

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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SC Court of Appeals

Appeal from Charleston County

Honorable Perry M. Buckner, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

GREGORY KYLE GREEN,

APPELLANT

APPELLATE CASE NO 2019-001924

RECORD ON APPEAL

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**THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:
STATE’S EXHIBIT NOS. 116, 122, 123, AND 124 (FACEBOOK POSTS)
STATE’S EXHIBIT NO. 102 (JAIL CALL)**

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1 Q. And I would imagine throughout all that time you've
2 had to undergo special training, is that right?

3 A. Yes.

4 Q. Can you describe in general what that training was?

5 A. Yes. So for general pathology we complete training
6 in anatomic and clinical pathology, that's all of
7 pathology. In that time we complete 50 autopsies at a
8 minimum and then that allows us to sit for our boards,
9 our certification exams.

10 After that I completed my forensic fellowship, which
11 requires an additional 250 autopsies at a minimum. And
12 that allows us to sit for our board certifications in
13 forensic science and forensic pathology.

14 Q. So you mentioned you had to undergo or sit through
15 250 autopsies. Can you tell us any idea how many you've
16 been through total?

17 A. Over 1000.

18 Q. Do you have a medical license?

19 A. Yes.

20 Q. So can you describe what the autopsy process is
21 like?

22 A. The autopsy process is the examination of the body
23 both externally and internally for the purpose of
24 determining the cause and manner of death. That begins
25 by examining the body as we receive it. We take

1 photographs. We make documentation of what clothing and
2 materials are on the body. Then we do an external
3 examination looking for any natural disease, marks and
4 scars; any injuries.

5 We proceed to an internal examination. Again, we
6 examine internal organs for any natural disease, injuries
7 or any other findings that would be significant to the
8 case.

9 MR. WARING: Your Honor, at this point the State
10 would seek to declare the witness an expert in the field
11 of forensic pathology.

12 THE COURT: Any objection as to qualifications?

13 MS. STEWART: No, Your Honor.

14 THE COURT: Ladies and gentlemen of the jury
15 recalling my earlier instruction to you concerning expert
16 testimony this witness is qualified without objection in
17 the field of forensic pathology. You may proceed counsel
18 without objection.

19 MR. WARING: Thank you, Your Honor.

20 Q. [Mr. Waring] Now Doctor Phillips, were you involved
21 in this case in the autopsy of Freeman Rivers?

22 A. Yes.

23 Q. Tell the jury how you got brought into that?

24 A. As with every case that we do we get a call or an
25 email notification from the Coroner informing us of a

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1 case that will be coming our way. They give us a small
2 amount of history and transport the body to our facility.

3 Q. Do you know the date the victim died?

4 A. The Coroner gave us a date of the 8th of June, 2017.

5 Q. And for the autopsy itself can you tell us when that
6 was performed?

7 A. That was performed on the 9th of June, 2017.

8 Q. Did you in fact conduct the autopsy on the victim?

9 A. Yes, I did.

10 Q. Now can you take us through take the jury through
11 procedurally what you did with the victim during the
12 autopsy?

13 A. Yes. So I began by taking photographs of the body
14 as I received it. We documented any clothing, personal
15 effects and other items that are on the body. We
16 performed X-rays. We took fingernail clippings, pulled
17 scalp hair and other samples that were on the body.

18 Did an external examination and identified the
19 injuries that were on the decedent's body, made a
20 documentation of that. And then proceeded to the
21 internal examination where we documented the additional
22 injuries that were inside the body and removed the
23 projectiles that were in the body.

24 And at the end of that I made an autopsy report
25 documenting all of my findings.

1 Q. Now you mentioned injuries. Can you describe to the
2 jury what injuries were present?

3 A. Yes. The decedent had four gunshot wounds to the
4 head and a few blunt injury type findings on the face.
5 There was additional thermal injuries or fire related
6 injuries on the body.

7 Q. At some point were you able to determine what the
8 cause of death was?

9 A. Yes.

10 Q. And what is the cause of death?

11 A. Gunshot wounds to the head.

12 Q. Did you notice anything suspicious about anything
13 that was around the victim's neck?

14 A. The decedent has a fragment of wire cord that was
15 loosely resting on the neck.

16 Q. Did that raise any red flags?

17 A. It raised a concern for possible strangulation and
18 because of that we did an anterior neck dissection where
19 we looked at the subcutaneous tissues and muscles of the
20 anterior neck looking for any underlying injury that we
21 may not have seen on the skin.

22 Q. Now you said the cause of death was gunshot wound.
23 Did strangulation have anything to do with that?

24 A. I did not find any evidence of strangulation.

25 Q. Now Doctor in your opinion if someone were to have

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1 dragged the victim with that cord that was around his
2 neck would that have necessarily caused any ligature
3 marks?

4 A. It could have caused ligature marks. Likelihood of
5 that having occurred I could not give a specific
6 percentage estimation.

7 Q. All right. Now what about soot? Was there any soot
8 in the victim's airways?

9 A. There was no soot in the victim's airways.

10 Q. Please tell the jury what that means.

11 A. Soot is the material that comes from a fire. And if
12 a person is alive while the fire is there that may have
13 inhaled the products of that fire they may end up with
14 sooty material in the upper airways and in the distal
15 airways going to their lungs.

16 Q. You mentioned blunt trauma to his face, right?

17 A. Yes.

18 Q. Could hypothetically that have been caused by the
19 butt of a gun?

20 A. That is possible.

21 Q. Was there blunt trauma to other areas of his body?

22 A. I have predominately blunt trauma to the face
23 including around the eyes, the lips. He did have a few
24 staggered contusions of the chest and left forearm.

25 Q. All right. Now I want to talk about the bullets for

1 a minute. You said there were four bullets, right?

2 A. Yes.

3 Q. Are you able to offer any opinion about the
4 trajectory entrance slash exit?

5 A. Yes.

6 Q. Can you offer that to the jury please?

7 A. I can. So the first gunshot wound to the head it
8 was to the left side of the back of the head. That
9 projective went in and disrupted the skin, subcutaneous
10 tissues; the tissue underlying the skin, the muscles at
11 the back of the head and the soft tissues on the left
12 side of the neck.

13 And that's where that projectile came to rest. It
14 went from back to front and slightly downward on the left
15 side. The second gunshot wound is to the right side back
16 of the head.

17 That one went in and disrupted the skin, and again
18 the subcutaneous tissues; the tissues underneath the
19 skin, causing some hemorrhage underneath the scalp. And
20 that's where it came to rest. It did not penetrate into
21 the skull. And that was just going from back to front.

22 The third gunshot wound also to the back of the head
23 on the right went in, disrupted the skin subcutaneous
24 tissue, the muscle in the back of the head and some soft
25 tissue on the right side of the neck before coming to

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1 rest. And that one was going from back to front and
2 slightly down on the right side. The fourth gunshot
3 wound was to the right side of the head near the
4 attachment of the ear.

5 That one was going through disrupting the skin,
6 subcutaneous tissue muscles of the head, some soft
7 tissues on the right side of the neck, the mandible,
8 which is the jawbone, then the right carotid gland and
9 the submandibular glands, which are salivary glands that
10 lie right alongside your jawbone, and then a major vessel
11 on the right side of the neck before coming to rest in
12 the soft tissues of the neck.

13 And that one runs from front to back, right to left,
14 and slightly down.

15 Q. So three out of four are you saying went from back
16 to front and then the other one went from front to back?

17 A. Yes.

18 Q. Would all four of these shots been fatal?

19 A. Individually no.

20 Q. Can you tell us a little bit more about that?

21 A. The three gunshot wounds that were to the back of
22 the head did not damage any major organs or vessels that
23 would have led to death.

24 The fourth gunshot wound went through a large vessel
25 in the neck which would have caused hemorrhage or

1 bleeding and that by itself would have caused death.

2 Q. So just that one shot?

3 A. Yes.

4 Q. And that was the one that was front to back?

5 A. Yes.

6 Q. Not how badly was the victim burned?

7 A. Not very badly. It involved a small percentage of
8 the body and it was predominately superficial burn
9 injury.

10 Q. And you already said the cause of death was gunshot
11 wound, correct?

12 A. Yes.

13 Q. So there was no indication that carbon monoxide
14 poisoning or any fire injuries were the cause of death,
15 correct?

16 A. Correct.

17 Q. Now doctor, did you do an autopsy report?

18 A. Yes, I did.

19 Q. And in preparation for trial were you asked to come
20 up with a diagram for trial?

21 A. Yes.

22 MR. WARING: Court's indulgence, Your Honor.

23 [Whereupon, Mr. Waring confers with Ms. Stewart]

24 MR. WARING: Your Honor, may I approach the
25 witness?

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1 THE COURT: You may.

2 Q. [Mr. Waring] Doctor Phillips, I'm showing you what
3 has been marked for identification purposes only as
4 State's exhibit 106.

5 [Whereupon, the witness is shown exhibit]

6 Q. Can you tell us what that is?

7 A. This is a diagram prepared by me indicating where
8 the gunshot wounds and bullets that we recovered are in
9 the body.

10 Q. And is that a fair and accurate depiction of the
11 victim's injuries?

12 A. Yes.

13 MR. WARING: Your Honor, at this point the State
14 seeks to admit exhibit 106 into evidence.

15 THE COURT: As to 106?

16 MS. STEWART: No objection.

17 THE COURT: Ladies and gentlemen of the jury
18 State's exhibit 106 will be admitted into evidence in the
19 trial of this case without objection.

20 [Whereupon, State's exhibit number 106 is entered
21 into evidence by the Court]

22 THE COURT: 106 is in evidence. You may publish to
23 the jury.

24 MR. WARING: Thank you, Your Honor.

25 [Whereupon, the exhibit is shown to the jury]

1 Q. [Mr. Waring] Doctor Phillips, I'm showing you what
2 has just been admitted as State's exhibit 106. Is this
3 the diagram that you were referring to?

4 A. Yes, it is.

5 Q. All right. And I'm going to zoom in up here
6 [indicates]. Are these [indicates] the gunshot wounds
7 that you are referring to?

8 A. Yes.

9 Q. Okay. And now can you tell us what the difference
10 is between the X's that are over here [indicates] and the
11 little circles over here [indicates]?

12 A. The circles indicate where the entrance of the
13 gunshot wound was located on the body and the X's
14 indicate the general region where we recovered the
15 projectiles from the body.

16 Q. Okay. Now Doctor, you can actually touch that
17 screen. Can you show the jury on this diagram by
18 pointing to the entrance and exit wounds starting with
19 bullet A?

20 A. So bullet A goes in here [indicates] at A and that
21 travels front to back to where we recovered it at C.

22 Then the second bullet goes in at B and that goes
23 front to back -- or back to front; I'm sorry, to where
24 projectile recovered A and that is right underneath where
25 it goes in. It does not penetrate into the skull. The

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1 third is gunshot wound C which goes in on the right side
2 back of the head and that goes to bullet B, which is
3 recovered here [indicates] but deep into the subcutaneous
4 tissue and muscle on the neck. And that one is going
5 back to front and slight down.

6 So back of the head is where it enters. The X's on
7 the diagram looks like it's on the skin but it's actually
8 mentioning an area deep in the tissue. So it's going
9 back to front.

10 And the last one gunshot wound D is on the side of
11 the head. I didn't have a side profile on this diagram
12 so it's actually on the side of the head and at the lower
13 part of the ear.

14 That one is going in and coming out at where the
15 bullet D is located on the side there [indicates]. It is
16 deep in the tissue and not superficial on the skin. So
17 that one is going front to back, right to left and
18 slightly down.

19 Q. And just to clarify Doctor, bullet wound D that is
20 the fatal wound, correct?

21 A. Yes.

22 Q. Now Doctor at the autopsy did you remove the
23 bullets?

24 A. Yes, I did.

25 MR. WARING: Your Honor, may I approach the

1 witness?

2 THE COURT: You may.

3 Q. [Mr. Waring] Did you also remove the cord, Doctor?

4 A. Yes.

5 Q. All right Doctor Phillips, I'm showing you what has
6 been marked for identification purposes only as State's
7 exhibit 107 through 113.

8 I'd like to go through one by one though what each
9 exhibit entails starting with exhibit 107.

10 [Whereupon, the witness is shown exhibit]

11 Q. Can you tell the jury what that is?

12 A. This is an X-ray of the head and neck going from
13 side to side so right to left kind of direction. And
14 that is highlighting the projectiles that we see in the
15 body.

16 Q. Thank you, Doctor. Now I'm showing you State's
17 exhibit 108.

18 [Whereupon, the witness is shown exhibit]

19 Q. Can you tell the jury what that is?

20 A. This is also an X-ray of the head and neck and this
21 one is going from front to back; anterior to posterior,
22 again highlighting the projectiles in the body.

23 Q. Now, I'm showing you State's exhibit 109.

24 [Whereupon, the witness is shown exhibit]

25 Q. Can you tell us what this is?

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1 A. This is a photograph taken at time of autopsy of the
2 projectile labeled bullet A.

3 Q. I'm showing you exhibit 110.

4 [Whereupon, the witness is shown exhibit]

5 Q. Can you tell us what that is?

6 A. This is a photograph taken at the time of autopsy of
7 the projectile labeled bullet B.

8 Q. I'm now showing you State's exhibit 111.

9 [Whereupon, the witness is shown exhibit]

10 Q. Please tell us what that is.

11 A. This is a photograph taken at the time of autopsy of
12 the projectile labeled bullet C.

13 Q. I'm now showing you State's exhibit 112.

14 [Whereupon, the witness is shown exhibit]

15 Q. Please tell us what that is.

16 A. A photograph taken at the time of autopsy of the
17 projectile labeled bullet D.

18 Q. And now lastly I'm showing you State's exhibit 113.

19 [Whereupon, the witness is shown exhibit]

20 Q. Can you tell us what that is?

21 A. This is a photograph taken at the time of autopsy of
22 the cord material that was loosely around the decedent's
23 neck.

24 Q. And do exhibits 107 and 108 fairly and accurately
25 depict the victim's X-ray and exhibits 109 through 112

1 fairly and accurately depict the bullets removed from his
2 head, and exhibit 113 fairly and accurately depict the
3 cord removed from around his neck?

4 A. Yes.

5 MR. WARING: Your Honor, at this point the State
6 seeks to admit 107 through 113.

7 THE COURT: As to 107 through 113 inclusive?

8 MS. STEWART: No objection.

9 THE COURT: Ladies and gentlemen of the jury
10 State's exhibit 107, 108, 109, 110, 111, 112, and 113
11 will be admitted into evidence in the trial of this case
12 without objection.

13 [Whereupon, State's exhibit numbers 107 through 113
14 are entered into evidence by the Court]

15 THE COURT: In evidence. You may publish to the
16 jury, Solicitor.

17 MR. WARING: Thank you, Your Honor.

18 Q. [Mr. Waring] Doctor Phillips, the exhibits I just
19 showed you I'd like to put up on the overhead and have
20 you briefly explain for the jury what's going on. So
21 this is exhibit 107, which was just admitted.

22 [Whereupon, the exhibit is shown to the jury]

23 Q. Can you tell us again what is going on here?

24 A. This is an X-ray of the head showing the body from a
25 side to side profile. And we are looking at the

1 projectiles that are in the body. There are four of
2 them.

3 And that's one of the images we will use to help us
4 locate those in the body. And we use that in addition to
5 the anterior posterior image.

6 Q. Are you able to tell which one of those fragments,
7 bullet fragments was the fatal shot?

8 A. I believe it was this one here [indicates].

9 Q. Thank you, Doctor. I'm now putting up State's
10 exhibit 108.

11 [Whereupon, the exhibit is shown to the jury]

12 Q. Can you tell us what's going on there?

13 A. This is the X-ray looking at the body from front to
14 back, anterior to posterior. It only highlights three of
15 the projectiles in the body.

16 Due to the density of the skull we cannot see the
17 fourth that is in the back of the head.

18 Q. Now Doctor, I'm showing you State's exhibit 109.

19 [Whereupon, the exhibit is shown to the jury]

20 Q. Can you tell the jury what that is?

21 A. That is the projectile labeled bullet A that goes in
22 and becomes deformed moderately and it is recovered from
23 the back of the head just on the base -- on the skull.

24 Q. Moving along to exhibit 110.

25 [Whereupon, the exhibit is shown to the jury]

1 Q. Can you tell us what we're looking at here?

2 A. This is the projectile labeled bullet B. It is the
3 projectile that is recovered from the soft tissue on the
4 right side of the neck.

5 And it corresponds to the gunshot wound that was
6 labeled C, which was to the right side back of the head.

7 Q. I'm now putting up State's exhibit 111.

8 [Whereupon, the exhibit is shown to the jury]

9 Q. What are we looking at here, Doctor?

10 A. This is the projectile labeled bullet C. It
11 corresponded to gunshot wound labeled A which was to the
12 left side back of the head. And this was recovered from
13 the left side of the neck.

14 Q. I'm now showing you State's exhibit 112.

15 [Whereupon, the exhibit is shown to the jury]

16 Q. Please tell us what we're looking at here?

17 A. This is the projectile labeled bullet D. It
18 corresponds to gunshot wound D which was to the right
19 side of the head near the inferior attachment of the ear.

20 And this one was recovered from the right side
21 posterior at or back of the neck.

22 Q. And again, was this the fatal shot?

23 A. Yes, it was.

24 Q. Lastly Doctor I'm putting up State's exhibit 113.

25 [Whereupon, the exhibit is shown to the jury]

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1 Q. Can you tell us what we're looking at here?

2 A. These are two fragments of cord that were loosely
3 laying over decedent's neck.

4 MR. WARING: Court's indulgence, Your Honor.

5 [Whereupon, Mr. Waring and Mr. Sowards confer]

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

7 THE COURT: Cross-Examination?

8 MS. STEWART: Yes, Your Honor.

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1	CROSS-EXAMINATION
2	BY MR. STEWART:
3	Q. Good morning, Doctor Phillips.
4	A. Good morning.
5	Q. I just have a few questions for you. You examined
6	Mr. Rivers' body for injuries obviously, right?
7	A. Yes.
8	Q. So he had some gunshot wounds.
9	A. Yes.
10	Q. He also had some other injuries.
11	A. He did.
12	Q. He had contusions.
13	A. Yes.
14	Q. And what is a contusion?
15	A. A contusion is a bruise. It's what you see on your
16	body when you have blunt injury that doesn't break the
17	skin.
18	Q. He had at least one laceration.
19	A. Yes.
20	Q. What's a laceration?
21	A. A laceration is a tear in the skin. It's what you
22	would call a cut that you receive when you have a blunt
23	injury that breaks the skin.
24	Q. But as a forensic autopsy -- forensic pathologist
25	you can't say anything about where these injuries came

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1 from, right?

