State has failed
11 to prove beyond a reasonable doubt that the
12 Defendant committed murder, you may consider
13 whether the State has proven beyond a reasonable
14 doubt that the Defendant committed voluntary
15 manslaughter.

16 To prove voluntary manslaughter the
17 State must prove beyond a reasonable doubt that the
18 Defendant took the life of another in the sudden
19 heat of passion based on sufficient legal
20 provocation. Both heat of passion and sufficient
21 legal provocation must be present at the time of
22 the killing to constitute voluntary manslaughter.
23 Sudden heat of passion may for a time affect a
24 person's self-control and temporarily disturb a
25 person's reason. The sudden heat of passion must

1 be of the type that would make an ordinary person
2 unable to coolly reflect on his actions and would
3 produce an uncontrollable impulse to do violence.
4 Sufficient legal provocation must be the type that
5 would make a person of ordinary reason and caution
6 become enraged and to lose control temporarily.
7 The provocation needed for voluntary manslaughter
8 must come from some act related to the victim. I
9 further instruct you that words alone, however
10 vulgar or insulting, are not enough to be legal
11 provocation. Where a death is caused by the use of
12 a deadly weapon the words must be accompanied by
13 some overt threatening act which could have
14 produced the heat of passion.

15 The exercise of a legal right no matter
16 how offensive it is to another is never sufficient
17 legal provocation for voluntary manslaughter. I
18 further instruct you that if the heat of passion
19 had cooled or if there was enough time between the
20 provocation, if any, and the killing for the
21 passion of a reasonable person to cool, the killing
22 would not be voluntary manslaughter.

23 In deciding whether or not a reasonable
24 person would have had enough time to cool off you
25 should consider all the circumstances surrounding

1 the killing. You may consider the nature of the
2 provocation, if any, the Defendant's mental and
3 physical state and circumstances and relationships
4 between the parties.

5 The Defendant is also charged with
6 possession of a weapon during the commission of or
7 attempt to commit a violent crime. The State must
8 prove beyond a reasonable doubt that the Defendant
9 visibly displayed a knife during the commission of
10 a violent crime. A knife means an instrument or
11 tool with a sharp cutting blade whether or not
12 fastened to a handle which can be used to inflict a
13 cut, slash or wound. In order to find the
14 Defendant guilty of possession of a weapon during
15 the commission of a violent crime you must first
16 find the Defendant guilty of committing a violent
17 crime or attempting to commit a violent crime.

18 I instruct you that murder is a violent
19 crime as defined by South Carolina law. The State
20 must also prove beyond a reasonable doubt that the
21 weapon further advanced or helped in the commission
22 of the crime.

23 An issue, ladies and gentlemen, is the
24 identification of the Defendant as the person who
25 committed the crime charged. The State has the

1 burden of proving identity beyond a reasonable
2 doubt. You must be satisfied beyond a reasonable
3 doubt of the accuracy of the identification of the
4 Defendant before you may convict the Defendant.
5 Identification is an expression of belief or
6 impression by a witness. You must determine the
7 accuracy of the identification of the Defendant.
8 You must consider the believability of each
9 identification witness in the same way as any other
10 witness. You may consider whether the witness had
11 an adequate opportunity to observe the offender at
12 the time of the offense. This will be affected by
13 things like how long or short a time was available,
14 how far or close the witness was, the lighting
15 conditions and whether the witness had a chance to
16 see or know the person in the past. Once again, I
17 instruct you the burden of proof on the State
18 extends to every element of the crime charged and
19 this specifically includes the burden of proving
20 beyond a reasonable doubt the identity of the
21 Defendant as the person who committed the crime.

22 If after examining the testimony you
23 have a reasonable doubt as to the accuracy of the
24 identity you must find the Defendant not guilty. I
25 further instruct you that mere presence at the

1 scene is not sufficient to prove someone guilty of
2 a crime. The burden is on the State to prove every
3 element of the crime charged. If you find after
4 reviewing all the evidence that the State has
5 proven that the Defendant was only present at the
6 scene of a crime and that they have not proven
7 beyond a reasonable doubt any other participation
8 in the crime, then you must find the Defendant not
9 guilty.