2 A. No.

3 Q. You are aware of course that Mr. Rivers' body had
4 been in a fire.

5 A. Yes.

6 Q. You also talked with Mr. Waring about blunt trauma
7 to his face.

8 A. Yes.

9 Q. He had asked you if the butt of a gun could cause
10 that kind of injuries.

11 A. Correct.

12 Q. But of course there are a lot of other things that
13 can cause blunt trauma to the face.

14 A. Correct.

15 Q. And you can't say anything about that today.

16 A. I can say that it is blunt trauma and what it is
17 most likely consistent with but I cannot say specifically
18 what caused it.

19 Q. You are also aware that there were some emergency
20 resuscitation efforts, right?

21 A. Correct.

22 Q. You detail those in your report.

23 A. Yes.

24 Q. Can you tell us a little bit about that?

25 A. I can. There were a few electrocardiogram pads, EKG

1 pads, on the torso and the wrists. That's the only
2 documentation I have for emergency resuscitation.

3 Q. So one of those contusions that you mentioned, those
4 bruises was on his chest, right?

5 A. Yes.

6 Q. So that can be consistent with emergency
7 resuscitation efforts.

8 A. The contusions on his chest were located on the left
9 side of the chest. It's possible that those could be
10 related to resuscitation but I would not be able to say
11 for sure.

12 Q. Okay. And again, you said there is no evidence of
13 strangulation, right?

14 A. Correct.

15 MS. STEWART: Beg the court's indulgence.

16 [Whereupon, Ms. Stewart and Ms. Norris confer]

17 MS. STEWART: No further questions.

18 THE COURT: Redirect?

19 MR. WARING: Nothing further, Your Honor.

20 THE COURT: As to this witness?

21 MR. WARING: Please excuse her, Your Honor.

22 THE COURT: Any objection?

23 MS. STEWART: No, Your Honor.

24 THE COURT: Doctor Phillips, you are excused from
25 the trial of this case. You may leave the courtroom.

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1 Thank you very much.

2 THE WITNESS: Thank you.

3 [Whereupon, the witness is excused and exits the
4 witness stand]

5 THE COURT: Call your next witness.

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1 MR. SOWARDS: Thank you, Your Honor. The State
2 calls James Green.

3 [Whereupon, Mr. Green comes forward]

4 [Whereupon, an off the record bench conference is
5 held]

6 THE COURT: Thank you, Peyton. Swear the witness.

7 [Whereupon, the witness is duly sworn by the Clerk
8 of Court]

9 CLERK OF COURT: For the record please state your
10 full name spelling your last name.

11 THE WITNESS: James Green, G-R-E-E-N.

12 THE COURT: Good morning, Mr. Green. How are you
13 this morning?

14 THE WITNESS: I'm doing well. How are you?

15 THE COURT: I'm doing fine. You've got a good
16 voice. Speak up so my jury can hear you. Give me a
17 verbal answer yes or no. No Uh Huh, no Uh Uh. No
18 nodding or shaking the head so Joy can take it down for
19 us all right?

20 THE WITNESS: Yes, sir.

21 THE COURT: Thank you. Your witness, Solicitor.

22 MR. SOWARDS: Thank you, Your Honor.

23 THE COURT: Direct examination.

24 - - - - -

25 JAMES GREEN,

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1 Having been first duly sworn,

2 Was examined and testified as follows:

3 DIRECT EXAMINATION

4 BY MR. SOWARDS:

5 Q. Mr. Green, where do you work?

6 A. I'm employed by the South Carolina Law Enforcement
7 Division commonly referred to as SLED.

8 Q. And what do you do at SLED?

9 A. I'm a forensic firearms examiner in the firearms
10 department of the forensic services laboratory.

11 Q. Could you explain to the jury please what that means
12 and what it entails?

13 A. A forensic firearm examiner looks at firearms
14 ammunition components; fired bullets, fired cartridge
15 cases and if there is a fired gun submitted we examine
16 that as well and test fire it and try to determine
17 whether the fired bullets and/or fired cartridge cases
18 were fired by a particular firearm or not.

19 Q. Please tell the jury about your training and
20 experience in that field.

21 A. Well, I have a Bachelor's and a Master's from
22 Charleston Southern University. But when I was hired at
23 SLED back in 2005 I started the firearm and tool mark
24 course of instruction. It's about a three to three and a
25 half year course of instruction in apprentice type

1 fashion studying under court qualified firearms examiners
2 learning to do what I do now.

3 Q. And could you explain to the jury please the process
4 of firearms examinations specifically with fired bullets?

5 A. Yes, sir. The main tool we use in our examinations
6 is a comparison microscope. Its two microscopes
7 connected by a single optical bridge that lets us look at
8 two objects simultaneously. Mine goes from 6-X to 102-X
9 so varying magnifications.

10 And what we're looking for are tiny microscopic
11 markings or scratches if you will that are imparted on
12 fired bullets as being fired down the barrel.

13 Q. Have you testified in state or federal court before?

14 A. Yes, sir.

15 Q. How many times?

16 A. 83 times; 81 times in state courts and twice in
17 federal.

18 Q. And have you been declared an expert before in
19 firearms identification?

20 A. Yes, sir.

21 Q. How many times?

22 A. All 83.

23 MR. SOWARDS: Your Honor, at this time the State
24 would seek to designate Mr. Green as an expert in the
25 area of firearms identification.

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1 THE COURT: Any objection as to qualification?

2 MS. STEWART: No, Your Honor.

3 THE COURT: Ladies and gentlemen recalling my
4 earlier instruction to you concerning expert testimony
5 this witness is qualified without objection in the field
6 of firearms identification. You may proceed Solicitor
7 with direct examination.

8 MR. SOWARDS: Thank you, Your Honor.

9 Q. [Mr. Sowards] Mr. Green, did you become involved in
10 this case State versus Gregory Green?

11 A. Yes, sir.

12 Q. And how did you become involved in this case?

13 A. When evidence is submitted to the laboratory
14 particularly the firearms department we have an examiner
15 that divvies up or doles out the assignments.

16 And this case happened to be assigned to me so I
17 took custody of the evidence and began to work it.

18 Q. And what evidence did you test in this case?

19 A. I was submitted -- excuse me; four fired bullets
20 were submitted that I looked at.

21 MR. SOWARDS: Beg the court's indulgence.

22 [Whereupon, Mr. Sowards reviews exhibits]

23 MR. SOWARDS: Your Honor, may I approach the
24 witness?

25 THE COURT: You may.

State v Gregory Green
James Green-Direct Examination by Mr. Sowards
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1 Q. [Mr. Sowards] Mr. Green, I'll hand you now what has
2 been marked for identification as State's exhibit 90, 91,
3 92, and 93.

4 [Whereupon, the witness is shown exhibits]

5 Q. Would you take a look at those and tell me whether
6 you recognize them?

7 A. Yes, sir. State's exhibit 90 through 93 are the
8 fired bullets I examined in this case.

9 Q. So 90, 91, 92, and 93 are bullets that you examined?

10 A. Yes, sir.

11 Q. And are they in the same or substantially the same
12 condition as they were when you conducted your analysis?

13 A. Yes, sir. Whenever I package evidence to go to
14 Court or just to return to the submitting agency in case
15 it does go to Court I like to put it in clear Ziploc bags
16 and then heat-seal it across the top or somewhere near
17 the top.

18 And these all -- State's exhibit 90 through 93 all
19 are still in the sealed condition bearing my initials and
20 my date as they were when I sent them back to return.

21 MR. SOWARDS: Your Honor, at this time the State
22 would seek to admit exhibits 90, 91, 92, and 93 into
23 evidence.

24 THE COURT: As to 90 through 93 inclusive, counsel?

25 MS. STEWART: No objection.

State v Gregory Green
James Green-Direct Examination by Mr. Sowards
November 6, 2019

1 THE COURT: Ladies and gentlemen of the jury
2 State's exhibits 90, 91, 92, and 93 will be admitted into
3 evidence in the trial of this case without objection.

4 [Whereupon, State's exhibit numbers 90 through 93
5 are entered into evidence by the Court]

6 THE COURT: You may publish to the jury, counsel.

7 MR. SOWARDS: Thank you, Your Honor.

8 Q. [Mr. Sowards] Mr. Green, you testified that you
9 conducted analysis on these bullets, 90, 91, 92, and 93.
10 What were the results of your analysis?

11 A. Well, the first thing I did when I received the
12 evidence, which I documented how it was packaged, then I
13 filled out our departmental worksheets. And if I'm going
14 to examine evidence and microscopically compare them I
15 want to make sure they are all the same caliber.

16 So I looked at State's exhibits 90 through 93 and
17 determined they were all most consistent with being
18 bullets loaded into .22 long rifle caliber cartridges so
19 we have the same caliber to look at. And then I started
20 microscopically comparing them to come to my answers.

21 Q. And were you able to determine whether they were
22 fired from the same gun?

23 A. No sir, I was not.

24 Q. Is it possible that each bullet was fired from a
25 different gun?

1 A. Yes, sir. The results that I published were an
2 inclusive answer. That's a fancy word we use for I don't
3 know.

4 They were so poorly marked and so poorly engaged in
5 the rifling that I was not able to determine whether
6 State's exhibit 90 through 93 were all fired by one gun
7 or if they were fired by four different guns.

8 Q. And what might cause bullets to fail to engage with
9 the rifling?

10 A. It could be poor rifling or worn-out rifling. The
11 more you shoot a firearm depending on what type of
12 ammunition or the quality of the firearm sometimes
13 rifling is affected and may not have been very good
14 rifling to begin with.

15 Or the damage that the bullet sustains sometimes
16 take out markings or overwrite the markings that we're
17 looking for.

18 Q. Do you have an opinion on whether those bullets
19 could have been fired by say a .357 magnum?

20 A. Yes, sir.

21 Q. What is that opinion?

22 A. Currently I don't know of any conversion kits that
23 lets you fire .22 Rimfire caliber cartridges, which are
24 these State's 90 through 93. Even though they are .22
25 long rifle they are part of the .22 Rimfire family. I

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1 don't know of any conversion kits right now that lets you
2 shoot .22 Rimfire caliber out of like a .357 revolver.

3 MR. SOWARDS: Beg the court's indulgence.

4 [Whereupon, Mr. Waring and Mr. Sowards confer]

5 MR. SOWARDS: No further questions from the State,
6 Your Honor.

7 THE COURT: Cross-Examination?

8 MS. STEWART: Thank you, Your Honor.

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1 CROSS-EXAMINATION

2 BY MS. STEWART:

3 Q. Good morning, Mr. Green.

4 A. Good morning.

5 Q. You were just talking about conversion kits. What's
6 a conversion kit?

7 A. A conversion kit is like a sub-caliber device.

8 There are some conversion kits for .223 caliber rifles
9 that let you convert your centerfire rifle to firing
10 Rimfire ammunition.

11 So you could fire a .22 long rifle in a .223 rifle.
12 There is also some conversion kits for a .45 auto caliber
13 cartridges and .45 auto pistols and .40 caliber pistols
14 that lets you shoot a smaller caliber ammunition in that
15 pistol.

16 Q. So basically a conversion kit is something that you
17 could use on a weapon that would allow it to fire a
18 different caliber ammunition than it was designed for?

19 A. Yes, ma'am.

20 Q. As you testified on direct with Mr. Sowards you
21 mentioned the rifling characteristics of these bullets;
22 specifically I think you said they were poorly rifled,
23 right?

24 A. Yes, ma'am.

25 Q. Can you tell me a little bit about that?

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1 A. Usually when you fire a bullet down a barrel and it
2 engages the rifling you can count how many lands and
3 grooves are on the bullet. So you can identify the type
4 of rifling you have.

5 However with State's exhibit 90 through 93 the
6 rifling was so poor and there was such a lack of
7 engagement that I couldn't determine how many lands and
8 grooves were on the bullet and conversely the width of
9 those lands and grooves.

10 Q. And can you tell us what lands and grooves are?

11 A. Lands and grooves are what make up the rifling of a
12 barrel. When a barrel is manufactured the company or the
13 manufacturer removes metal from the barrel by scraping or
14 by chemical means; however they do the rifling they
15 create the grooves of the barrel.

16 Those are the indented part of the barrel and the
17 lands are the raised part of the barrel. So when I'm
18 speaking about lands and grooves I'm talking about the
19 rifling in the barrel.

20 Q. And when you can actually determine the number of
21 lands and grooves you can use those numbers and plug them
22 into a database, right?

23 A. Yes, ma'am. The FBI compiles a list of general
24 rifling characteristics. As a database they have a
25 searchable and general like and characteristics are made

1 up of the caliber, the number of lands and grooves, the
2 direction or twist and the width of those lands and
3 grooves. Manufacturers and importers voluntarily give
4 this information to the FBI.

5 They put it in a searchable database for us. So if
6 I was able to determine the rifling characteristics of
7 any one of these bullets I could have then published a
8 general rifling characteristics list.

9 It's not an all inclusive list because not everybody
10 turns over their information to the FBI. But I would be
11 able to issue that in my report.

12 Q. So you would be able to give us a list of possible
13 firearms that had fired these bullets if you had the
14 information about lands and grooves?

15 A. Yes, ma'am.

16 Q. But we obviously don't have that here?

17 A. Correct.

18 Q. Because we don't know how many lands and grooves
19 there were?

20 A. Yes, ma'am.

21 Q. And you were never given a weapon to test here?

22 A. No, ma'am.

23 Q. Mr. Green, tell me a little bit about why you
24 believe these are .22 long rifle bullets?

25 A. Different caliber bullets have different what we

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1 call OPCs, the observable physical characteristics.
2 State's exhibit 90 through 93 all have the general
3 profile of a .22 long rifle caliber bullet. They all had
4 the approximately diameter at the base, which is where
5 you get your caliber from.

6 They were all composed of brass plated lead where
7 they just put like a lead bullet and they put like a
8 brass-coating on it. It's not very thick; it's just to
9 cover the bullet.

10 So the entirety of what I examined in State's
11 exhibit 90 through 93 led me to believe that they were
12 all .22 long rifle caliber bullets based on their overall
13 shape and their weight and -- at the base.

14 THE COURT REPORTER: What was the last part?

15 THE WITNESS: Diameter at the base.

16 Q. [Ms. Stewart] So based on all of those OPCs and a
17 couple of those other factors that you mentioned you're
18 confident that these are .22 long rifle bullets?

19 A. Yes, ma'am.

20 Q. And that's based on your training and experience,
21 right?

22 A. Yes, ma'am.

23 Q. And these are a very, very common type of bullet.

24 A. Yes, ma'am.

25 Q. And can be used in a lot of different kinds of

State v Gregory Green
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November 6, 2019

1 firearms.

2 A. Yes, ma'am. .22 long rifle there are revolvers,
3 pistols, and rifles that all shoot that caliber.

4 MS. STEWART: Beg the court's indulgence.

5 [Whereupon, Ms. Stewart and Ms. Norris confer]

6 MS. STEWART: I have no further questions.

7 THE COURT: Redirect?

8 MR. SOWARDS: No redirect, Your Honor.

9 THE COURT: As to this witness, Solicitor?

10 MR. SOWARDS: May he be excused, Your Honor?

11 THE COURT: Any objection?

12 MS. STEWART: No, Your Honor.

13 THE COURT: Mr. Green, you may step down from the
14 witness stand. You're excused but leave my exhibits with
15 the court reporter. You are excused from the trial of
16 this case.

17 [Whereupon, the witness is excused and exits the
18 witness stand]

19 THE COURT: Call your next witness.
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State v Gregory Green
Vivian McNeil-Direct Examination by Mr. Sowards
November 6, 2019

1 MR. SOWARDS: Your Honor, the State calls Vivian
2 McNeil.

3 [Whereupon, Ms. McNeil comes forward]

4 THE COURT: Counsel approach.

5 [Whereupon, an off the record bench conference is
6 held]

7 [Whereupon, the witness is duly sworn by the Clerk
8 of Court]

9 CLERK OF COURT: And for the record please state
10 your full name spelling your last name.

11 THE WITNESS: Vivian McNeil, M-C-N-E-I-L.

12 THE COURT: Your witness, counsel. Direct
13 examination consistent with rulings I've made concerning
14 this witness.

15 MR. SOWARDS: Yes, Your Honor. Thank you.

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17 VIVIAN MCNEIL,

18 Having been first duly sworn,

19 Was examined and testified as follows:

20 DIRECT EXAMINATION

21 BY MR. SOWARDS:

22 Q. Ms. McNeil, was the victim in this case your son?

23 A. Beg your pardon?

24 Q. The victim in this case he was your son?

25 A. Yes.

State v Gregory Green
Vivian McNeil-Direct Examination by Mr. Sowards
November 6, 2019

1 Q. Back in June of 2017 did you communicate with him by
2 phone?

3 A. Yes.

4 Q. What was his phone number?

5 A. Its 0320 -- I mean the first two is 843-478-0320.

6 Q. And one last question for you. Isn't it true that
7 your victim and the Defendant -- your son and the
8 Defendant in this case were cousins?

9 A. They are cousins.

10 Q. Thank you.

11 MR. SOWARDS: No further questions, Your Honor.

12 THE COURT: Cross-Examination?

13 MS. STEWART: I have no questions for this witness,
14 Your Honor.

15 THE COURT: As to this witness, Solicitor? She
16 certainly can remain if she wants to but ---

17 MR. SOWARDS: --- yes, sir. But may she be excused
18 from our subpoena?

19 THE COURT: Ms. McNeil, you can remain in the
20 courtroom if you'd like, happy to have you here or you're
21 excused. Any objection?