10 The law is that the proof of at the
11 scene of the crime is not sufficient to find
12 someone guilty. I instruct you, ladies and
13 gentlemen, there are three indictments in this
14 case. 2016-GS-10-1699, murder, 2016-GS-10-1700,
15 murder and 2016-GS-10-1710, possession of a weapon
16 during the commission of a violent crime.

17 I instruct you that each indictment
18 charges a separate and distinct offense. You must
19 decide each indictment separately on the evidence
20 and the law applicable to it uninfluenced by your
21 decision as to any other indictment. The Defendant
22 may be convicted or acquitted on any or all of the
23 offenses charged and you will be asked to write a
24 separate verdict of guilty or not guilty for each
25 indictment.

1 Ladies and gentlemen, you have heard
2 some reference in the testimony concerning the
3 potential penalty a person can receive for an
4 alleged indictment. In determining the guilt or
5 innocence of the Defendant, you cannot consider any
6 possible penalty for any particular crime. The
7 punishment for a crime is a matter for the Court to
8 determine and should never be considered by you in
9 any manner whatsoever in arriving at a fair and
10 impartial verdict in this case.

11 There are two -- well, actually there
12 are three possible verdicts on two of the
13 indictments and two possible verdicts on the third
14 indictment. I will go over these with you.
15 There's no significance whatsoever to the order in
16 which I state these potential verdicts. It is
17 simply that one must be stated first and you don't
18 have to try to write any of this down because the
19 verdict forms are in writing and they will go into
20 the jury room with you. Before I go over those I
21 will re-enforce for you that your verdict must be
22 unanimous which means that all 12 of you must agree
23 in order to reach a verdict.

24 And the verdict options are as follows:
25 For each of the murder indictments we the jury

1 unanimously find the Defendant guilty of murder or
2 as to the lesser included offense guilty of
3 voluntary manslaughter or not guilty. And as to
4 the possession of a weapon during the commission of
5 a violent crime we the jury unanimously find the
6 Defendant guilty of possession of a weapon during
7 the commission of a violent crime or not guilty.
8 Again, there's no significance whatsoever to the
9 order in which these potential verdicts must be.
10 It's simply that one has to be stated first.

11 And again, ladies and gentlemen, your
12 verdict must be unanimous which means that all 12
13 of you must agree in order to reach a verdict.
14 Madam forelady, once the jury has reached a
15 unanimous verdict it is your responsibility to fill
16 out the verdict forms, to sign and date the forms
17 and then likewise knock on the door and advise the
18 bailiffs that the jury has reached a unanimous
19 verdict on each indictment.

20 Also, if the jury has any questions
21 during the deliberations it is your responsibility
22 to write out those questions in longhand on your
23 note pad, to sign and date the note and then again
24 knock on the door and advise the bailiffs that the
25 jury has a question.

1 Ladies and gentlemen, if you have any
2 questions during deliberations please know there
3 will be a delay in our response and that is because
4 there is a procedure that we must follow in
5 answering your questions. So know if you have a
6 question there will be a delay, the Court is not
7 ignoring you. Also, madam forelady, any notes that
8 are provided to the Court should never provide any
9 numerical breakdown of the jury. Your jury
10 deliberations are secret and those matters should
11 never be disclosed to the Court.

12 Also, I want to let you all know it's
13 5:05. I want you to know that you are not held
14 hostage at the courthouse. If at any time you wish
15 to go home and resume your deliberations on another
16 day you are free to tell the Court that. But I
17 don't want you to think that we will have you here
18 all night if that's not your desire. So we will
19 abide by your wishes. If you reach a point in the
20 deliberations when you wish to go home just let me
21 know and we will just resume your deliberations on
22 Monday.

23 So I wanted you to know that, don't
24 feel deliberation and the deliberative process
25 should never feel stressful and you should never

1 feel that you are for lack of a better word being
2 held hostage here with us. So if you should reach
3 a point you wish to go home please let the Court
4 know.

5 I am going to ask that you return to
6 the jury room. Don't yet begin your deliberations.
7 I have some brief matters of law that may require
8 further instruction or clarification of an
9 instruction. However, if there is no further
10 instructions we will send in the verdict forms and
11 all of the evidence and your note pads and excuse
12 the alternate and at that time you will be allowed
13 to begin your deliberations. Leave your note pads
14 in your seats and go with the bailiffs, please.

15 (Thereupon, the jury exited the
16 courtroom at 5:06 p.m.)

17 THE COURT: I noticed a scrivener's
18 error on both murder verdict forms. I'm going to
19 correct those before they go back to the jury. I
20 wanted to make you aware I'm going to do that. Are
21 there any exceptions to the charge from the State?

22 MR. WETMORE: No, Your Honor.

23 THE COURT: From the defense?

24 MR. SHAHID: No, ma'am.

25 THE COURT: Guys, if you could just

1 indulge me and go through the evidence one more
2 time and make sure everything is there before I
3 excuse the alternate and allow the jury to begin
4 their deliberations.

5 MR. SHAHID: Judge, I already have.

6 THE COURT: Everything is there?

7 (Off-the-record conference.)

8 THE COURT: Sir, thank you for your
9 time and your attention to this case. I know being
10 an alternate might seem thankless, but it really is
11 such a vital service. It is necessary for the
12 jury. You are welcome to remain if you wish, but
13 you are welcome to go as well. If you want to stay
14 let the bailiffs know and we will find a room for
15 you to occupy yourself while the jury is
16 deliberating. You're welcome to discuss the case
17 if you would like, but I would ask that you not do
18 that until the entire panel has been discharged.
19 Do you need a work excuse before you leave today?

20 THE JUROR: Yes, I do.

21 THE COURT: When the deputy clerk comes
22 up they will have it for you because everybody has
23 probably gone downstairs. Your check will be
24 mailed to you. I just wanted to excuse you with
25 the Court's profound thanks. If you will go with

1 Ms. Erica she will put you in a room and as soon as
2 the clerk comes back we will get you a work excuse.

3 THE JUROR: Thank you.

4 THE COURT: Thank you so much. The
5 jury has begun its deliberations at 5:15. We will
6 await further instructions from them.

7 (Thereupon, the jury began deliberating
8 at 5:15 p.m. and reached a verdict at 6:34 p.m.)

9 (Following proceedings were held at
10 6:39 p.m.)

11 THE COURT: I am advised the jury has
12 reached a verdict. Anything before I receive the
13 verdict from the State?

14 MR. WETMORE: No, Your Honor.

15 THE COURT: From the defense?

16 MR. SHAHID: No, Your Honor.

17 THE COURT: I will say for the benefit
18 of the gallery I know this has been an emotionally
19 charged situation; however, I do not expect there
20 to be audible signs when the verdicts are read. If
21 there are I am instructing the security staff to
22 take care of it as necessary.

23 (Whereupon the jury entered the
24 courtroom at 6:42 p.m.)

25 THE COURT: Madam forelady, has the

1 jury reached a verdict?

2 THE FORELADY: Yes.

3 THE COURT: If you would give the
4 verdict forms to the bailiff for me, please.

5 THE BAILIFF: (Handing.)

6 THE COURT: Madam clerk. Sir, if you
7 would stand for the announcement of the verdict.

8 THE CLERK: In the State of South
9 Carolina versus Ricky Anthony Short as to
10 indictment number 2016-GS-10-1699 we the jury
11 unanimously find the Defendant guilty of murder.
12 Signed the foreperson April 20th, 2018.

13 In the State South Carolina versus
14 Ricky Anthony Short as to indictment number
15 2016-GS-10-1700 we the jury unanimously find the
16 Defendant guilty of murder. Signed the foreperson
17 April 20th, 2018.