22 MS. STEWART: No, Your Honor.

23 THE COURT: It's up to you. If you would like to
24 stay with us we'll be happy for you to stay.

25 THE WITNESS: Yes, I would like to stay.

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Vivian McNeil-Direct Examination by Mr. Sowards
November 6, 2019

1 THE COURT: Take a seat in the courtroom then for
2 me. Thank you.

3 [Whereupon, the witness is excused and exits the
4 witness stand]

5 THE COURT: Call your next witness.

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State v Gregory Green
Michael Sanchez-Direct Examination by Mr. Waring
November 6, 2019

1 MR. WARING: Thank you, Your Honor. The State
2 calls Detective Michael Sanchez.
3 [Whereupon, Detective Sanchez comes forward]
4 [Whereupon, the witness is duly sworn by the Clerk
5 of Court]
6 CLERK OF COURT: For the record please state your
7 full name spelling your last name.
8 THE WITNESS: Michael Sanchez, S-A-N-C-H-E-Z.
9 THE COURT: Detective Sanchez, you've been
10 listening to me each time. You know what to do don't
11 you?
12 THE WITNESS: Yes, Your Honor, I do.
13 THE COURT: Your witness, counsel. Direct
14 examination.
15 MR. WARING: Thank you, Your Honor.
16 - - - - -
17 MICHAEL SANCHEZ,
18 Having been first duly sworn,
19 Was examined and testified as follows:
20 DIRECT EXAMINATION
21 BY MR. WARING:
22 Q. Good morning, Detective.
23 A. Good morning, sir.
24 Q. Please tell the jury where you work?
25 A. I work at the North Charleston Police Department.

State v Gregory Green
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November 6, 2019

1 Q. And what is your role there?

2 A. I am a detective.

3 Q. How long have you worked there?

4 A. I've worked there for seven and a half years.

5 Q. Now I'm jumping right into it were you involved in
6 this case back in 2017?

7 A. Yes, I was.

8 Q. How did you get brought into this case?

9 A. I was notified by the sergeant in charge that day
10 that a fire had occurred at 2278 Bailey Drive in which
11 they indicated that there was a person found deceased in
12 the home. I was then asked to conduct the investigation
13 that morning to determine what had occurred at that
14 location.

15 Q. Did you go to the location on Bailey Drive?

16 A. I did.

17 Q. What did you see when you went there?

18 A. When I got there I found a structure that had
19 suffered from severe damage by fire. The entire front of
20 the building was damaged to the point of having the front
21 of it kind of exposed to the open air and whatnot.

22 They had already taken the decedent from the area so
23 I was only able to receive information from the first
24 line responders as to what they had found. The crime
25 scene had already been on scene and had already examined

State v Gregory Green
Michael Sanchez-Direct Examination by Mr. Waring
November 6, 2019

1 some of the stuff and had already begun photographing
2 along with the fire investigator who was there.

3 Q. Now without saying what these individuals said did
4 you through your investigation did you meet with
5 witnesses and question them?

6 A. Yes, I did.

7 Q. Okay. At some point did you come to find out about
8 the existence of the Defendant Gregory Green?

9 A. I did.

10 Q. And to your knowledge at that time in June of 2017
11 did the Defendant live in close proximity to the victim?

12 A. Yes, he did.

13 Q. Do you know about how close?

14 A. He lived probably about a quarter mile from the
15 incident location.

16 Q. Now did you also come to find out about the
17 existence of the co-defendant Terrance Doucet?

18 A. I did.

19 Q. Okay. And while we're on that subject matter can
20 you tell the jury who is on trial this week?

21 A. Gregory Green.

22 Q. Okay. So not Terrance Doucet?

23 A. No.

24 Q. But he is what is called a co-defendant, correct?

25 A. Yes.

State v Gregory Green
Michael Sanchez-Direct Examination by Mr. Waring
November 6, 2019

1 Q. And does that mean that he also has his charges are
2 related to this case?

3 A. Yes. He has related charges but he's not on trial
4 today.

5 Q. Did y'all get surveillance video and things of that
6 nature?

7 A. Yes, we did.

8 Q. Okay. Now in the course of your investigation did
9 you come to find out whether or not the Defendant had a
10 Facebook profile?

11 A. I did.

12 Q. What did you determine was his Facebook name at that
13 time?

14 A. At that time his Facebook name was Kone Ski Mask.

15 THE COURT REPORTER: Spell that if you can.

16 THE WITNESS: K-O-N-E S-K-I M-A-S-K.

17 MR. WARING: Your Honor, I believe we may have a
18 matter of law.

19 THE COURT: Is that right?

20 MS. STEWART: Yes, Your Honor.

21 THE COURT: Counsel approach.

22 [Whereupon, an off the record bench conference is
23 held]

24 THE COURT: Mr. Foreman and ladies and gentlemen of
25 the jury I have to take up a matter of law. I hope I

State v Gregory Green
Michael Sanchez-Direct Examination by Mr. Waring
November 6, 2019

1 won't be long. I'll be with you as quickly as I can.
2 Please retire to your jury room and do not discuss the
3 case.

4 [Whereupon, the jury exits at 11:00 a.m.]

5 THE COURT: Let the record reflect the jury is no
6 longer in the courtroom. Counsel for the Defendant
7 advises me she has an objection to this proposed exhibit.
8 What number is it? Have they been premarked?

9 MR. WARING: They have been premarked as 116
10 through 127, Your Honor.

11 THE COURT: 116 through 127 on the basis of
12 relevancy and under 403 of the Rules of Evidence.
13 Solicitor, let me let you first proceed with what he did
14 with this and then I'll give her the chance to hear from
15 her on her objection.

16 MR. WARING: Thank you, Your Honor. May I approach
17 the witness?

18 THE COURT: You may.
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State v Gregory Green
Michael Sanchez-In Camera-Direct Examination by Mr. Waring
November 6, 2019

1 IN-CAMERA DIRECT EXAMINATION

2 BY MR. WARING:

3 Q. Okay Detective, I'm showing you what has been marked
4 for identification purposes as State's exhibits 116
5 through 127.

6 [Whereupon, the witness is shown exhibit]

7 Q. I want to go through briefly each one starting with
8 State's exhibit 116. Can you tell the Court what that
9 is?

10 A. This would be the screenshot of the Defendant's
11 Facebook page at the time of June.

12 Q. And does it include his Facebook name Kone Ski Mask?

13 A. It does.

14 Q. Okay. I'm showing you State's exhibit 117.

15 [Whereupon, the witness is shown exhibit]

16 Q. Can you tell us what the highlighted portion of that
17 is or what that document is?

18 A. This is a message thread from Facebook where he
19 indicates, it appears he indicates the address to his
20 house of 3127, the first house on the right coming from
21 Cosgrove and then further states Azalea.

22 Q. Okay. And then earlier I think you already
23 mentioned in the presence of the jury that the
24 Defendant's house was in close proximity to the victim's?

25 A. It was.

1 Q. All right. I'm showing you State's exhibit 118.

2 [Whereupon, the witness is shown exhibit]

3 Q. Can you tell us what that is?

4 A. This is a post to the Kone Ski Mask Facebook page in
5 which he writes a short thread. Would you like me to
6 read it?

7 Q. Please.

8 A. [Reading] Really at an out off point in my life so
9 if you're trying to reach out and I don't respond within
10 a day cause I might be caught up or resting don't want to
11 waste your time calling or texting.

12 I've added you to the forget I don't fuck with you
13 no more list and ain't no compromising, you dead. I
14 don't give three fucks about people who bleed the same
15 blood and showed me where I stand so what really makes
16 you special and you don't even know me.

17 Q. What's the proximity of that up until between when
18 it posted and when the murder actually took place?

19 A. This appears to take place approximately a month
20 before.

21 Q. Okay. So the murder was June 8th correct?

22 A. June 8th and this is May 10th.

23 Q. Okay. So now exhibit 119 can you tell us what that
24 is and what it says?

25 [Whereupon, the witness is shown exhibit]

State v Gregory Green
Michael Sanchez-In Camera-Direct Examination by Mr. Waring
November 6, 2019

1 A. [Reading] I don't owe nobody so that extra loyal
2 nigga is dead. If it ain't mutual keep it. I'm done
3 giving all my all 100 and getting two percent of what I
4 give. This applies to everyone; no exceptions.

5 This was on May 12th, 2017 from Kone Ski Mask.

6 Q. All right. Now State's exhibit 120, please tell us
7 what that is and what it says.

8 [Whereupon, the witness is shown exhibit]

9 A. Again another Facebook post from Kone Ski Mask May
10 25th of 2017. [Reading] I'm done dealing with snakes,
11 chopping off heads. Fuck your family included. A-B-C-G.

12 Q. And what's the date on that one?

13 A. May 25th.

14 Q. And the murder was on June 8th, 2017?

15 A. It was.

16 Q. I'm showing you State's exhibit 121.

17 [Whereupon, the witness is shown exhibit]

18 Q. Can you tell us what that is?

19 A. This appears to be another Facebook post on Kone Ski
20 Mask Facebook page dated June 5th of 2017. It appears to
21 be a party flyer which was set for the Bistro at Rivers
22 and presented by party promoter Bezzle Entertainment.

23 Q. And in your investigation were there statements by
24 witnesses that they had attended that party that night?

25 A. Yes.

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1 Q. Now, I want to show you State's exhibit 122.

2 [Whereupon, the witness is shown exhibit]

3 Q. Can you tell us what this is and what the content
4 and the date are?

5 A. This is another Facebook post by Kone Ski Mask June
6 6th, 2017. It appears to be a MIME in which it says:
7 Those who don't know the value of loyalty won't
8 understand the cost of betrayal.

9 Q. Okay. And that was two days before the murder?

10 A. Yes, it was.

11 Q. Now I want to show you 123 and 124 starting with
12 123.

13 [Whereupon, the witness is shown exhibit]

14 Q. Can you tell us the date on that post?

15 A. 123 this is going to be a post again by Kone Ski
16 Mask where he shared a post on June 6th 2017. It's
17 another MIME where it says:

18 I cut people off with no hesitation, no explanation,
19 no warning if you do some phony shit or if I feel you
20 can't be trusted. Life is too short. I'm getting too
21 old to be hanging with people who don't understand.

22 And it kind of cuts off there.

23 Q. All right. Now I'm showing you State's exhibit 124.

24 [Whereupon, the witness is shown exhibit]

25 Q. Is that the same post?

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November 6, 2019

1 A. That is the same post where you can now see the
2 bottom and it says picking up where it left off:

3 I'm getting too old to be hanging with people who
4 don't understand the concept of loyalty. I can't trust
5 everybody. I can't love everybody.

6 Q. All right. And again, that's two days before the
7 murder?

8 A. That is.

9 Q. Is there a gun graphic on there?

10 A. There is a gun graphic and a bullet hole graphic on
11 the MIME.

12 THE COURT REPORTER: I hate to ask you this but can
13 you read a little more in this direction?

14 THE WITNESS: Absolutely, I can.

15 THE COURT REPORTER: Thank you.

16 Q. [Mr. Waring] Now I want to show you State's exhibit
17 125.

18 [Whereupon, the witness is shown exhibit]

19 Q. Can you tell us what that is and the date?

20 A. This one again is another Facebook post by Kone Ski
21 Mask dated June 7th, 2017. It is a repost of Terrance
22 Bezzle Doucet's post on the same date where he posts
23 something stating:

24 Man listen that fighting shit ain't cute. Not only
25 do it make y'all look dumb but also y'all fucking up

State v Gregory Green
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1 people hard. And then it kind of cuts off as it hasn't
2 been opened any further.

3 Q. But the main, the bottom line is that he is sharing
4 a post from the co-defendant, is that right?

5 A. Yes, that's correct.

6 Q. And was that dated --

7 THE COURT: Hold on. So sharing a post with what?

8 MR. WARING: From the co-defendant, Your Honor.

9 Q. [Mr. Waring] And is that one day prior to the
10 murder?

11 A. That is one day prior to the murder.

12 Q. All right. Two more for you. One is State's exhibit
13 126.

14 [Whereupon, the witness is shown exhibit]

15 Q. Can you just tell me who you recognize in that
16 photo?

17 A. This is a photo from Kone Ski Mask Facebook page of
18 a picture of the Defendant Gregory Green.

19 Q. And similarly State's exhibit 127 can you tell us
20 what that is?

21 [Whereupon, the witness is shown exhibit]

22 A. Again, a Facebook post from Kone Ski Mask again of
23 the Defendant Gregory Green.

24 THE COURT: Let me have the exhibits.

25 MR. WARING: Yes, Your Honor.

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1 THE COURT: Do you need them?

2 MS. STEWART: I have the copies.

3 THE COURT: You've got copies?

4 MS. STEWART: Yes, sir.

5 [Whereupon, Mr. Waring provides exhibits to the
6 Court]

7 THE COURT: Let me hear from you counsel.

8 MS. STEWART: Thank you, Your Honor. I ---

9 THE COURT: --- let's take them in the order in
10 which, it will be simpler, starting with 116 going ---

11 MS. STEWART: --- and that's what I was going to
12 do, Judge.

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State v Gregory Green
Michael Sanchez-In Camera-Argument of Counsel-Remarks by Ms. Stewart
November 6, 2019

1 MS. STEWART: As to 116 certainly I understand the
2 relevance of the Facebook profile. My concern is that
3 picture in that circle Judge and that is a picture of a
4 body with a target on its heart.

5 Obviously, I'm very, very concerned about the
6 prejudicial value of that, Judge. I don't, and I don't
7 think the relevance of the profile outweighs that at all.

8 THE COURT: You think the prejudice outweighs any
9 relevance?

10 MS. STEWART: Yes, sir.

11 THE COURT: Is that what is under 403?

12 MS. STEWART: Yes, sir.

13 THE COURT: But actually it says that even though
14 relevant evidence may be excluded if its probative value
15 is substantially outweighed by the danger of unfair
16 prejudice.

17 And this was a Facebook posting by your client
18 according to the testimony here of the detective. And it
19 was in point of time not as close as some of the other
20 postings. I believe -- I don't see a date on 116. Is
21 there a date on there?

22 MR. WARING: Your Honor ---

23 THE COURT: --- I've got your only copy?

24 MR. WARING: Yes, Your Honor.

25 THE COURT: All right. Counsel approach. Can

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1 y'all show me one?
2 [Whereupon, counsel approaches the bench]
3 MR. WARING: Your Honor, I don't see a date.
4 THE COURT: Do you see a date?
5 MS. STEWART: No, sir.
6 MR. WARING: Its more for ---
7 THE COURT: --- all we know is it was Kone Ski
8 Mask?
9 MR. WARING: Yes, Your Honor.
10 THE COURT: All right. Is that everything as to
11 116?
12 MS. STEWART: Yes, Your Honor.
13 THE COURT: All right. 117?
14 MS. STEWART: Judge, I don't have any objection to
15 117.
16 THE COURT: You don't object to 117?
17 MS. STEWART: That's correct.
18 THE COURT: All right. 118?
19 MS. STEWART: Yes, Your Honor. Judge, we would
20 object to the relevance of this. And well as 403. This
21 post as you can see ---
22 THE COURT: --- I sustain your objection as to 118.
23 It's not coming in.
24 MS. STEWART: Thank you.
25 THE COURT: And it does have a date; May 10th,

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1 2017. Objection sustained. 119?

2 MS. STEWART: My objection is the same, Judge, 401
3 and 403. Again, the date of this is May 12th, 2017 about
4 a month before this happened. There's not going to be
5 any witness that's able to tie up this post to what
6 happened on June 8th, 2017.

7 THE COURT: Objection as to 119 is sustained.

8 MR. WARING: Your Honor, may I put any argument on
9 the record?

10 THE COURT: You certainly may. It's dated May 12,
11 2017.

12 MR. WARING: Your Honor, there is going to be ---

13 THE COURT: --- and we're talking about for the
14 record Joy so you know we're talking about 119. All
15 right.

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State v Gregory Green
Michael Sanchez-In Camera-Argument of Counsel-Remarks by Mr. Waring
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1 MR. WARING: Your Honor, there's a jail call that's
2 going to be coming in where the Defendant admits that the
3 victim owed him money the first ---

4 THE COURT: --- of course I haven't gotten to that
5 point yet but can you relate it to exhibit 119?

6 MR. WARING: I believe so, Your Honor.

7 THE COURT: Then let me take a look at that.

8 MR. WARING: Your Honor, it's in the transcript.

9 THE COURT: All right. I've got both of them up
10 here. Which one?

11 MR. WARING: Court's indulgence ---

12 THE COURT: --- call or video?

13 MR. WARING: Jail call, Your Honor.

14 THE COURT: Which one?

15 MR. WARING: Page one jail call one at the bottom
16 of the page.

17 THE COURT: Now, I don't have a date on -- well, I
18 do too. I have a date of 7/13/17. Is that right?

19 MR. WARING: Yes, Your Honor.

20 THE COURT: And the exhibit is dated, exhibit 119
21 or proposed exhibit 119 is dated May 12th, 2017. You
22 tell me how they relate now because we're talking about a
23 difference of a good bit of time between May 12th and
24 July the 13th, 2017.

25 MR. WARING: Your Honor, the incident was on June

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1 8th. He makes a call and in that call he says that the
2 victim owed him the first of the month. Our theory is
3 that ---

4 THE COURT: --- there is nothing in 119 about
5 whether or not money is involved. It just says I don't
6 owe anybody.

7 MR. WARING: Judge, he says two lines before that
8 he owed him 60 dollars.

9 THE COURT: Oh, you're referring to the jail call.
10 I'm looking at the exhibit; the relationship between the
11 jail call and the exhibit because we're talking about
12 almost two months in time. You told me you could relate
13 them.

14 MR. WARING: Your Honor, the call mentions that the
15 victim owed him every first of the month. The post was
16 May 12th. He did ---

17 THE COURT: --- well, you'll have that from the
18 jail call. That doesn't necessarily mean you need it
19 from the exhibit 119. The objection is sustained. 120?
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State v Gregory Green
Michael Sanchez-In Camera-Argument of Counsel-Remarks by Ms. Stewart
November 6, 2019

1 MS. STEWART: Thank you, Your Honor. My objection
2 to 120 is the exact same. Although this is a little bit
3 closer in time it's still two weeks before the alleged
4 crime.

5 As you can see it says: Done dealing with snakes,
6 chopping heads off. Fuck your family included A-B-C-G.
7 Judge, again I believe that there is no relevance to
8 this. I don't think they're going to be able to tie it
9 up ---

10 THE COURT: --- let me hear from you Solicitor.
11 What is the relevance of A-B-C-G since it isn't explained
12 and its May 25th, 2017?