18 State of South Carolina versus Ricky
19 Anthony Short as to indictment number
20 2016-GS-10-1701 we the jury unanimously find the
21 Defendant guilty of possession of a weapon during
22 the commission of a violent crime. Signed the
23 foreperson April 20th, 2018.

24 THE COURT: Madam forelady, ladies and
25 gentlemen of the jury, if this is your verdict

1 please raise your rights hands. Let the record
2 reflect that all 12 raised their right hand and the
3 verdict stands.

4 You may take your seat. Is there any
5 request to poll the jury from the State?

6 MR. WETMORE: No, Your Honor.

7 THE COURT: From the defense?

8 MR. SHAHID: Yes, ma'am.

9 THE COURT: Ladies and gentlemen, the
10 clerk is going to ask you two questions. She is
11 going to call out your number and your name. She
12 is going to ask you if this is your verdict and is
13 this still your verdict. And if you would answer
14 accordingly. You may proceed.

15 THE CLERK: When I call your juror
16 number please raise your hand to identify yourself.
17 Juror No. 231, is this your verdict?

18 JUROR NO. 231: Yes.

19 THE CLERK: Is this still your verdict?

20 JUROR NO. 231: Yes.

21 THE CLERK: Juror No. 96, is this your
22 verdict?

23 JUROR NO. 96: Yes.

24 THE CLERK: Is this still your verdict?

25 JUROR NO. 96: Yes.

1 THE CLERK: Juror No. 158, is this your
2 verdict?

3 JUROR NO. 158: Yes.

4 THE CLERK: Is this still your verdict?

5 JUROR NO. 158: Yes.

6 THE CLERK: Juror No. 288, is this your
7 verdict?

8 JUROR NO. 288: Yes.

9 THE CLERK: Is this still your verdict?

10 JUROR NO. 288: Yes.

11 THE CLERK: Juror No. 184, is this your
12 verdict?

13 JUROR NO. 184: Yes.

14 THE CLERK: Is this still your verdict?

15 JUROR NO. 184: Yes.

16 THE CLERK: Juror 268, is this your
17 verdict?

18 JUROR NO. 268: Yes.

19 THE CLERK: Is this still your verdict?

20 JUROR NO. 268: Yes.

21 THE CLERK: Juror No. 311, is this your
22 verdict.

23 JUROR NO. 311: Yes.

24 THE CLERK: Is this still your verdict?

25 JUROR NO. 311: Yes.

1 THE COURT: Juror No. 90, is this your
2 verdict?

3 JUROR NO. 90: Yes.

4 THE CLERK: Is this still your verdict?

5 JUROR NO. 90: Yes.

6 THE COURT: Juror No. 182, is this your
7 verdict?

8 JUROR NO. 182: Yes.

9 THE CLERK: Is this still your verdict?

10 JUROR NO. 182: Yes.

11 THE CLERK: Juror No. 223, is this your
12 verdict?

13 JUROR NO. 223: Yes.

14 THE CLERK: Is this still your verdict?

15 JUROR NO. 223: Yes.

16 THE CLERK: Juror No. 209, is this your
17 verdict?

18 JUROR NO. 209: Yes.

19 THE CLERK: Is this still your verdict?

20 JUROR NO. 209: Yes.

21 THE CLERK: Juror No. 136, is this your
22 verdict?

23 JUROR NO. 136: Yes.

24 THE CLERK: Is this still your verdict?

25 JUROR NO. 136: Yes.

1 THE CLERK: Your Honor, the jury has
2 been polled. The verdict stands.

3 THE COURT: Thank you. Ladies and
4 gentlemen, we thank you for your time and your
5 attention to this case. I know that jury service
6 may seem thankless. People often laugh when I say
7 this during jury qualifications, but real court is
8 not like what you see on television. I hope
9 firsthand you have had the ability to learn that
10 and how very vital your role is as finders of the
11 facts as well as how vital your service is to us.
12 Charleston County is one of the busiest counties in
13 the state. We hold jury trials, at least two civil
14 and two criminal every week with the exception of
15 holidays and the two times during the year that
16 judges have mandatory continuing legal education.
17 So you can well imagine we have a lot of work to
18 dispose of and while there are many instances where
19 the Court acts as the finder of fact, the majority
20 of what we do requires your services.