13 MR. WARING: All these posts, he's alleged to have
14 killed his cousin. All these posts reference killing ---

15 THE COURT: --- but we're not -- okay, go ahead.

16 MR. WARING: So they mention an escalating sense of
17 being discontent with family. He mentions that in these
18 posts and he's alleged to have killed his cousin. I
19 think it's highly relevant and probative, Your Honor.

20 THE COURT: All right. The objection is sustained.
21 120?

22 MS. STEWART: I don't have any objection -- or I'm
23 sorry; we're at 121 I think Your Honor.

24 THE COURT: I'm sorry, you're right. We are at
25 121.

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1 MS. STEWART: I don't have any objection to exhibit
2 121.

3 THE COURT: No objection to 121. 122?

4 MS. STEWART: Your Honor, I have several objections
5 to 122 the first being hearsay. This as you can see is a
6 picture not created by the Defendant, shared by the
7 Defendant on June the 6th, 2017.

8 In this picture you can see two individuals; one
9 individual making the sign of a gun in the picture.
10 Again, this has not been created by the Defendant, shared
11 by the Defendant. We object to the hearsay. We object
12 to the relevance. We believe that any prejudice
13 substantially outweighs the probative value.

14 THE COURT: Solicitor, this exhibit 122 is dated
15 June 6th, 2017; far closer in time to the alleged date of
16 this incident. What's the State's position on 122?

17 MR. WARING: Your Honor, as the Court pointed out
18 this is two days before the murder. The Defendant is
19 evidencing an increased sense of discontent with family
20 members in our opinion. And what we're arguing is he's
21 upset with the victim over an unpaid debt. This is
22 probative for that, Your Honor, and we believe it proves
23 his guilt.

24 THE COURT: Objection overruled. I'll allow 122
25 into evidence in the trial of this case. 123?

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1 MS. STEWART: Your Honor, my objection to 123 is
2 the same as 122. Again, we see a picture of a gun,
3 although not a representation of a gun. I understand
4 that ---

5 THE COURT: --- but this was posted by, allegedly
6 by the Defendant.

7 MS. STEWART: But I'm not sure that can get over
8 the level of the fact that this is two levels of hearsay,
9 Your Honor because it's the Defendant's post and then
10 it's the actual message itself. And again, this is not
11 created by the Defendant; this is something shared by the
12 Defendant.

13 THE COURT: Solicitor, let me hear you on 123.
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State v Gregory Green
Michael Sanchez-In Camera-Argument of Counsel-Remarks by Mr. Waring
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1 MR. WARING: Judge, this is another one two days
2 before the murder. It's got a gun graphic. It's talking
3 about again another discontent with people that he can't
4 trust. The victim owed him money, didn't pay him back.
5 It's our theory of the case that this whole thing was
6 over a debt.

7 THE COURT: I note that 123 is dated June 6, 2017.
8 The objection is overruled. 124?

9 MS. STEWART: I don't have -- oh, I'm sorry I think
10 that was 123 and 124, Your Honor?

11 THE COURT: Well, they're the same thing I believe.

12 MS. STEWART: Yes, sir.

13 THE COURT: They're dated, my understanding from
14 what the officer testified to they're both dated June
15 6th, 2017 unless you tell me there's a different date.
16 Is there a different date on 124 than what appeared on
17 123?

18 MR. WARING: No, Your Honor, the same date.

19 THE COURT: All right. 124 is in. Objection
20 overruled. 125?

21 MS. STEWART: Your Honor, I don't have an objection
22 to 125.

23 THE COURT: 125 there is no objection. 126? Well,
24 126 and 127 are just photographs.

25 MS. STEWART: I have no objection to 126 and 127.

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Michael Sanchez-In Camera-Argument of Counsel-Ruling by the Court
November 6, 2019

1 THE COURT: All right. 126 no objection, 127 no
2 objection. Let's go back to 116. There was no date and
3 you argued relevancy and prejudice. The question I have
4 for 116 is whether or not under 403 is substantially
5 outweighed.

6 You argue that because there is a target on there or
7 a picture of a target inside of a photograph, which was
8 posted I have to decide whether or not even if relevant
9 would you concede that the evidence of its probative
10 value is substantially outweighed by the danger of unfair
11 prejudice.

12 I overrule your objection. 116 will be admitted
13 into evidence in the trial of this case. There is no
14 objection to 117. I sustain your objection to 118. I
15 sustain your objection to 119. I sustain your objection
16 to 120. There is no objection to 121. The objection is
17 overruled as to 122. The objection is overruled as to
18 123. The objection is overruled as to 124. There is no
19 objection to 125. There is no objection to 126 and there
20 is no objection to 127. Do you understand my rulings
21 counsel? Solicitor?

22 MR. WARING: Yes, Your Honor.

23 THE COURT: Counsel?

24 MS. STEWART: Yes, Your Honor.

25 THE COURT: Very good. All right. Now pull out

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November 6, 2019

1 the ones that aren't going to the jury. Put those in a
2 separate stack. I'm going to give you back all of these.
3 For some reason I didn't get a copy. Counsel tells me
4 she has a copy but you don't have an extra copy.

5 MR. WARING: Yes, Your Honor.

6 THE COURT: Separate them before we get the jury
7 back in here so they don't get confused. I don't want a
8 packet with a paperclip around it going to the jury.

9 [Whereupon, counsel review and organize the exhibits
10 with the court reporter]

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State v Gregory Green
Michael Sanchez-In Camera
November 6, 2019

1 THE COURT: Solicitor, you got them separated now?

2 MR. WARING: Yes, Your Honor. I removed the ---

3 THE COURT: --- defense counsel is requesting a
4 break and the jury is taking one. Since we're out anyway
5 and its 11:20 -- now I've got lunch coming for the jury
6 at one o'clock so I want you to try to arrange your case
7 around it. Do you think you can finish before one even
8 with a break?

9 MR. WARING: With this witness, Your Honor? Yes.

10 THE COURT: Okay. How many more you have after
11 that?

12 MR. WARING: Your Honor, we have one more and
13 that's the FBI cell phone witness. And we do have
14 another witness who is not showing up so we may be asking
15 for a bench warrant on somebody.

16 THE COURT: We can deal with that. I'm talking
17 about people you know and trying to plan time so we can
18 do a charge conference. You understand?

19 MR. WARING: Yes, Your Honor.

20 THE COURT: Let's take five minutes at this point
21 and take a break this morning.

22 MS. STEWART: Your Honor, can I just make clear? I
23 do think my cross-examination of Detective Sanchez may
24 last awhile. So, I just wanted you to know that. I'm
25 not trying to interfere with lunch or anything like that.

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1 THE COURT: I know you're excited to hear that
2 Detective. You feel free to take a break but do not
3 discuss your testimony with anybody.

4 THE WITNESS: Absolutely, Your Honor.

5 [Whereupon, Court is in recess from 11:24 a.m. to
6 11:32 a.m.]

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State v Gregory Green
Proceedings
November 6, 2019

1 THE COURT: Bring us the Defendant, please.

2 [Whereupon, Mr. Green enters the courtroom]

3 THE COURT: Is the State ready to proceed?

4 MR. WARING: Yes, Your Honor.

5 THE COURT: Is the Defendant ready to proceed?

6 MS. STEWART: Yes, Your Honor.

7 THE COURT: Bring us the jury please.

8 [Whereupon, the jury enters at 11:36 a.m.]

9 THE BAILIFF: Your Honor, the jury is complete.

10 THE COURT: Thank you very much. Mr. Foreman and
11 ladies and gentlemen of the jury we'll now continue with
12 the testimony in the trial in this case. Direct
13 examination Solicitor; consistent with the rulings that
14 I've made of law.

15 MR. WARING: Thank you, Your Honor. May I approach
16 the witness?

17 THE COURT: You may.

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State v Gregory Green
Michael Sanchez-Direct Examination by Mr. Waring (resumes)
November 6, 2019

1 DIRECT EXAMINATION (resumes)

2 BY MR. WARING:

3 Q. Detective, I'm showing you what has been marked for
4 identification purposes as State's exhibits 116 through
5 117 and 121 through 127.

6 I want to go through each one one by one and please
7 tell us what each one is. Starting with exhibit 116 can
8 you tell the jury what you're looking at there?

9 [Whereupon, the witness is shown exhibit]

10 A. This is a Facebook profile snapshot of the top of
11 the profile page of a page called Kone Ski Mask that is
12 spelled K-O-N-E S-K-I M-A-S-K.

13 Q. Is that the Defendant's profile?

14 A. That is the Defendant's profile.

15 Q. All right. Now you don't have to necessarily say
16 what the content is but just if you'll tell me in general
17 what we're looking at in exhibit 117?

18 [Whereupon, the witness is shown exhibit]

19 A. This is a message thread from the same Facebook
20 profile of the Defendant.

21 Q. Okay. Now exhibit 121 can you tell us what that
22 is?

23 [Whereupon, the witness is shown exhibit]

24 A. This is a Facebook post from the Defendant's
25 Facebook page dated June 5th, 2017. It is of a party

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Michael Sanchez-Direct Examination by Mr. Waring (resumes)
November 6, 2019

1 flyer.

2 Q. Exhibit 122 can you tell us what that is?

3 [Whereupon, the witness is shown exhibit]

4 A. This is another Facebook post from the Defendant on
5 June 6th, 2017. It is of a MIME.

6 Q. Exhibit 123 please tell us what that is?

7 [Whereupon, the witness is shown exhibit]

8 A. This is another Facebook page post from the
9 Defendant's page dated June 6th, 2017 also of another
10 MIME.

11 Q. Exhibit 124 can you tell us what that is?

12 [Whereupon, the witness is shown exhibit]

13 A. That is a continuation of the prior mentioned
14 exhibit 123 where it cut off at the bottom. It's another
15 screenshot of the same post.

16 Q. All right. Now I'm showing you State's exhibit 125.

17 [Whereupon, the witness is shown exhibit]

18 Q. Can you tell us what that is?

19 A. This is a post shared by the Defendant on June 7th,
20 2017 of Terrance Doucet's Facebook page dated the same
21 day.

22 Q. I'm showing you State's exhibit 126.

23 [Whereupon, the witness is shown exhibit]

24 Q. Please tell us what that is?

25 A. This is a photo shared by the Defendant on his own

State v Gregory Green
Michael Sanchez-Direct Examination by Mr. Waring (resumes)
November 6, 2019

1 Facebook page of himself.

2 Q. And then lastly State's exhibit 127.

3 [Whereupon, the witness is shown exhibit]

4 Q. Can you tell us what that is?

5 A. This is another photograph of the Defendant shared
6 on his Facebook page.

7 MR. WARING: Your Honor, the State seeks to admit
8 exhibits 116 through 117 and 121 through 127.

9 MS. STEWART: Your Honor, we would just renew our
10 earlier objection.

11 THE COURT: Ladies and gentlemen of the jury
12 State's exhibits 116, 117, 121, 122, 123, 124, 125, 126,
13 and 127 will be admitted into evidence in the trial of
14 this case either without objection or over objection.

15 [Whereupon, State's exhibit numbers 116, 117, 121,
16 122, 123, 124, 125, 126, and 127 are entered into
17 evidence by the Court]

18 THE COURT: You may proceed, counsel.

19 MR. WARING: Permission to publish, Your Honor?

20 THE COURT: You may publish to the jury.

21 MR. WARING: Thank you, Your Honor.

22 [Whereupon, the exhibit is shown to the jury]

23 Q. [Mr. Waring] Detective, I'm showing you now what has
24 been admitted as State's exhibit 116. Can you tell us
25 what that is?

State v Gregory Green
Michael Sanchez-Direct Examination by Mr. Waring (resumes)
November 6, 2019

1 A. This again is the top half of the profile page of
2 the Defendant on Facebook.

3 Q. I'm now showing you State's exhibit 117.

4 [Whereupon, the exhibit is shown to the jury]

5 Q. Can you read the highlighted portion for the jury
6 please?

7 A. This is a message on June 15th where it states 3127
8 first house on the right coming from Cosgrove. And then
9 he later states Azalea.

10 Q. So is that the Defendant's address?

11 A. Yes, that is.

12 Q. I'm showing you State's exhibit 121.

13 [Whereupon, the exhibit is shown to the jury]

14 Q. Can you tell us what this is?

15 A. This is the party flyer for the party in which they
16 had met that day at Bistro at Rivers made by the same
17 party promoter Terrance Doucet.

18 Q. Now I'm going to show you State's exhibit 122.

19 [Whereupon, the exhibit is published for the jury]

20 Q. Can you tell us what the content is as well as the
21 date?

22 A. This is the Facebook post dated on June 6th, 2017.
23 It states: Those who don't know the value of loyalty
24 won't understand the cost of betrayal.

25 Q. And just to refresh everybody's memory what was the

State v Gregory Green
Michael Sanchez-Direct Examination by Mr. Waring (resumes)
November 6, 2019

1 date of the murder?

2 A. The date of the murder was June 8th, 2017.

3 Q. Next I'm going to show you State's exhibit 123.

4 [Whereupon, the exhibit is shown to the jury]

5 Q. Can you tell us the date for starters on this one?

6 A. This one was dated June 6th, 2017.

7 Q. All right. Now I'm showing you State's exhibit 124.

8 [Whereupon, the exhibit is published for the jury]

9 Q. Is this the same post as the one that we just had up

10 there?

11 A. It is. It's a continuation of the same one.

12 Q. And that's from June 6th, 2017?

13 A. It is.

14 Q. Please tell the jury what is being said on there.

15 A. It says: I cut people off with no hesitation, no

16 explanation and no warning. If you do something phony --

17 some phony shit or if I feel you can't be trusted life is

18 too short and I'm getting too old to be hanging with

19 people who don't understand the concept of loyalty. You

20 can't trust everyone -- everybody, can't love everybody.

21 Q. And is there a gun graphic on there?

22 A. There is.

23 Q. I'm showing you State's exhibit 125.

24 [Whereupon, the exhibit is shown to the jury]

25 Q. Can you read the content or at least can you tell me

State v Gregory Green
Michael Sanchez-Direct Examination by Mr. Waring (resumes)
November 6, 2019

1 who is this post from in the middle?

2 A. This is a post from Terrance Doucet shared by the
3 Defendant on his own page.

4 Q. And what's the date?

5 A. June 7th, 2017.

6 Q. Now lastly State's exhibit 126.

7 [Whereupon, the exhibit is shown to the jury]

8 Q. Can you just tell us what that is?

9 A. That is a photo of the Defendant on his own Facebook
10 page.

11 Q. All right. And the same thing here on State's
12 exhibit 127.

13 [Whereupon, the exhibit is shown to the jury]

14 Q. Can you tell us what that is?

15 A. Again, this is another selfie from the Defendant on
16 his Facebook page.

17 Q. Can you tell us did anybody associated with Terrance
18 Doucet ever come forward about this case prior to both
19 Terrance's arrest and the Defendant's arrest?

20 A. Yes.

21 Q. Who was that?

22 A. That was Lanica Walker.

23 Q. How long after the incident do you recall that she
24 came forward?

25 A. She came forward approximately two to three weeks

State v Gregory Green
Michael Sanchez-Direct Examination by Mr. Waring (resumes)
November 6, 2019

1 after the incident.

2 Q. Okay. Now there has been some mention of Terrance
3 Doucet's car being supposedly stolen. Was anybody ever
4 arrested for that?

5 A. No one was ever arrested in that.

6 Q. Despite how suspicious it might seem do you have any
7 evidence that Terrance actually staged that?

8 A. I investigated that matter and never found any
9 evidence to support that theory.

10 Q. Now you did arrest Terrance ultimately, correct?

11 A. Yes, I did.

12 Q. And what is he charged with?

13 A. He is charged with accessory to murder.

14 Q. Okay. And do you recall what day he was charged and
15 arrested?

16 A. If I could refer to my notes please?

17 THE COURT: You may.

18 [Whereupon, the witness reviews his notes]

19 A. I believe it was July 9th.

20 Q. [Mr. Waring] Would it jog your memory or does it
21 sound familiar that July 7th was the date?

22 A. I believe so.

23 Q. Okay. Now at some point did you charge and arrest
24 the Defendant?

25 A. Yes, I did.

State v Gregory Green
Michael Sanchez-Direct Examination by Mr. Waring (resumes)
November 6, 2019

1 Q. And do you recall the date of that?

2 A. I don't. I appear to not have that with me at this
3 point.

4 Q. All right. Would July the 11th sound familiar?

5 A. Yes.

6 Q. Now can you tell the jury what a phone dump is?

7 A. Yes. A phone dump or more formally called a cell
8 phone extraction is where a phone is taken into evidence;
9 it is then catalogued.

10 And using a forensic software device the entire hard
11 drive of the phone is downloaded from it in a way that
12 would not alter the original contents of the phone but
13 provide an exact duplication of the phone's memory so
14 that it can be forensically examined for the contents
15 that were within that phone at the time of its last
16 operation.

17 Q. Did y'all ultimately perform a phone dump on a phone
18 of the Defendant's?

19 A. We did.

20 MR. WARING: May I approach the witness, Your
21 Honor?

22 THE COURT: You may.

23 Q. [Mr. Waring] Detective Sanchez I'm showing you what
24 has been marked for identification purposes as State's
25 exhibit 128 and 129 starting with 128.

State v Gregory Green
Michael Sanchez-Direct Examination by Mr. Waring (resumes)
November 6, 2019

1 [Whereupon, the witness is shown exhibit]

2 Q. Can you tell us what this is?

3 A. This is a sample of the report that I published for
4 the cell phone extraction from that very same phone, from
5 the Defendant's phone.

6 Q. And the same thing for this; exhibit 129.

7 [Whereupon, the witness is shown exhibit]

8 Q. Can you tell us what that is?

9 A. This is also another section from my report of the
10 Defendant's phone.

11 MR. WARING: Your Honor, at this point the State
12 seeks to admit 128 and 129.

13 THE COURT: As to 128 and 129?

14 MS. STEWART: No objection.

15 THE COURT: Ladies and gentlemen of the jury
16 State's exhibits 128 and 129 will be admitted into
17 evidence in the trial of this case without objection.

18 [Whereupon, State's exhibit numbers 128 and 129 are
19 entered into evidence by the Court]

20 THE COURT: You may publish.

21 MR. WARING: Thank you, Your Honor.

22 [Whereupon, the exhibit is shown to the jury]

23 Q. [Mr. Waring] I'm showing you State's exhibit 128
24 Detective. I'm going to zoom in. Can you just tell the
25 jury what is being said on the highlighted portion?

State v Gregory Green
Michael Sanchez-Direct Examination by Mr. Waring (resumes)
November 6, 2019

1 A. It says: This Kone trying to get this changed to Lil
2 Bra.

3 Q. All right. So is that the Defendant identifying
4 himself as Kone?

5 A. It is.

6 Q. And then there at the bottom?

7 A. [Reading] This grey trying to see what's up with Lil
8 Sis.

9 Q. All right. And lastly State's exhibit 129 I'm
10 putting up.

11 [Whereupon, the exhibit is shown to the jury]

12 Q. Can you just read what the highlighted portion says?

13 A. [Reading] Kone Unk [phonetic].

14 Q. And is that a message from the Defendant?

15 A. That is.

16 Q. Detective, tell the jury please sometime prior to
17 the Defendant being arrested was there ever an occasion
18 where you spoke with him on the phone?

19 A. There was.

20 Q. Can you tell the jury about that?

21 A. Prior to meeting with him or filing any reports I
22 was examining the cell phone records of the victim and
23 found that a particular phone call had occurred with the
24 victim. It was the last substantial phone call where any
25 kind of communication had taken place. I then attempted

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1 to look up various databases public and police databases
2 to attempt to identify who that number belonged to.
3 Unfortunately it being a Las Vegas phone number I didn't
4 have a lot of good information on it.

5 So I decided to cold call it meaning I called it
6 with no other information beyond the number in an attempt
7 to find out what I could from the number.

8 Upon calling it I identified myself as a North
9 Charleston police detective stated I was investigating a
10 case in which this was the last phone call made to a
11 victim on this phone at which point the subject on the
12 other line said you must be speaking about my cousin's
13 case.

14 At that point I asked well who is this and the
15 person on the other line said this is Gregory Green but I
16 was downtown at the time.

17 Q. All right, Detective. So you called this number and
18 the Defendant identified himself and he said he was
19 downtown at the time of the incident.

20 A. Yes.

21 Q. Now can you tell the jury what that phone number was
22 do you recall?

23 A. I know it started with a 702 area code.

24 Q. Would it refresh your memory if you referred to your
25 notes?

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1 A. I believe so.

2 [Whereupon, the witness reviews his notes]

3 MR. WARING: May I approach the witness, Your
4 Honor?

5 THE COURT: You may.

6 [Whereupon, the witness is shown document]

7 THE COURT: If you're going to hand him a document
8 show it to her first.

9 MR. WARING: Yes, Your Honor.

10 [Whereupon, Mr. Waring shows document to Ms.
11 Stewart]

12 Q. [Mr. Waring] Detective, can you tell us what that
13 number was?

14 A. There it is. 702-786-4391.

15 Q. And that's the number that you reached the Defendant
16 on?

17 A. Yes, it is.

18 Q. Now, we've already seen a little bit about phone the
19 records. Can you tell the jury what call detail records
20 are?

21 A. Call detail records are records that are formulated
22 by the cell phone provider. They basically log all phone
23 calls made between subscribers in an effort to better
24 keep quality control of their system. It's their way of
25 determining when the call is placed, where it was made

1 to, what towers were used in that call to better plan
2 future upgrades to their system.

3 So the records would keep a time and date of when
4 the phone call was made, from what party it was made
5 from, what number they dialed, what number they connected
6 to, and what towers were used to make those phone calls.

7 Q. Now for this case did you request the call detail
8 records for the Defendant?

9 A. I did.

10 Q. Do you know about when you first requested those
11 records?

12 A. Those would have been requested shortly after the
13 incident, within just a few days of the incident.

14 Q. All right. Now that first time you requested those
15 records did you get the right records?

16 A. I did not.

17 Q. Okay. Did you then sometime soon after that re-
18 request the records?

19 A. I did.

20 Q. And do you know about when that was?

21 A. I believe it was August 30th.

22 Q. Did you receive those records?

23 A. I did.

24 Q. Now, were those records provided to our office in a
25 judicious manner?

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1 A. They were not.

2 Q. Can you explain to the jury why that was?

3 A. Unfortunately, the fault lies with myself in that we
4 get very tied up with all the cases that happen in North
5 Charleston.

6 As many of you may have seen the news we have a very
7 high density of violent crime in that area. There are
8 only six of us assigned to the Violent Crimes unit; you
9 met one of them earlier yesterday.

10 With only six of us handling the high volume of
11 crime that happens in North Charleston especially 2017
12 which was a very, very violent year for us sometimes
13 things get lost in the mix. And this is one of the
14 unfortunate moments when that happens.

15 As case agent I'm responsible for that data.
16 However, I'm not trying to excuse it. I am trying to
17 offer an explanation as to where that would have gone. I
18 would not have gotten it to them in a timely manner.

19 Q. Were you trying to prevent the defense from seeing
20 these records in any way?

21 A. Not at all.

22 Q. Now have you had a chance to review these records?

23 A. Yes, I have.

24 [Whereupon, Mr. Waring shows document to Ms.
25 Stewart]

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1 MR. WARING: May I approach the witness, Your
2 Honor?

3 THE COURT: You may.

4 Q. [Mr. Waring] Detective, I'm showing you what has
5 been marked for identification purposes as State's
6 exhibit 130.

7 [Whereupon, the witness is shown exhibit]

8 Q. Please tell the jury what that is?

9 A. These are call detail records for the phone number
10 of 702-786-4391; also identified as the Defendant's
11 phone.

12 Q. And that's the same number that you had called him
13 on?

14 A. Yes. That is the phone number I called him on.

15 MR. WARING: Your Honor, the State seeks to admit
16 exhibit 130.

17 THE COURT: As to 130?

18 MS. STEWART: No objection.

19 THE COURT: Ladies and gentlemen of the jury
20 State's exhibit number 130 will be admitted into evidence
21 in the trial of this case without objection. 130 in
22 evidence. You may publish.

23 [Whereupon, State's exhibit number 130 is entered
24 into evidence by the Court]

25 MR. WARING: Thank you, Your Honor.

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1 Q. [Mr. Waring] Okay Detective, I'm putting on State's
2 exhibit 130 which we just talked about.

3 [Whereupon, the exhibit is shown to the jury]

4 Q. All right Detective, the number that you were
5 talking about 702-86, pardon me 702-786-4391 is this the
6 number over here [indicates] that you're referring to?

7 A. Yes, it is.

8 Q. And on all these highlighted calls over here
9 [indicates] in the left column?

10 A. Yes. That's the originating caller.

11 Q. Okay.

12 THE COURT: Give the page number of exhibit 130
13 that you're exhibiting to the jury. You got a page on
14 that?

15 MR. WARING: No, Your Honor.

16 THE COURT: Counsel, can you follow where he is?

17 MS. STEWART: Yes, sir.

18 THE COURT: All right.

19 Q. [Mr. Waring] Now Detective starting with the highest
20 top of the page highlighted call can you tell us what
21 time those highlighted calls start?

22 A. They start on June 8th, 2017 at 3:22 a.m.

23 Q. All right. And again, what was the date of the
24 murder?

25 A. June 8th, 2017.

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1 Q. Okay. Now tell us it appears that this column
2 [indicates] is the calling party correct?

3 A. Yes.

4 Q. Now starting with that call can you tell us who this
5 number [indicates] is?

6 THE COURT: Publish the number for the record
7 counsel since we don't have a page.

8 MR. WARING: Yes, Your Honor.

9 Q. [Mr. Waring] 843-640-9680?

10 A. That would be I believe that's the Defendant's phone
11 number -- no, I apologize. That is Terrance Doucet's
12 phone number.

13 Q. Okay Terrance Doucet's number. So at that call at
14 3:22 is he the originating caller?

15 A. Yes.

16 Q. And he's calling the Defendant?

17 A. Yes.

18 Q. All right. Now from then all the way down to 3:53
19 in the morning at the bottom of the page, 3:53 in the
20 morning, what are some of the other numbers that are
21 highlighted in addition to the one we just talked about?
22 Can you tell us what this 843-200-7909 number is
23 registered to?

24 A. That would be Terrance Doucet's other phone number.

25 Q. Okay. So during this timeframe are those the two

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1 main callers that are interacting with the Defendant's
2 phone number inbetween 3:22 a.m. and 3:53 a.m. on this
3 page?

4 A. Yes.

5 Q. I'm showing you the next page of this exhibit 130.

6 And again can you tell us starting with the one at the
7 top 3:59 a.m. on June 8th, 2017 who's the caller on that
8 one?

9 A. That would be the Defendant.

10 Q. And what number is that?

11 A. 702-786-4391.

12 Q. And who is he calling?

13 A. He's calling Terrance Doucet at 843-200-7909.

14 Q. All right. And again was the 911 call was that
15 around 4:46 in the morning?

16 A. Yes.

17 Q. And was the incident believed to have occurred
18 inbetween 3:20 and 4:46 a.m.?

19 A. Yes.

20 Q. Now moving down a little bit June 8th, 2017 at 4:05
21 in the morning who is calling who at that time?

22 A. At that point in time Terrance Doucet is calling the
23 Defendant.

24 Q. Okay. Now scrolling down a little bit more June
25 8th, 2017 at 4:30 in the morning, 4:45 and 4:53 who is

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1 calling who?

2 A. At that point the Defendant is calling Terrance
3 Doucet.

4 Q. All right. So this one in particular here at 4:45
5 a.m. June 8th, 2017 is that one minute prior to the 911
6 call?

7 A. Yes, it is.

8 Q. Moving along with regard to phone records did you at
9 some point get the call detail records for the victim's
10 phone number of 843-478-0320?

11 A. Yes, I did.

12 Q. And have you had a chance to look at those records?

13 A. I have.

14 [Whereupon, Mr. Waring shows documents to Ms.
15 Stewart]

16 MR. WARING: May I approach the witness, Your
17 Honor?

18 THE COURT: You may.

19 Q. [Mr. Waring] Detective, I'm showing you State's
20 exhibit 114 and 115 for identification purposes only
21 starting with exhibit 114.

22 [Whereupon, the witness is shown exhibit]

23 Q. Can you tell us what that is?

24 A. This is the subscriber data for a T-Mobile phone
25 record belonging to phone number 843-478-0320.

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1 Q. Okay. And now exhibit 115. Can you tell us what
2 that is?

3 [Whereupon, the witness is shown exhibit]

4 A. This is a T-Mobile call detail record for the same
5 phone number 843-478-0320.

6 Q. Okay. And are those the call detail records for the
7 victim's phone number?

8 A. Yes, they are.

9 MR. WARING: Your Honor, the State seeks to admit
10 114 and 115.

11 THE COURT: As to 114 and 115?

12 MS. STEWART: No objection.

13 THE COURT: Ladies and gentlemen of the jury
14 State's exhibits 114 and 115 will be admitted into
15 evidence in the trial of this case without objection.
16 You may publish.

17 [Whereupon, State's exhibit numbers 114 and 115 are
18 entered into evidence by the Court]

19 MR. WARING: Thank you, Your Honor.

20 Q. [Mr. Waring] All right Detective, similar to what we
21 did before I want to put up exhibit 115 on the overhead,
22 page 7 and I'd like you to answer some questions about
23 specific calls.

24 [Whereupon, the exhibit is shown to the jury]

25 Q. Now first of all Detective do you know are these

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1 records in UTC time?

2 A. Yes, they are.

3 Q. Can you enlighten the jury on what UTC time means?

4 A. UTC also known as GMT or Greenwich Mean Time is the
5 global time that a lot of companies use to coordinate
6 things so that there is only one time stamp used
7 especially when a company is international such as T-
8 Mobile.

9 That time is based on the time found in Greenwich,
10 England which is approximately four hours ahead of us.
11 At least at this time and date; I think at this point
12 there were five.

13 Q. All right. So starting let's just say at this
14 highlighted call [indicates] June 8th, 2017 it says
15 2:05:10. What time is that once you've converted it from
16 UTC time?

17 A. 2:05:10 would put it at 10 p.m., 10:05 p.m.

18 Q. Okay. Now who is calling who and if you need me to
19 I can refer back to page 1. Is it calling number in the
20 left column and then the dialed number in the right
21 column?

22 A. Yes. Calling number and then called number on the
23 third column over would be...

24 Q. Okay. So for this call here [indicates] at 10:05:10
25 p.m. on June 7th, 2010 [sic] who is calling who?

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1 A. In that record that is the Defendant calling the
2 victim.

3 Q. All right. Now let's scroll down. This one
4 [indicates] says 3:46:48. Can you convert that to UTC
5 time?

6 A. Yes. That would be at 11:46 p.m. on June the 7th,
7 2017.

8 Q. All right. And who is calling who?

9 A. That is the victim calling the Defendant.

10 Q. Lastly, this last call can you tell us date, time,
11 and who is calling who?

12 A. That was on June 7th, 2017 at 11:47 p.m. That was
13 again the victim calling the Defendant.

14 Q. All right. So approximately four or five hours
15 prior to the victim's death is that the last call that
16 was communicated with the victim's phone number?

17 A. Yes ---

18 Q. --- was that with the Defendant?

19 A. Yes.

20 MR. WARING: Permission to publish already admitted
21 State's exhibit 64, Your Honor?

22 THE COURT: Counsel, you agree 64 is in evidence?
23 Show it to her.

24 [Whereupon, Mr. Waring shows document to Ms.
25 Stewart]

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1 MS. STEWART: Yes, Your Honor.

2 THE COURT: Joy, I got it. You got it?

3 THE COURT REPORTER: Yes sir, I do.

4 THE COURT: 64 is in evidence. You may publish.

5 MR. WARING: Thank you, Your Honor.

6 Q. [Mr. Waring] Detective, I'm putting up State's
7 exhibit 64 page 12.

8 [Whereupon, the exhibit is shown to the jury]

9 Q. Now can you tell us what the timestamp is of the
10 highest highlighted call on this page?

11 A. That would be June 8th, 2017 at 3:37 a.m.

12 Q. All right. Now for your reference I can scroll up.
13 Is the farthest left column is that the calling number?

14 A. Yes, that is.

15 Q. And is the second column from the left is that the
16 called number?

17 A. Yes, that is.

18 Q. All right. So now I'm going to scroll down and from
19 3:37 to the bottom call at 3:44 a.m. on June 8th, 2017
20 who is interacting with whom?

21 A. This is Terrance Doucet calling the Defendant.

22 Q. Okay. Now, page 13 starting with the top most
23 highlighted call can you give us the date ---

24 THE COURT: --- give him call number for the
25 record. I realize you've got a page number right; its

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1 13?

2 MR. WARING: Your Honor, I'm not sure there is a...

3 THE COURT: Is there a page number on yours
4 counsel?

5 MS. STEWART: No, Your Honor.

6 THE COURT: Then give the call number at the top so
7 that the record is clear as to which page you're
8 referring to.

9 MR. WARING: Thank you, Your Honor. I do see a
10 page number.

11 Q. [Mr. Waring] Page 13 of 26 top number calling number
12 843-200-7909 and does that appear to be going to the
13 Defendant's number 702-786-4391?

14 A. It does.

15 Q. Now from that time of 3:45 a.m. down to say 4:05
16 a.m. down here [indicates] at the bottom on this same
17 page who is interacting with whom?

18 A. The entire time that is an interaction between
19 Terrance Doucet and the Defendant.

20 Q. Okay. Now are we talking a lot of phone calls here
21 or are we talking one or two?

22 A. Several. It looks like at least 20.

23 [Whereupon, Mr. Waring shows document to Ms.
24 Stewart]

25 Q. Detective, I'm now showing you what has already been

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1 admitted as State's exhibit 61.

2 [Whereupon, the exhibit is shown to the jury]

3 Q. I'm going to ask you similar questions as to before.
4 I'm showing you page 5 of this exhibit. Can you tell us
5 starting with this most highlighted, top highlighted call
6 what is the time and date and who is calling who?

7 A. That is on June 8th, 2017 at 3:22 a.m. That is a
8 phone call from Terrance Doucet to the Defendant.

9 Q. Okay. And similar question from then until let's
10 say 4:54 a.m. on June 8th 2017 are the Defendant and
11 Terrance Doucet's 843-640-9680 number interacting during
12 that time?

13 A. Yes, they are.

14 Q. And again this call right here [indicates] June 8th,
15 2017 at 4:45 a.m. where it appears the Defendant tried to
16 call Terrance Doucet was that a minute before
17 approximately 40 seconds before the 911 call?

18 A. Yes, it was.

19 Q. All right Detective, moving along. In preparation
20 for trial have you had a chance to listen to and watch
21 some video visit clips of the Defendant?

22 A. Yes, I have.

23 MR. WARING: Your Honor, permission to both publish
24 already admitted State's exhibit 97 and pass out
25 transcripts to the jury.

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1 THE COURT: Have we admitted already 97?

2 MR. WARING: Yes, Your Honor.

3 THE COURT: As to 97?

4 MS. STEWART: And I would just renew my earlier
5 objection, Your Honor.

6 THE COURT: The record will reflect your objection.
7 I just wanted to make sure. Let me check my notes.

8 [Whereupon, the Court reviews notes]

9 THE COURT: I've got it in. You got it in, Joy?

10 THE COURT REPORTER: I do too.

11 THE COURT: 97 is in evidence. Ladies and
12 gentlemen of the jury -- you going to use the transcript?

13 MR. WARING: Yes, Your Honor.

14 THE COURT: Ladies and gentlemen you're going to be
15 handed it will not be an exhibit. An exhibit means
16 you'll have it with you in your jury room during your
17 deliberations. This is not an exhibit. You'll be handed
18 a transcript of this video visit, which has been admitted
19 as exhibit 97.

20 If there is any doubt in your mind between what the
21 transcript shows and what you hear on the tape, which is
22 State's exhibit 97 then you go by the tape because the
23 tape is the evidence. The transcript is to assist you
24 ladies and gentlemen in understanding the exhibit. You
25 may proceed.

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1 MR. WARING: Thank you, Your Honor.

2 [Whereupon, Mr. Waring provides transcripts to the
3 jury]

4 THE COURT: Does everybody on the jury have a copy
5 of the transcript?

6 [Whereupon, all jurors indicate affirmatively]

7 THE COURT: We're going to take those up. You may
8 publish exhibit 97 which is admitted over objection.

9 MR. WARING: Thank you, Your Honor.

10 [Whereupon, State's exhibit 97, video clip, plays]

11 [Whereupon, State's exhibit 97, video clip, ends]

12 [Not taken down]

13 Q. [Mr. Waring] Detective, in addition to video visits
14 in preparation for trial have you had an opportunity to
15 listen to some jail calls the Defendant made?