21 So I hope you know how very important
22 your service is to us. You are welcome to discuss
23 this case if you would like. Sometimes lawyers
24 will reach out to you to get sort of a common sense
25 perspective on how a case is tried and how they can

1 THE COURT: Would the State like to
2 respond?

3 MR. WETMORE: Judge, I will rely on my
4 earlier responses.

5 THE COURT: The Court will rely on its
6 earlier rulings that were made contemporaneously
7 and incorporate them as stated verbatim within this
8 portion of the record. In addition, I would note
9 that this basically came down to a credibility
10 case. And there was while not necessarily any
11 eyewitnesss in the form of direct evidence, there
12 was certainly substantial circumstantial evidence
13 which would reasonably tend to prove the
14 Defendant's guilt that went far beyond simply being
15 suspicious in its nature and there is evidence,
16 abundant evidence, to support the jury's findings
17 and so the motions or motions as renewed are
18 denied.

19 I will be glad to hear from -- the
20 State want to go first or who wants to go first?

21 MR. WETMORE: I can go first, Judge.
22 On one hand Mr. Short has a limited prior record of
23 a 2008 possession of marijuana, DUS. On the other
24 he has been convicted, he stands guilty of two
25 counts of murder.

1 you still have to impose it.

2 MR. WETMORE: Exactly.

3 THE COURT: You can't run it
4 consecutive.

5 MR. SHAHID: That's my understanding,
6 Judge.

7 THE COURT: Sir, on both of the murder
8 charges you are sentenced to the State Department
9 of Corrections for a period of life. On the
10 possession of a weapon you are sentenced to five
11 years. Those sentences are concurrent with one
12 another. You will get credit pursuant to 24-13-30
13 to be calculated and applied by the Department of
14 Corrections. Thank you very much.

15 (These proceedings were concluded at
16 6:58 p.m., April 20, 2018, Charleston County, South
17 Carolina.)

18

19

20

21

22

23

24

25

NORTH CHARLESTON POLICE DEPARTMENT

ADVICE OF CONSTITUTIONAL RIGHTS

OCA: 2015-03-1868

Full Name: Ricky Anthony Short

Date of Birth [REDACTED]

Age: 26 Grade Completed in School 12TH

~~Diploma~~ (GED) Wesley Gray HS 2007

I, Ricky Anthony Short, have been advised by Det. Riedel of the North Charleston Police Department that:

I have the absolute right to remain silent and do not have to answer any questions or give a statement and this fact cannot be used against me. RS

If I do answer questions or give a statement, anything I say can and will be used against me in a court of law. RS

I have the right to consult with a lawyer of my choice before I answer questions or give a statement and also have him/her present while I am being questioned. RS

If I wish to talk to a lawyer or have him/her present, but I am unable to afford to hire a lawyer, one will be appointed to represent me free of charge. RS

If I decide to answer questions or give a statement without having a lawyer present representing me, I have the absolute right during this interview to stop answering questions and to remain silent. RS

I FULLY UNDERSTAND EACH OF THESE RIGHTS EXPLAINED TO ME:

Witness: [Signature]

Signature: Ricky Short

Witness: [Signature]

Having these rights in mind, I wish to waive these rights and answer questions. No threats, force, or promises of any kind have been made to me by anyone to cause me to waive these rights and/or answer questions.