16 A. I did.

17 MS. STEWART: And Your Honor, we would just renew
18 our earlier objection.

19 THE COURT: Counsel approach.

20 [Whereupon, an off the record bench conference is
21 held]

22 MR. WARING: Permission to approach the witness?

23 THE COURT: You may approach.

24 Q. [Mr. Waring] Detective, I'm showing you State's
25 exhibit 102 for identification purposes only.

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1 [Whereupon, the witness is shown exhibit]

2 Q. Can you tell the jury what that is?

3 A. This is a clipped disk of the jail calls from the
4 Defendant.

5 Q. Now is that disk that you listened to in preparation
6 for trial?

7 A. Yes, it is.

8 Q. And were you able to identify the Defendant's voice
9 on those jail calls?

10 A. Yes, I was.

11 Q. Each and every one of them?

12 A. Yes.

13 MR. WARING: Your Honor, at this point State would
14 seek to admit 102 into evidence.

15 THE COURT: As to 102 subject to your earlier
16 objection?

17 MS. STEWART: No additional objection, Your Honor.

18 THE COURT: Very well. Ladies and gentlemen of the
19 jury State's exhibit 102 will be admitted into evidence
20 in the trial of this case over objection.

21 [Whereupon, State's exhibit number 102 is entered
22 into evidence by the Court]

23 THE COURT: Is there a transcript also with this?

24 MR. WARING: Yes, Your Honor.

25 THE COURT: All right. First of all I want you to

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1 pass the transcript down to the end of the row that you
2 have in your hands at this time.

3 [Whereupon, previous transcripts given to the jury
4 were collected]

5 THE COURT: Now as to this transcript ladies and
6 gentlemen I want you to understand if there is any doubt
7 in your mind between what the transcript shows, we're
8 going to hand you a transcript in just a moment, and what
9 you hear on the tape then you go by the tape because the
10 tape is the evidence, not the transcript. The transcript
11 is to assist you in understanding the evidence. You may
12 proceed, Solicitor.

13 MR. WARING: Thank you, Your Honor.

14 [Whereupon, Mr. Waring provides transcripts to the
15 jury]

16 THE COURT: All right. Everybody on the jury have
17 a transcript?

18 [Whereupon, all jurors indicate affirmatively]

19 THE COURT: All right. State's exhibit 102, the
20 other transcripts give back to the Solicitor please.
21 State's exhibit 102 is now in evidence over objection.
22 You may publish Solicitor.

23 MR. WARING: Thank you, Your Honor.

24 Q. [Mr. Waring] Detective, can you tell us before I
25 play this call what the date is of jail call one?

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1 A. Jail call one appears to have taken place on July
2 13th, 2017.

3 [Whereupon, State's exhibit 102, video clip, plays
4 with questions from Mr. Waring]

5 Q. [Mr. Waring] Detective, for this second call can you
6 tell us the date on that one?

7 A. That is July 13th, 2017.

8 Q. Now for these first two calls do you know is he
9 using his own PIN number or somebody else's?

10 A. I actually don't know without it being brought up.
11 I believe that's going to be --

12 [Whereupon, video clip resumes]

13 THE COURT: Stop it.

14 [Whereupon, video clip pauses]

15 THE COURT: Let him finish his answer.

16 A. Yes. I believe that is his own PIN number.

17 [Whereupon, video clip resumes]

18 [Whereupon, video clip pauses]

19 Q. [Mr. Waring] Detective, he just said he didn't leave
20 until 5 something. You testified earlier that when you
21 called him on the phone prior to his arrest he said he
22 was downtown at the time of the incident, correct?

23 A. Yes, he did.

24 [Whereupon, video clip resumes]

25 [Whereupon, video clip pauses]

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1 Q. All right Detective, starting with now jail call
2 five can you give us the date and can you tell us if he
3 is using his PIN number or somebody else's?

4 A. Yes. This is dated August 16th, 2017 at 14:10, so 2
5 p.m. and this is somebody else's PIN he is using.

6 [Whereupon, video clip resumes]

7 [Whereupon, video clip pauses]

8 Q. All right Detective, now for this next call, jail
9 call six can you tell us is this using somebody else's
10 PIN number too?

11 A. This is.

12 [Whereupon, video clip resumes]

13 [Whereupon, video clip pauses]

14 Q. Detective, just for a refresher was the victim found
15 head first in the tub?

16 A. Yes, he was.

17 [Whereupon, video clip resumes]

18 [Whereupon, the video clip ends]

19 THE COURT: Let the record reflect -- and pass your
20 transcripts down to the end of the row and the bailiff
21 will take them up.

22 [Whereupon, the jury complies]

23 THE COURT: The transcript we used for exhibit 102
24 is Court's exhibit 6. And the transcript used for
25 exhibit 97 is Court's exhibit 5 so the record will be

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1 complete. Give those back to the Solicitor please.

2 [Whereupon, the bailiff complies]

3 THE COURT: Proceed.

4 Q. [Mr. Waring] Please answer any questions the defense
5 has.

6 THE COURT: Cross-Examination.

7 MS. STEWART: Your Honor, may we approach on the
8 scheduling briefly?

9 [Whereupon, an off the record bench conference is
10 held]

11 THE COURT: Cross-Examination?

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1	CROSS-EXAMINATION
2	BY MR. STEWART:
3	Q. Good afternoon, Detective Sanchez.
4	A. Good afternoon.
5	Q. You are the case agent for this case, right?
6	A. Yes, ma'am.
7	Q. That's why you've been in this courtroom the whole
8	time.
9	A. Yes, ma'am.
10	Q. This was your case?
11	A. Yes, ma'am.
12	Q. Everything in this case went by you first?
13	A. Yes.
14	Q. In fact you probably performed about 90 percent of
15	the interviews in this case, right?
16	A. That's correct.
17	Q. Other people were helping you a little bit, right?
18	A. Yes.
19	Q. Including some of the other detectives that we've
20	seen, right?
21	A. Absolutely.
22	Q. But you were in charge?
23	A. Yes.
24	Q. I want to talk to you about some evidence we don't
25	see in this case. We don't have a weapon, right?

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1 A. Yes, that's correct.

2 Q. You also never searched the Defendant's house, is
3 that correct?

4 A. That's correct.

5 Q. Also never searched Mr. Doucet's house.

6 A. That's correct.

7 Q. And I know we talked a little bit about phone dumps
8 with Mr. Waring but you never did a phone dump on Mr.
9 Doucet's phone, right?

10 A. That is correct as well.

11 Q. You did dump Ms. Walker's phone, right?

12 A. Yes.

13 Q. And you dumped Mr. Green's phone?

14 A. Yes.

15 Q. But you never dumped Mr. Doucet's phone.

16 A. Yes.

17 Q. We've also heard some testimony about Mr. Rivers
18 having some injury other than the gunshot wounds, is that
19 correct?

20 A. Yes.

21 Q. And those injuries could have been from the ceiling
22 falling in, right?

23 A. I'm not an expert in that field. I couldn't testify
24 to that.

25 Q. Okay. Do you remember testifying to that at the

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1 preliminary hearing?

2 A. I do not recall that, no.

3 Q. Would it help you to see a copy of your testimony at
4 the preliminary hearing?

5 A. Sure.

6 MS. STEWART: May I approach the witness, Your
7 Honor?

8 THE COURT: You may. You're an officer of the
9 Court counsel. You open it for him if it is sealed.

10 MS. STEWART: Yes, sir.

11 THE COURT: Give him page and line number.

12 MS. STEWART: Yes, sir.

13 THE COURT: Do you have a copy Solicitor?

14 MR. WARING: I do, Your Honor.

15 [Whereupon, Ms. Stewart opens sealed transcript and
16 provides it to the witness]

17 Q. [Ms. Stewart] Detective Sanchez, I have shown you a
18 transcript of the preliminary hearing. And I would ask
19 for you to refer to page 26 starting at line 23.

20 A. 23, okay.

21 [Whereupon, the witness reviews document]

22 Q. So do you see going onto the next page where you
23 said I know there were some other indications of injuries
24 but we didn't know were sustained during the fight or
25 during the collapse of the ceiling.

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1 A. Correct.

2 Q. So now you remember saying that in the preliminary
3 hearing?

4 A. Yes. In the preliminary hearing I was speaking as
5 to our belief; not to our certainty.

6 Q. I understand that. But that's what you testified to
7 at the preliminary hearing.

8 A. Yes, ma'am.

9 Q. And we also saw copies of those MIMES that Mr. Green
10 allegedly reposted, right.

11 A. Yes, ma'am.

12 Q. No evidence that he created those, right?

13 A. No, ma'am.

14 Q. They were a repost.

15 A. I would assume so.

16 Q. Detective Sanchez, you made some mistakes in this
17 case.

18 A. Yes, I did.

19 Q. And I want to talk to you, I'm sure you know, about
20 these phone records.

21 A. Yes, ma'am.

22 Q. Specifically talking about the Defendant's phone
23 records.

24 A. Yes, ma'am.

25 Q. That's that 702 number.

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- 1 A. Yes, ma'am.
- 2 Q. And initially you did get a search warrant to get
3 them, right?
- 4 A. Yes, that is correct.
- 5 Q. And search warrants are important.
- 6 A. Yes, ma'am.
- 7 Q. You can't get into somebody's phone records without
8 a search warrant.
- 9 A. Correct.
- 10 Q. And so you submit a warrant to a judge to show that
11 you have a good reason to look at these records, right?
- 12 A. Yes, I did.
- 13 Q. And then you swear to that warrant under oath.
- 14 A. Yes.
- 15 Q. And if the judge determines that your reason is good
16 enough they'll sign the warrant, right?
- 17 A. Yes, that's correct.
- 18 Q. And the judge only knows what you tell them.
- 19 A. Correct.
- 20 Q. So that's why it's important to make sure that they
21 have accurate information.
- 22 A. Absolutely.
- 23 Q. And again you're under oath when you submit a search
24 warrant, right?
- 25 A. Absolutely.

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1 Q. You always get search warrants when you want
2 information, right?

3 A. Yes.

4 Q. Without a search warrant you can't get things like
5 phone records.

6 A. Correct.

7 Q. You've no other way to get them.

8 A. Correct.

9 Q. So back to Mr. Green's phone records. You initially
10 obtained a search warrant in June of 2017, right?

11 A. Yes.

12 Q. And that was shortly after Mr. Rivers was killed.

13 A. Yes, that's correct.

14 Q. And you received records back in June of 2017.

15 A. Yes, I did.

16 Q. And you reviewed those records.

17 A. Yes, I did.

18 Q. And you realized that you had gotten the timeframe
19 wrong.

20 A. Correct.

21 Q. I think you had requested February to April.

22 A. That is exactly correct, yes.

23 Q. And so Mr. Rivers was actually killed in June.

24 A. Correct.

25 Q. And you cared about June.

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1 A. Right.

2 Q. So not that big of a deal, right?

3 A. Yes.

4 Q. So you realized your error and you had to get a new
5 search warrant.

6 A. Absolutely.

7 Q. And you have to do a new search warrant every time
8 there is an issue.

9 A. Yes.

10 Q. Because that old warrant is not enough to get phone
11 records for the new date.

12 A. Correct.

13 Q. And that search warrant was signed by a judge on
14 August 30th, of 2017.

15 A. Correct.

16 Q. And you needed that to be able to get his phone
17 records for the right time period.

18 A. Correct.

19 Q. August 30th, 2017 is also when you received the
20 data, is that correct?

21 A. That's correct.

22 Q. And you forgot to get the Return signed, right?

23 A. Yes.

24 Q. What's a Return?

25 A. The Return it is a proof that you have served the

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1 warrant in a timely fashion. And then it is
2 demonstrating to the Court that the items, an inventory
3 list of what you obtained from the person who you served
4 the warrant on to show that in good faith you've executed
5 it in a timely fashion and you have obtained the
6 information you sought out.

7 Q. And so in this case you forgot to get the Return
8 signed.

9 A. Correct.

10 Q. And so basically you had to get that signed in
11 preparation for this trial, right?

12 A. Yes, I did, yes.

13 Q. I think maybe last week.

14 A. Yes.

15 Q. But you received the data on August 30th, 2017.

16 A. Yes.

17 Q. You could not have reviewed the data before August
18 30th, 2017.

19 A. Correct.

20 Q. Because you didn't have it.

21 A. Correct.

22 Q. At some point after August 30th, 2017 you lost the
23 phone records.

24 A. Yes, that is correct.

25 Q. You told the Solicitor you lost them.

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1 A. Yes.

2 Q. And you even submitted a new search warrant in
3 November 2018 for the same records you'd already gotten.

4 A. Correct.

5 Q. The problem was at that point the data was gone.

6 A. That is what I was informed of.

7 Q. So you couldn't get the data in November 2018 from
8 the provider.

9 A. Correct.

10 Q. So the Solicitor had to then tell me that you didn't
11 have the phone records.

12 A. That is my understanding.

13 Q. Because you told him you didn't have them.

14 A. Correct.

15 Q. Now in preparing for this trial we found the phone
16 records.

17 A. Yes.

18 Q. That was in September 2019.

19 A. Yes.

20 Q. About two years after this happened.

21 A. Yes.

22 Q. Just over a month before trial.

23 A. Yes.

24 Q. One thing is for sure you definitely did not have
25 Gregory Green's phone records in July of 2017.

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1 A. Yes.

2 Q. I want to talk to you Detective Sanchez about your
3 arrest warrant in this case. And an arrest warrant is a
4 document you write, right?

5 A. That's correct.

6 Q. Submit to a judge.

7 A. Yes.

8 Q. You swear to it.

9 A. I do.

10 Q. Under oath.

11 A. I do.

12 Q. And then at that point the judge decided whether
13 they are going to sign the warrant.

14 A. Correct.

15 Q. And again it's important to provide truthful
16 information.

17 A. Yes.

18 Q. The judge is relying on the accuracy of what you
19 provide to them.

20 A. Right.

21 Q. Do you have a copy of the arrest warrant up there
22 with you?

23 A. I do not.

24 Q. Would it help you to see a copy as we go through it?

25 A. Sure.

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1 MR. WARING: Your Honor, I would object to this
2 line of questioning.

3 THE COURT: Counsel approach.

4 [Whereupon, an off the record bench conference is
5 held]

6 MS. STEWART: May I approach the witness, Your
7 Honor?

8 THE COURT: Objection overruled. You may approach
9 the witness.

10 [Whereupon, Ms. Stewart provides document to the
11 witness]

12 Q. [Ms. Stewart] And Detective Sanchez I've provided
13 you a copy with your arrest warrant in this case. And I
14 want to talk to you about a specific line on that arrest
15 warrant. You arrested Mr. Green on July 11th, 2017,
16 right?

17 A. That's correct.

18 Q. And you just testified you didn't have his phone
19 records in July.

20 A. Correct.

21 Q. But you put on that warrant that quote Defendant's
22 cell phone records indicate he was on Bailey Street
23 during the time of the incident.

24 A. Yes.

25 Q. So that information was not accurate.

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1 A. That's correct.

2 Q. I also want to talk to you a little bit more about
3 the preliminary hearing. And you were the testifying
4 officer at Mr. Green's preliminary hearing, is that
5 correct?

6 A. Yes, ma'am.

7 Q. And you came in and you got on the witness stand and
8 you testified, right?

9 A. Yes, ma'am.

10 Q. Under oath.

11 A. Yes, ma'am.

12 Q. In a courtroom.

13 A. Yes, ma'am.

14 Q. Next to a judge.

15 A. Yes, ma'am.

16 Q. And I was there.

17 A. You sure were.

18 Q. And a Solicitor was there.

19 A. He was.

20 Q. And we had a court reporter there typing down
21 everything.

22 A. Yes, ma'am.

23 Q. And in that preliminary hearing you said under oath
24 that Mr. Doucet mentioned -- mentioned a -- mentioned
25 dropping off Mr. Rivers' cousin in this case.

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1 A. Yes.

2 Q. He said he dropped off a person at his cousin's
3 house.

4 A. Yes.

5 Q. And that's what you testified to on the stand at the
6 preliminary hearing.

7 A. Yes, that's correct.

8 Q. You specifically said that Mr. Doucet said a cousin.

9 A. Yes.

10 Q. And you at that point had interviewed Mr. Doucet,
11 right?

12 A. That's correct.

13 Q. But Mr. Doucet in his interview with you never said
14 anything about anyone's cousin.

15 A. Yes, he did.

16 MS. STEWART: I beg the Court's indulgence.

17 [Whereupon, Ms. Stewart reviews documents]

18 MS. STEWART: May I approach the witness, Your
19 Honor?

20 THE COURT: You may. Page and line number for the
21 witness.

22 [Whereupon, Ms. Stewart provides document to the
23 witness]

24 Q. [Ms. Stewart] Detective Sanchez I've shown you a
25 copy of a transcript of your interview with Mr. Doucet.

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1 Would it surprise you that I reviewed the entire copy
2 several times and there is no mention of anyone's cousin
3 in that interview?

4 A. No, it would not surprise --

5 THE COURT REPORTER: Tell me your answer again.

6 A. No, it would not surprise me.

7 Q. [Ms. Stewart] There is nothing in there about
8 anyone's cousin.

9 A. I understand.

10 Q. You also have testified about Mr. Doucet's phone
11 records, right?

12 A. Yes.

13 Q. You received those on June the 23rd, right?

14 A. Yes.

15 Q. He has two different phones, correct?

16 A. Correct.

17 Q. And so you had two sets of records for him.

18 A. Yes.

19 Q. You also said under oath that the early morning
20 hours of June 8th were the only time that Mr. Doucet and
21 Mr. Green had ever communicated.

22 A. [No response]

23 Q. Would it help refresh your memory if I referred you
24 to the preliminary hearing?

25 A. Sure.

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1 Q. If you would please turn with me to page 18 line 5
2 through 17.

3 [Whereupon, the witness reviews document]

4 A. Correct. I see what its saying.

5 Q. Okay. So you did testify then at the preliminary
6 hearing that the cell phone records indicate that those
7 are the only times that those people have ever
8 communicated.