Witness: [Signature]

Signature: Ricky Short

Witness: [Signature]

Date: 10/11/2015

Time: 0426



STATE OF SOUTH CAROLINA

County of Charleston

City of North Charleston

SEARCH WARRANT

BODY OF

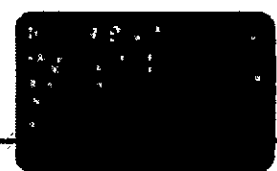
Ricky Anthony Short

BLACK MALE, DATE OF BIRTH

10/11/2015

NCPD//OCA: 2015031868

Officer: Det. MPO R.F. Bailey // NCPD



STATE OF SOUTH CAROLINA

SEARCH WARRANT

COUNTY OF CHARLESTON
CITY OF NORTH CHARLESTON

TO ANY BONDED LAW ENFORCEMENT OFFICER OF THIS STATE OR COUNTY OR OF THE
MUNICIPALITY OF NORTH CHARLESTON

It appears from the attached affidavit that there are reasonable grounds to believe that certain property subject to seizure under provisions of Section 17-13-140, 1976 Code of Laws of South Carolina, as amended, is located on the following premises:

DESCRIPTION OF PREMISES (PERSON, PLACE OR THING)
TO BE SEARCHED

-See Attached Affidavit-

Now, therefore, you are hereby authorized to search the subject premises for the property described below and to seize such property if found:

DESCRIPTION OF PROPERTY

-See Attached Affidavit-

This Search Warrant shall not be valid for more than ten days from date of issuance.

A written inventory of all property seized pursuant to this Search Warrant shall be made to Issuing Judge within ten days from the date of this warrant, such inventory to be signed by the officer executing this warrant, and a copy of such inventory shall be furnished to the person whose premises are searched if demand for such copy is made.

A copy of this Search Warrant shall be delivered to the person in charge of premises searched at the time of such search if practicable, and if not, to such person as soon thereafter as is practicable; in the event the identify of the person in charge is not known or if such person cannot be found after reasonable diligence in attempting to locate the person, a copy shall be attached to prominent place on such premises.

Charleston, S. C.
October 11th 2015.
11:43 am

[Signature] (L.S.)
Signature of Judge

**STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON
CITY OF NORTH CHARLESTON**

AFFIDAVIT

Personally appeared before me, one Secundo, who being duly sworn, says that there is probable cause to believe that certain property subject to seizure under provisions of Section 17-13-140, 1976 Code of Laws of South Carolina, as amended, is located on the following premises in this County:

DESCRIPTION OF PROPERTY SOUGHT

The property to be collected is a buccal swab from the inside of the suspect's Ricky Anthony Shorts' mouth. The defendant has a date of birth of [REDACTED], or the standard acceptable medical practice of drawing blood from the defendant's vein by needle.

DESCRIPTION OF PREMISES (PERSON, PLACE OR THING)

The person to be searched is Ricky Anthony Short, a black male with the date of birth of [REDACTED]. The above subject is approximately five feet and ten inches and weighs approximately 150 pounds. Ricky Anthony Short is currently in custody at the North Charleston Hall (2500 City Hall Ln.) Detective Bay.

**REASON FOR AFFIANT'S BELIEF THAT THE
PROPERTY SOUGHT IS ON THE SUBJECT PREMISES**

On October 10, 2015 at approximately 11:20 PM North Charleston Police responded to the area of Graham and Railroad Ave. which is located in the city of North Charleston in the Ferndale Community to reports of an assault that just occurred. Upon officers arrival they found the victim Malakia Frazer lying on the ground with multiple stab wounds to her neck, chest, and abdomen area. Also on scene was the listed defendant (Ricky Anthony Short) whom the two share a child in common and the victim was pregnant with another. The defendant was brought back to City Hall where he was being questioned as a possible witness in this case. However, upon further investigation and observations of the defendant's hands and face it appeared that he may have been involved. The defendant had small cuts and abrasions on his face, along with a slice marking on his right hand to include his index, middle, and pinky finger. This mark was all in the same direction and appeared to be made at the same time and with the same instrument. It was later determined after the defendant was given his Miranda Rights which he waived that he and the victim were in fact engaged prior to her death in a verbal and physical altercation in front of his residence of [REDACTED] Harper St. The defendant stated that the victim left the residence on foot towards Railroad Ave. at which time moments later he also went that direction in an attempt to talk with her. The defendant stated that he heard the victim screaming for someone to "Stop" as he came near Railroad Ave. and he began to run to her. However upon him rounding the corner on foot he did not notice anything except for the victim lying on the ground with people standing over her. Those witnesses stated that they were arriving home when they observed a black male wearing a black jacket assaulting the victim on the ground near their residence. They then drove away from the area stopping at a different location to use a phone to call 911 since their cell phones were dead. They were unable to use a phone at that location so they returned home to find the victim lying, bleeding in front of their house on the side of the road, but the subject was gone. While standing there the defendant showed up taking his white t-shirt off and putting it under the head of the victim. The witnesses will be unable to identify the subject they viewed. A black Old Navy Jacket, and steak knife with blood on both were discovered in the path of direct flight from suspect by detectives on Fuller St. The jacket was positively identified by the defendant's mother to be his.

The evidence collected consists of DNA samples that will be tested and compared to the evidence found during the course of this investigation. Affiant is informed and believes that material evidence of guilt will be found by obtaining a buccal swab from Ricky Anthony Short to obtain his DNA profile, which can be compared to evidence collected from the incident. The DNA sample will be obtained by swabbing the inside of Ricky Anthony Short's mouth with a sterile swab and a proper chain of custody will be maintained. Affiant is further informed and believes that Ricky Anthony Short has been suspected of committing a serious crime and there is no other less obtrusive means to obtain the biological sample from him. Obtaining the sample will not threaten his health or safety and possesses no major intrusion upon his person. The community's high interest in fairly and accurately determining the guilt or innocence of Ricky Anthony Short will be served by performing this requested procedure. For all these reasons, it is important that the DNA profile derived from the buccal swab collected from Ricky Anthony Short be compared with the DNA profiles of other evidence collected in this case.

Sworn to and Subscribed before me

this 11th day of October, 2015.

[Signature]
Signature of Judge

(L.S.)

11:43am

[Signature] 236
Affiant

Address: 2500 City Hall Lane.
North Charleston, SC 29418 Phone: 343-740-5874

NORTH CHARLESTON POLICE DEPARTMENT

ADVICE OF CONSTITUTIONAL RIGHTS

OCA: 2015031868

Full Name: Ricky Anthony Short

Date of Birth 

Age: 26 Grade Completed in School 12TH

~~Diploma~~ (GED) Wilson Gray HS 2007

I, Ricky Anthony Short, have been advised by Det. Greer of the North Charleston Police Department that:

I have the absolute right to remain silent and do not have to answer any questions or give a statement and this fact cannot be used against me. RS

If I do answer questions or give a statement, anything I say can and will be used against me in a court of law. RS


I have the right to consult with a lawyer of my choice before I answer questions or give a statement and also have him/her present while I am being questioned. RS

If I wish to talk to a lawyer or have him/her present, but I am unable to afford to hire a lawyer, one will be appointed to represent me free of charge. RS

If I decide to answer questions or give a statement without having a lawyer present representing me, I have the absolute right during this interview to stop answering questions and to remain silent. RS


I FULLY UNDERSTAND EACH OF THESE RIGHTS EXPLAINED TO ME.

Witness:  114

Signature: 

Witness:  #111

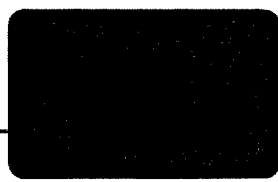
Having these rights in mind, I wish to waive these rights and answer questions. No threats, force, or promises of any kind have been made to me by anyone to cause me to waive these rights and/or answer questions.

Witness:  114

Signature: 

Witness:  #111

Date: 10/11/2015 Time: 0426



BMW/0309719
WITNESSES

North Charleston Police Department

AGENCY CASE NUMBER
2015-031868

ARREST WARRANT NUMBER
2015A1021000988

DATE OF ARREST
10/11/2015

ACTION OF GRAND JURY

TRUE BILL

APR 12 2016

Foreperson of Grand Jury

Date:

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2016-GS-10-01699

The State of South Carolina
County of Charleston

COURT OF GENERAL SESSIONS
APRIL TERM 2016

THE STATE

VS.