9 A. Yes.

10 MS. STEWART: May I retrieve an exhibit, Your
11 Honor.

12 [Whereupon, Ms. Stewart reviews exhibits]

13 MS. STEWART: May I approach the witness, Your
14 Honor?

15 THE COURT: You already have, counsel. Hand him
16 the documents and use the exhibit number.

17 MS. STEWART: Yes, sir.

18 [Whereupon, Ms. Stewart provides document to the
19 witness]

20 Q. [Ms. Stewart] Okay. Detective Sanchez I'm handing
21 you ---

22 THE COURT: --- don't stand where you block my jury
23 now.

24 MS. STEWART: Yes, sir.

25 THE COURT: Step back so they can see the witness.

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1 MS. STEWART: Yes, sir.

2 Q. [Ms. Stewart] I've handed you what has been marked
3 and admitted as State's 61 and State's 64. I'd like to
4 go over with you the phone records for the phone number
5 ending in 9680.

6 A. Yes ma'am, I have it.

7 Q. And can you remind me the number of that exhibit?

8 A. That is exhibit 61.

9 Q. Okay. I'd like to refer your attention to a few
10 dates. So specifically on page 1 of 16 I'd like you to
11 look at the line for May 24th, 2017 starting at 10:11.
12 Do you see that?

13 [Whereupon, the witness reviews document]

14 A. I'm looking for it. You said May 24th?

15 Q. May 24th at 10:11 p.m.; I apologize.

16 A. I found it.

17 Q. Okay. And do you see calls there inbetween that
18 640-9680 number ---

19 A. --- yes, ma'am ---

20 Q. --- Mr. Doucet's phone number.

21 A. Yes, ma'am.

22 Q. And the Defendant's phone number.

23 A. I do.

24 Q. Do you also see more calls a few lines down from
25 that on May 25th 2017 at 21:26?

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1 A. Yes, again.

2 Q. I also want to refer your attention to May the 29th,
3 2017 on page 2 of that exhibit.

4 [Whereupon, the witness reviews document]

5 Q. And I'm talking about calls starting at 12:53. Do
6 you see that?

7 A. 12:53 yes, I do see it.

8 Q. And do you see a series of about 10 calls inbetween
9 Mr. Green's phone number and Mr. Doucet's phone number?

10 A. Yes, I do.

11 Q. And then I would ask you to turn to page 3.

12 [Whereupon, the witness complies]

13 Q. And I would ask you to look at May the 31st starting
14 at 21:07.

15 A. Yes.

16 Q. And again you see a series of calls inbetween those
17 two phone numbers?

18 A. Yes. I see two calls there.

19 Q. And I'm not going to belabor the point but I also
20 want to bring up a couple of calls after this happened.
21 So I'd ask you to look at June the 11th, 2017 which is on
22 page 6 out of 16.

23 [Whereupon, the witness complies]

24 Q. I'd ask you to look starting at 4:16 a.m. Do you
25 see that?

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1 A. Yes.

2 Q. And there are calls inbetween Mr. Green's phone and
3 Mr. Doucet's phone?

4 A. Yes. There is a call that went to voice mail.

5 Q. And then there is also another call on June the 15th
6 at 1:02; that's on page 7.

7 A. You said what time again?

8 Q. I'm sorry; 1:02, June the 15th.

9 [Whereupon, the witness reviews document]

10 A. Okay, yes.

11 Q. Okay. So again calls between the Defendant's phone
12 number and Mr. Doucet's phone number?

13 A. Yes.

14 Q. And I'm not going to belabor my point but certainly
15 there were other calls outside of these windows?

16 A. Yes.

17 Q. And you had access to both sets of these records for
18 the preliminary hearing, right?

19 A. Correct.

20 Q. Just not the Defendant's records?

21 A. Correct.

22 Q. I do want to talk to you about your testimony at the
23 preliminary hearing regarding Mr. Green's phone records.
24 You testified about Mr. Green's phone records at the
25 preliminary hearing didn't you?

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1 A. That's correct.

2 Q. You said that you had reviewed Mr. Green's phone
3 records, right?

4 A. Yes.

5 Q. You said that his phone records put him in the area
6 of the incident at the time of the incident.

7 A. Correct.

8 Q. You specifically said that the calls he made to
9 Doucet were the calls that you used to determine his
10 location.

11 A. Correct.

12 Q. You said his phone was on Bailey Drive at the time.

13 A. Correct.

14 Q. And you testified extensively about cell tower
15 evidence that day.

16 A. Yes, ma'am.

17 Q. You said those records disproved his alibi, right?

18 A. Correct.

19 Q. You also testified that his records conclusively
20 determined he could not have been at his own house.

21 A. Correct.

22 Q. The preliminary hearing though was on August 15th.

23 A. Correct.

24 Q. That was 15 days before you obtained the correct
25 search warrant.

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1 A. Yes, ma'am.

2 Q. Fifteen days before you retrieved the data.

3 A. Yes, ma'am.

4 Q. Fifteen days before you ever reviewed the data.

5 A. Yes, ma'am.

6 Q. I want to talk to you about the testimony of a few
7 witnesses in this case that we have heard from. First I
8 want to talk to you about your interview with Jonathan
9 Seabrook ---

10 THE COURT: --- all right counsel, we're going to
11 stop at this point. I understand from my bailiff that
12 your delicious lunch has arrived ladies and gentlemen so
13 I'm going to ask you to go to your jury room. We're
14 going to feed you your lunch in the jury room and give
15 you something to drink and eat and take a break.

16 It's after 1 o'clock now. I'm going to start back
17 at 2:30 so you have plenty of time to use the restroom,
18 take a break, get lunch. If everybody is finished and
19 had lunch before that and we're ready I might start a
20 little earlier. But I'll check to make sure.

21 Please do not discuss the case. You may retire to
22 your jury room at this time.

23 [Whereupon, the jury exits at 1:07 p.m.]

24 THE COURT: Detective Sanchez you are in the middle
25 of cross-examination. I want you to get lunch but I want

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1 you to have no conversation with any of the lawyers or
2 anybody else about this case.

3 THE WITNESS: Yes, sir.

4 THE COURT: You're under oath and in the middle of
5 your testimony. I'm only breaking because the food has
6 been sitting there now for 15 to 20 minutes for the jury
7 and I'm trying to not have them eat cold food. They've
8 been working hard this week and late this week. Do you
9 understand my instructions?

10 THE WITNESS: I do, Your Honor.

11 THE COURT: Now you've been handed documents. My
12 lawyers have a tendency to mix my exhibits up and then
13 take them back to their desk sometimes and not leave them
14 with the court reporter. You've got some documents that
15 are not in evidence that have been handed to you all
16 right.

17 THE WITNESS: Yes, sir.

18 THE COURT: Those are to be returned to the person
19 that gave them to you if they aren't in evidence. The
20 exhibits however need to stay with the court reporter on
21 the table in front of you.

22 THE WITNESS: Yes, sir.

23 THE COURT: Obviously an exhibit will have a red
24 sticker on it. You understand that?

25 THE WITNESS: Yes, sir.

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1 THE COURT: All right. I need to see my lawyers
2 briefly in chambers. We're going to break at this time
3 for lunch until 2:30.

4 [Whereupon, the witness exits the witness stand]

5 [Whereupon, Court is in recess from 1:09 p.m. until
6 2:25 p.m.]

7 [Off the record momentarily]

8 [Whereupon, the witness retakes the witness stand]

9 THE COURT: Is the State ready to proceed?

10 MR. WARING: Yes, Your Honor.

11 THE COURT: Is the Defendant ready to proceed?

12 MS. STEWART: Yes, Your Honor.

13 THE COURT: Bring us the jury please Mr. Bailiff.
14 Mr. Sanchez, are you ready?

15 THE WITNESS: I am, Your Honor.

16 [Whereupon, the jury enters at 2:31 p.m.]

17 THE BAILIFF: Your Honor, the jury is complete.

18 THE COURT: Thank you, sir. Please be seated. Mr.
19 Foreman and ladies and gentlemen of the jury did everyone
20 have a delicious Jimmy Johns lunch?

21 [Whereupon, all jurors answer affirmatively]

22 THE COURT: I hope you enjoyed it. We will now
23 continue with the testimony in the trial of this case.
24 As you will recall this witness was previously sworn
25 before you and we're in the middle of cross-examination

1 by counsel for the Defendant of this witness. All right
2 counsel, Ms. Stewart, you may proceed with cross-
3 examination.

4 MS. STEWART: Thank you, Your Honor. May it please
5 the Court?

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1 CROSS-EXAMINATION (resumes)

2 BY MS. STEWART:

3 Q. Detective Sanchez, I want to talk to you about your
4 interviews with a couple of witnesses in this case.

5 A. Yes, ma'am.

6 Q. I want to talk to you about your interview with
7 Jonathan Seabrook.

8 A. Yes, ma'am.

9 Q. And we heard testimony from Mr. Seabrook earlier
10 this week.

11 A. Yes, you did.

12 Q. And in your interview with Mr. Seabrook Mr. Seabrook
13 told you that the person he saw was wearing all dark
14 clothing.

15 A. Yes.

16 Q. He specifically said that everything on the guy was
17 dark except the white rag on his head.

18 A. That's correct.

19 Q. I also want to talk to you about your interview with
20 Ms. Lanica Walker. She testified earlier this week
21 regarding a conversation she had with Mr. Terrance
22 Doucet, right?

23 A. Yes.

24 Q. And throughout her interview Ms. Walker repeatedly
25 called him a liar.

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1 A. Yes, she did.

2 Q. She also told you several times that Doucet admitted
3 shooting Mr. Rivers.

4 A. She did.

5 Q. I also want to talk to you about the search warrant
6 that you completed on Mr. Doucet's vehicle. Would it
7 help you to see a copy of that warrant as we talk about
8 it?

9 A. Sure.

10 MS. STEWART: May I approach the witness, Your
11 Honor?

12 THE COURT: You may. You have a copy, Solicitor?

13 MR. WARING: I do, Your Honor.

14 [Whereupon, Defendant's exhibit number 2 is marked
15 for identification by the court reporter]

16 [Whereupon, Ms. Stewart provides document to the
17 witness]

18 Q. [Ms. Stewart] And Detective Sanchez I've just handed
19 you what has been marked for identification as defense
20 exhibit 2. Do you recognize that?

21 A. I do.

22 Q. And what is it?

23 A. This is a search warrant for Terrance Doucet's
24 Chrysler 200.

25 Q. Does it appear to be a fair and accurate copy of

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1 that search warrant?

2 A. It does.

3 Q. And on the Return you can see your handwriting on
4 the last page, right?

5 A. Yes.

6 Q. And we talked previously in this trial about this
7 search warrant because there is something crossed out on
8 that Return in the search warrant right?

9 A. Yes, ma'am.

10 MS. STEWART: Your Honor, at this time defense
11 would offer exhibit 2.

12 THE COURT: Counsel approach.

13 [Whereupon, an off the record bench conference is
14 held]

15 THE COURT: Proceed consistent with the ruling at
16 the bench.

17 Q. [Ms. Stewart] I'm again showing you what is marked
18 as exhibit 2 for identification purposes only.

19 [Whereupon, Ms. Stewart provides document to the
20 witness]

21 Q. [Ms. Stewart] There is a portion on that search
22 warrant Return where you marked something out, right?

23 A. Yes, ma'am.

24 Q. And can you tell us about that?

25 A. That was where we had marked down a swab that was

1 collected from the interior of the vehicle. Later upon
2 doing our count of all of the evidence that we had
3 collected we realized that there was a discrepancy in
4 what we had collected as Lisa Bouska [phonetic] or
5 Kubicsko, sorry, had done the examination and the
6 collection of the evidence at that time I was standing
7 off to the side and writing things down as she was
8 dictating them to me.

9 Realizing that in all of that there had been a
10 mistake where I had written down swab we later counted
11 and realized that I miscounted that object that she had
12 said was a swab or that I had written down as a swab was
13 actually a napkin that was removed from the interior of
14 the vehicle on that side at which point in time we
15 discussed well, we've already signed it, we've already
16 closed it out and whatnot how do we explain the mistake
17 that we just made in notating a swab verses a napkin.

18 And I said well, this is easy. I will cross it out,
19 I will initial and indicate and then later at trial
20 explain what had occurred so that we can simply explain
21 what happened there on that swab of naming it a swab
22 rather than a napkin which was the item in question.

23 Q. Okay. And so that search warrant your initials are
24 on it, right?

25 A. Yes.

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1 Q. And it's dated June 23rd, 2017.

2 A. Correct.

3 Q. And the search warrant was executed the day earlier
4 on June the 22nd.

5 A. Yes. That was executed that night and we stayed
6 late into the evening all the way into the early morning
7 hours of the 23rd.

8 So this would have been crossed out and done
9 officially June 23rd. But it was still the evening of;
10 it would have been just after midnight when this would
11 have occurred.

12 Q. I want to talk with you next about Mr. Doucet's
13 stolen vehicle. You did not investigate that case,
14 right?

15 A. Yes, I did; although somebody else was assigned to
16 it. I think that's what you're indicating.

17 Q. Would you recognize a copy of a report involved in
18 the theft of Mr. Doucet's vehicle?

19 A. Sure.

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

22 THE COURT: You may.

23 MR. WARING: Your Honor, I'm going to object to
24 that report.

25 THE COURT: Counsel approach.

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1 [Whereupon, an off the record bench conference is
2 held]

3 THE COURT: Objection is sustained. Move along
4 counsel. Objection is sustained.

5 Q. [Ms. Stewart] Ms. Walker did tell you though that
6 Mr. Doucet had his car stolen.

7 A. Yes, she did.

8 Q. I also want to talk to you about that phone call
9 that you said you made to Mr. Green in the weeks
10 following Mr. Rivers' death.

11 A. Yes, ma'am.

12 Q. And that in that call he supposedly said he was
13 downtown.

14 A. Yes.

15 Q. At the time of the crime.

16 A. That's correct.

17 Q. And you said you called him.

18 A. Yes, I did.

19 Q. He didn't call you.

20 A. No, not at all.

21 Q. And that call was not recorded.

22 A. No.

23 Q. It was short.

24 A. It was.

25 Q. About how long would you say it was?

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1 A. Five to ten minutes.
2 Q. And that was in June of 2017.
3 A. Yes.
4 Q. But you didn't write a report about it until April
5 of 2018.
6 A. Yes, that's correct.
7 Q. It's almost a year after you say this call happened.
8 A. Correct.
9 Q. So we are totally relying on your memory of that
10 call.
11 A. Yes.
12 Q. You can't even tell us what day this happened so
13 that we can check phone records.
14 A. June 15th.
15 Q. Would it refresh your recollection if I showed you a
16 copy of your report on this call?
17 A. I have one here with me.
18 MS. STEWART: May I approach the witness, Your
19 Honor?
20 THE COURT: Give him the page.
21 MS. STEWART: I will.
22 Q. [Ms. Stewart] And I see you have it in front of you
23 so you see that it says approximately within a week of
24 June 15th, 2017.
25 A. Correct.

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1 Q. So you don't give a date.

2 A. That's correct, yes.

3 MS. STEWART: I beg the Court's indulgence.

4 [Whereupon, Ms. Stewart and Ms. Norris confer with
5 the Defendant]

6 MS. STEWART: I have no further questions for this
7 witness.

8 THE COURT: Very well. Redirect?

9 MR. WARING: Thank you, Your Honor.

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1 another matter of law that I have to bring up; I
2 apologize.

3 THE COURT: You have what?

4 MS. STEWART: A matter of law.

5 [Whereupon, an off the record bench conference is
6 held]

7 THE COURT: The objection is sustained.

8 Q. [Mr. Waring] All right Detective, there was mention
9 of the injuries to the victim. Were you present when the
10 pathologist was testifying?

11 A. Yes, I was.

12 Q. Now there was some testimony at the preliminary I
13 guess you supposedly said that it could have been caused
14 by fire debris or something, is that right?

15 A. Yes. At that early stage we were not willing to
16 rule anything out as we're not experts in that field so
17 we just didn't -- we were saying that those are all
18 possibilities that were still left open.

19 Q. Okay. Now did you hear the testimony of the
20 pathologist that it could have been caused by the butt of
21 a gun?

22 A. Yes, I did.

23 Q. Now there has been a lot of back and forth about
24 when you requested the phone records, whether you got the
25 right records, etc. Does your perhaps untimely turning

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1 over of those records to our office have anything to do
2 with the actual validity of those records?

3 A. No, it does not.

4 Q. Are those records still valid and authentic?

5 A. Yes. They were obtained directly from the cell
6 phone provider. Nothing was altered or changed. It was
7 presented as it so nothing is different.

8 Q. Could you tell the jury how many full time
9 detectives does North Charleston have in their Person's
10 unit?

11 A. In the Person's unit there are six of us.

12 Q. Six people to handle all those cases?

13 A. Yes.

14 Q. All right. Detective, would you say that it is a
15 fair assessment that there is room for improvement?

16 A. Absolutely. Every day we seek to improve ourselves.
17 We see errors like this and we find a reason that we
18 should do something better every time. I think that's the
19 professional way to handle anything.

20 Q. Would you say that y'all at times are overworked?

21 A. Yes. I would have to concede that we are.

22 Q. Now the defense counsel brought up Terrance Doucet's
23 interview with you. When he came and interviewed what
24 was his demeanor?

25 MS. STEWART: Objection.

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1 THE COURT: Grounds?

2 MS. STEWART: Relevance, Your Honor.

3 THE COURT: Overruled. I'll allow him to answer
4 that.

5 A. Terrance Doucet appeared to be in fear of ---

6 MS. STEWART: --- objection.

7 THE COURT: Counsel, rephrase your question for me
8 now.

9 Q. [Mr. Waring] Was he calm when he came in?

10 A. For the most part.

11 Q. Okay. But did he -- was he otherwise -- did he seem
12 like there was something going on that led him to not be
13 completely ---

14 MS. STEWART: --- objection.

15 THE COURT: Sustained. No, sir. Its redirect
16 counsel. Don't lead. Proceed.

17 MR. WARING: Thank you, Your Honor.

18 Q. [Mr. Waring] I want to get back on track with phone
19 records. We discussed those earlier and do you remember
20 when I put up multiple phone records of Terrance Doucet?

21 A. Yes.

22 Q. Now defense counsel was talking about how there were
23 some phone calls made prior and after the date of the
24 incident. During the actual time of the incident are the
25 Defendant and the co-defendants phones both those phone

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1 numbers interacting numerous times?