RICKY ANTHONY SHORT
B/M DOB: [REDACTED]

Indictment for

MURDER

SC Code: § 16-03-0010
CDR Code: 0116

FILED

4/15/2016 9:55:14 AM
JULIE J. ARMSTRONG
CLERK OF COURT

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

INDICTMENT

At a Court of General Sessions, convened April 2016, the Grand Jurors of Charleston County present upon their oath:

MURDER

That in Charleston County, South Carolina on or about October 10, 2015, the defendant, Ricky Anthony Short, with malice aforethought, did kill and murder Baby (emergency delivery) "Miracle" Frazier by means of causing the complications of a premature birth due to the Murder of her mother, and Baby (emergency delivery) Frazier did die in Charleston as a proximate result thereof on or about October 24, 2015; in violation of §16-3-10 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



BURNS MALONE WETMORE
ASST. SOLICITOR.

BMW/0309719
WITNESSES

DOCKET NO. 2016-GS-10-01700

North Charleston Police Department

The State of South Carolina

County of Charleston

AGENCY CASE NUMBER

2015-031868

COURT OF GENERAL SESSIONS

APRIL TERM 2016

FILED

4/15/2016 9:55:14 AM
JULIE J. ARMSTRONG
CLERK OF COURT

ARREST WARRANT NUMBER

2015A1010204490

DATE OF ARREST

10/11/2015

THE STATE

VS.

ACTION OF GRAND JURY

TRUE BILL

RICKY ANTHONY SHORT

B/M DOB: [REDACTED]

APR 12 2016

Foreperson of Grand Jury

Date:

VERDICT

Indictment for

MURDER

SC Code: § 16-03-0010
CDR Code: 0116

Foreperson of Petit Jury

Date:

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

INDICTMENT

At a Court of General Sessions, convened April 2016, the Grand Jurors of Charleston County present upon their oath:

MURDER

That in Charleston County, South Carolina on or about October 10, 2015, the defendant, Ricky Anthony Short, with malice aforethought, did kill and murder Malakia Frazier by means of stabbing and cutting, and Malakia Frazier did die in Charleston County as a proximate result thereof on or about October 10, 2015; in violation of §16-3-10 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



BURNS MALONE WETMORE
ASST. SOLICITOR

BMW/0309719
WITNESSES

North Charleston Police Department

AGENCY CASE NUMBER
2015-031868

ARREST WARRANT NUMBER
2015A1010204488

DATE OF ARREST
10/11/2015

ACTION OF GRAND JURY

TRUE BILL

[Signature] APR 12 2016
Foreperson of Grand Jury Date:

VERDICT

Foreperson of Petit Jury Date:

DOCKET NO. 2016-GS-10-01701

The State of South Carolina
County of Charleston

COURT OF GENERAL SESSIONS
APRIL TERM 2016

THE STATE

VS.

RICKY ANTHONY SHORT
B/M DOB: [REDACTED]

Indictment for

POSSESSION OF A WEAPON DURING
THE COMMISSION OF A VIOLENT
CRIME

SC Case #: 15-23-0490
CDR Code: 0549

FILED

4/15/2016 9:55:14 AM
JULIE J. ARMSTRONG
CLERK OF COURT

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

INDICTMENT

At a Court of General Sessions, convened April 2016, the Grand Jurors of Charleston County present upon their oath:

POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME

That in Charleston County, South Carolina, on or about October 10, 2015, the Defendant, Ricky Anthony Short, did possess a firearm or did visibly display what appeared to be a firearm or did visibly display a knife during the commission of or attempted commission of a violent crime, to wit: Murder; 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.



BURNS MALONE WETMORE
ASST. SOLICITOR

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,



Robert M. Dudek
Chief Appellate Defender

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

ATTORNEY FOR APPELLANT

This 8th day of November, 2019.

RECEIVED
NOV 08 2019
SC Court of Appeals