2 A. Yes.

3 Q. Now regarding Lanica Walker were you present during
4 her testimony?

5 A. Yes, I was.

6 Q. Okay. And defense counsel brought up how she told
7 you that Terrance Doucet gave a second story in which he
8 said to her that he had maybe participated in the
9 shooting, right?

10 A. Correct.

11 Q. Now were you present also during the testimony of
12 Lanica Walker when she said to this jury that she made
13 that up?

14 A. Yes.

15 Q. Because she was angry at Terrance.

16 A. Yes.

17 Q. Talking about the search warrant does whatever line
18 you scratched out or didn't scratch out does that have
19 anything to do with the actual items that were sent off
20 to SLED that were testified to by the analyst Donna
21 Money?

22 A. No, that item was never involved in any of the
23 testing.

24 Q. Regarding Terrance Doucet's vehicle was there any
25 evidence in your investigation that Terrance had actually

1 staged that?

2 A. No. I never found any evidence of him staging it.

3 Q. Now there was also mention of your not documenting
4 the phone call that you had with the Defendant until
5 sometime way after the fact. How were you able to know
6 or recall which number it was that you had called him on?

7 A. The Las Vegas phone number is one that sticks out in
8 my head very easily because one, it's the last phone
9 call. Again, as I had stated earlier it is the final
10 phone call that is substantial with the victim.

11 Any other phone calls after go straight to voice
12 mail as the phone is no longer operable. So it's easy to
13 go back to that point and go that's the number that I've
14 gone to before. Plus it was a very strange number. We
15 are used to dealing with 843, 803, 864.

16 702 is way off base for most things that we deal
17 with with our murders because our murders usually deal
18 with locals. And so that was a very strange number and
19 it kind of lingers in your mind.

20 Q. Does the fact that it took you a while to document
21 that in your report does that mean that your phone call
22 with him did not happen?

23 A. No, not at all.

24 [Whereupon, Mr. Waring and Mr. Sowards confer]

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

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1 THE COURT: Counsel approach.

2 [Whereupon, an off the record bench conference is
3 held]

4 THE COURT: Bear with us a minute ladies and
5 gentlemen. We have to check on a matter.

6 [Whereupon, Mr. Waring reviews his documents]

7 THE COURT: Counsel approach.

8 [Whereupon, an off the record bench conference is
9 held]

10 THE COURT: Proceed.

11 Q. [Mr. Waring] Detective, do you recall was there a
12 lineup with Jerome Kendyl Rice?

13 A. Yes.

14 Q. Okay. An actual document?

15 A. Yes, an actual six-pack photo lineup.

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

17 THE COURT: Are you ready to proceed?

18 MS. STEWART: Your Honor, I don't have any
19 questions for this witness. I just have a matter of law.

20 THE COURT: All right. You may step down.

21 [Whereupon, the witness is excused and exits the
22 witness stand]

23 THE COURT: Call your next witness.
24
25

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1 MR. WARING: Your Honor, the State calls Agent Clay
2 Simmonds.

3 THE COURT: Is this the one you wanted...

4 MS. STEWART: Yes, sir.

5 THE COURT: All right. Mr. Foreman, ladies and
6 gentlemen of the jury. I have to take up a matter of
7 law. I'm going to ask you if you will please step to
8 your jury room. I'll be back with you just as quickly as
9 I can. Please do not discuss the case.

10 [Whereupon, the jury exits at 2:56 p.m.]

11 [Whereupon, Mr. Simmonds comes forward]

12 [Whereupon, the witness is duly sworn by the Clerk
13 of Court]

14 THE COURT: Good afternoon.

15 THE WITNESS: Good afternoon.

16 CLERK OF COURT: For the record please state your
17 full name spelling your last.

18 THE WITNESS: Robert Clayton Simmonds, S-I-M-M-O-N-
19 D, as in David, S.

20 THE COURT: All right, Mr. Simmonds. Let the
21 record reflect we are outside the presence of the jury.
22 Defense counsel has advised me there is an objection that
23 she wishes to make in regards to this testimony. So I'm
24 taking up the matter first in camera in order to be able
25 to understand to the extent that this objection applies

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1 to what this witness did since I'm not clear yet exactly
2 how it affects the witness's testimony. Proceed,
3 Solicitor.

4 MR. WARING: Thank you, Your Honor.

5 - - - - -

6 CLAY SIMMONDS,

7 Having been first duly sworn,

8 Was examined and testified as follows:

9 IN CAMERA-DIRECT EXAMINATION

10 BY MR. WARING:

11 Q. Good afternoon, Agent Simmonds.

12 A. Hey. How are you?

13 Q. Good, good. Can you tell the Court where you work?

14 A. I'm a supervisory Special Agent with the FBI here in
15 Charleston.

16 Q. Can you tell us how long you've worked with the FBI?

17 A. A little over 17 years.

18 Q. What's your educational background?

19 A. I have a business and accounting degree from the
20 College of Charleston. After the College of Charleston I
21 graduated and became a police officer here in Charleston.

22 I worked for Charleston Police Department for five
23 years; two years answering calls for service and three
24 years on an FBI violent crimes task force.

25 Q. Okay. And currently what's your job title?

1 A. Supervisor Special Agent.

2 Q. Can you tell the Court what the CAST unit is?

3 A. Sure. So I'm a supervisory Special Agent over our
4 CAST team, which is the cellular analysis survey team.

5 We're a group of agents who receive specialized
6 training in the analytical abilities to analyze and
7 visually depict cell phone tower usage over a particular
8 point in time. It's basically historical cell site
9 analysis.

10 Q. Now have you had to have specific training in order
11 to become a CAST member?

12 A. Yes, sir. Outside of the training to become a
13 special agent we go through almost 400 hours of training
14 to become certified. We have a basic cellular analysis
15 course where it's three days.

16 We learn what cell phone records are, what data is
17 available to us, how to legally obtain those records,
18 what is needed to visually depict where cell phones were
19 generally located at any particular moment in time.

20 We then are provided with records and scenarios so
21 we visually depict or analyze the phone records and place
22 the cell towers and the sectors that were used on that
23 phone on a map and present it to the classroom while
24 we're there. The second phase we go through is
25 approximately a week long class where we have and we call

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1 it advanced cell site analysis or advanced project
2 pinpoint. We get basically the same things but with some
3 anomalies to the records.

4 The times of the records may be in UTC and not in
5 local time. You may have a missing azimuth somewhere and
6 you have to go look in the tower records to go find it.

7 And again we take these records, analyze it, plot
8 them and present it to the classroom. Then you go
9 through what we call an out in the field training
10 exercise.

11 We put you through scenarios and tell you hey, we
12 have a missing kid, a bomb exploded; whatever the
13 scenario may be and make you go through the process of
14 obtaining those records in a simulated fashion.

15 Obtain those records, analyze those records and
16 again visually depict those on the map and present it to
17 the instructors so they can critique your work and your
18 effort there.

19 We have a geo, two-week geo-location course where we
20 go down to Florida and we learn how to use a cell site
21 simulator.

22 So when we are tracking phones in real time we use
23 this piece of equipment to simulate a cell tower and have
24 the phone talk to our truck or our whatever the vehicle
25 is so we can generally, so we can know where that

1 particular phone is. We go out every single day during
2 that two-week course and track cell phones.

3 We take a week-long class in instruction of learning
4 how to teach adults teaching points because part of the
5 role of being a CAST member is that you have to teach
6 these techniques to local, state, and federal law
7 enforcement agencies and partners. That class is about a
8 week long.

9 And then our certification process is two two-week
10 sessions. So the first week we learn about radio
11 frequency theory of how cell phones work, how they
12 interact with towers, how the towers are set up, how the
13 network is set up.

14 We then during the second week we have the service
15 providers from every major service company here, Verizon,
16 T-Mobile, AT&T, Sprint, and U.S. Cellular come in with
17 their law enforcement relations personnel and their
18 engineers and basically tell us what is available to us,
19 how we can legally go about getting it, how their
20 networks are set up, how their network is oriented, why
21 it is set-up in the way that it is set up.

22 We then take a tour of a tower and a switch in the
23 market that we're studying in to kind of see where
24 everything is processed. And then during the second two-
25 week certification portion we go through a week learning

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1 course of learning of how to become an expert witness for
2 court and what is expected of us, what we can say and
3 can't say.

4 And then we provide the students with a scenario,
5 ask them to analyze the records once again, give them a
6 piece of equipment to drive test the area so we can get
7 the actual footprint of a cell phone tower, present that
8 in a similar fashion that I will do here today.

9 And then we fly lawyers from all over the country to
10 play prosecutor, judge, and defense attorneys and put
11 them through a moot court scenario. And if you pass each
12 stage of that, each one of those stages then you're
13 certified by the FBI to be an expert witness for CAST.

14 Q. Now Agent Simmonds do private expert civilians do
15 they have access to the same kind of training and access
16 to the phone companies, for example the FBI or other law
17 enforcement do?

18 A. Not that I'm aware of. Our training is strictly for
19 our law enforcement partners and prosecutors if they want
20 to learn something about cell phones.

21 Q. Is there ongoing training that you are required to
22 do each year?

23 A. Yes. So each year we get recertified. We bring in
24 the service providers and the law enforcement personnel
25 and engineers once again and they provide us updates with

1 their network, what records are available, what records
2 are available and what potential changes are coming
3 within the network such as 5G which is on the horizon
4 here in South Carolina.

5 Q. Okay. Now can you tell the Court what historical
6 cell site analysis is?

7 A. Sure. So when your phone interacts, your cell phone
8 interacts with the network it not produces a date and
9 time that you called, the duration of the call, who
10 called you or who you called in that situation.

11 But it also provides us a piece of information where
12 we have a switch which is basically a group of towers
13 that service the area and then a cell site I.D. and
14 sector is within those records.

15 So that group of towers being the switch kind of
16 gives us a general location where it is. The cell site
17 I.D. tells what actual tower was used and then the sector
18 or the orientation tells us what side of the tower was
19 used.

20 Most cell towers especially here in South Carolina
21 are divided up into three 120 degree sectors to give us a
22 360 degree coverage for that cell tower. And with those
23 records we're able to see what cell site was used, what
24 side of that tower was used. And then when we couple
25 those call detail records with the tower list that is

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1 provided by the network providers we're able to place the
2 towers on a map by their latitude and longitude and then
3 visibly depict where the phone generally was as that
4 particular moment in time.

5 Q. Approximately how many times have you performed this
6 kind of analysis?

7 A. Hundreds if not thousands of times at this point.

8 Q. And can you give us a general idea of what types of
9 cases you've used them in?

10 A. Hit and runs, murders, rapes, domestic terrorism
11 cases, robbery cases; anything you can think of where
12 somebody uses, has used or used their cell phone over the
13 time period that needs to be analyzed.

14 Q. All right. And you may have touched on it briefly
15 but is this a peer reviewed process?

16 A. Yes. So each time we conduct an analysis of a cell
17 phone we'll send out a draft, it's just kind of a rough
18 draft maybe to give the detective an idea of where the
19 phone was, corroborate a statement from individuals when
20 they're interviewing them in an investigative process.

21 But when we're coming to Court and we're going to
22 testify about the contents that are on our presentation
23 those maps and the records are sent out for peer review
24 by another CAST agent within the FBI and they correct any
25 mistakes or see misspelled words or things of that

1 nature. And we make those corrections and send it to the
2 person that asked us to conduct the analysis.

3 Q. Is that the main tactic that y'all use to ensure
4 quality control and reliability?

5 A. Yes, sir.

6 Q. Agent Simmonds, how many times have you testified in
7 Court before?

8 A. Dozens; I mean I'm probably pushing over 20 at this
9 point.

10 Q. As an expert?

11 A. As an expert, yes sir.

12 MR. WARING: Your Honor, at this point the State
13 would seek to admit the ---

14 THE COURT: --- counsel, the objection that I
15 understand from the pretrial brief is the Court is being
16 asked to bar this testimony from this witness regarding
17 PCMD from Sprint on the basis of unreliability of the
18 information. Is that correct, counsel?

19 MS. STEWART: Yes, Your Honor.

20 THE COURT: All right. Please inquire of the
21 witness about that because the objection was that Sprint
22 will not certify the data or its use. And the argument
23 is he's relied on this data in order to form an opinion.
24 I need to know more about that in order to rule on the
25 objection.

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1 MR. WARING: Certainly, Your Honor.

2 Q. [Mr. Waring] Agent Simmonds, can you tell the Court
3 what PCMD records are?

4 A. Sure. So in the normal course of business certain
5 companies like Sprint and Verizon and others will keep
6 timing advanced information within their records for a
7 period of time.

8 And if the records are requested within that window
9 of time then they are made available to law enforcement
10 through the proper legal process. So per call
11 measurement distance is ---

12 THE COURT: --- and define for the record for us
13 PCMD is?

14 THE WITNESS: Per call measurement distance.

15 THE COURT: All right. Go ahead.

16 A. PCMD is per call measurement distance. Verizon I
17 believe calls it real time tool but it's basically the
18 same thing. It's just a timing advance.

19 So the networks to optimize their efforts to make
20 sure they are providing the best possible coverage and
21 the best possible service to their customers they will
22 use PCMD to optimize their network.

23 And they get complaints that the tower is not
24 providing enough service or it's being overloaded or
25 things of that nature. So they send out a signal to

1 handsets from a tower and basically say hey, phone where
2 are you? And the phone says hey, I'm over here. And
3 then that timing event ever how long it takes that phone
4 to respond back gives them an estimated distance of what
5 tower and sector was utilized and how far away it is from
6 that tower.

7 Q. Now are they commonly used by the FBI?

8 A. Sure. We use them all the time especially ongoing
9 investigations where we have missing children, fugitives,
10 violent offenders, active shooters; things of that nature
11 to kind of give us a general idea of where the phone is
12 in there.

13 What mainly throws a lot of people off with per call
14 measurement distance is that within those records they
15 also, the companies will also provide you with a latitude
16 and longitude. And people who are inexperienced with
17 these kind of records will take that latitude and
18 longitude and place it on a map and think that phone is
19 right there.

20 Our basis through our training and experience of
21 using these records we go by the distance, how far it is
22 away from that tower within that sector. And we draw an
23 arc in there and we say the phone is somewhere within
24 that arc. Now if we have additional pieces of
25 information, a known address, a known crime scene and

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1 that PCMD or that RTT falls within that arc that is a
2 very good starting point for us to go do surveillance, go
3 look for the individual in that area.

4 Q. Now there has been some mention of it. Do the phone
5 companies attest to per call measurement data?

6 A. No. Both Verizon and Sprint will throw in the
7 caveat that they don't want to attest to the accuracy of
8 it. Mainly especially Verizon they specifically mention
9 the latitude and longitude of it.

10 It is from my understanding from talking to the
11 other agents that have used it is that people have relied
12 on that latitude and longitude and based arrests and
13 search warrants off of it and then it being the wrong
14 location.

15 And with that they're now upset with the cell phone
16 providers for providing improper information when over
17 the years that we have been CAST and myself have been
18 using per call measurement distance we know that the
19 phone is generally X amount of miles away from that
20 tower.

21 But we know it's in that sector somewhere and we're
22 not relying on the latitude and longitude that's provided
23 to use. We're basically just using the distance from the
24 tower and trying to figure out why that phone would be
25 that far away at that particular moment.

1 Q. So are you saying that the basis by which the phone
2 company won't attest to their accuracy due to latitude
3 and longitude is something that y'all don't really use?

4 A. We don't use the latitude and longitude. We're
5 using the tower, the sector and the distance from the
6 phone, from that tower or that sector at that particular
7 moment in time.

8 Q. Does anybody to your knowledge from the phone
9 company take those PCMD records and use them personally
10 to track down people?

11 A. I'm not aware of them using the PCMD to track down
12 anybody but they do use the data to optimize their
13 network.

14 Q. Now approximately how many times in your opinion has
15 the FBI CAST unit used PCMD to successfully locate
16 people?

17 A. I'm sure it's tens of thousands of times at this
18 point. We've been a unit for 10 plus years. I mean I've
19 personally used it to find a fugitive from Albany, New
20 York staying at a hotel based on the RTT because it was a
21 Verizon phone falling right on top of a hotel.

22 What we really like to see with per call measurement
23 data or RTT is having two arcs coming from two different
24 towers and where they overlap that is key for us because
25 we can generally state that that phone is somewhere in

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1 that general area. And then if we have additional
2 information that there is hotel that's a known crime
3 scene witness statements or whatnots says that person or
4 that phone was there we can generally go and set up in
5 that area and locate the individual or for us we're
6 locating a phone in that area.

7 Q. Now based on all that and your experience would you
8 say that the FBI deems these records reliable?

9 A. We like I said we use them almost every day to find
10 missing children, fugitives, to track where people have
11 generally been over a period of time.

12 We use it for analysis when we're going to use the
13 cell site simulator to generally give us an idea of where
14 to start so we're not driving all over the place.

15 And we've used that data to really narrow down the
16 focus and cut down our search time by using the PCMD and
17 the RTT data that is has provided.

18 Q. Now for this case are you specifically -- are you
19 using the PCMD data to specifically state 100 percent
20 where a phone is?

21 A. No. Just like with regular call detail records I
22 can only tell you the tower and sector that the phone
23 utilized at that particular moment in time. So the phone
24 could be anywhere within that tower or sector. With PCMD
25 the helpful part of that is it still gives us the tower

1 and sector but then it gives us a distance how far away
2 it is from that. And then we draw an arc saying that the
3 phone is somewhere in that arc within that tower and
4 sector.

5 Q. Okay. Now jumping ahead for this case were you
6 specifically asked to look at cell phone records for the
7 number of 843-640-9680?

8 A. Yes, sir.

9 Q. And did you do a report for that number?

10 A. Yes, sir.

11 Q. Looking at the phone records using those?

12 A. Yes, sir.

13 MR. WARING: Your Honor, may I approach the
14 witness?

15 THE COURT: And I don't have a jury here yet. Let
16 me see, do you want to cross-examine in camera on your
17 objection?

18 MS. STEWART: Yes, sir.

19 THE COURT: Before we get to the substance of his
20 testimony unless you've got anything else you want to on
21 the background I'm trying to understand the objection
22 right now.

23 MR. WARING: No, Your Honor.

24 THE COURT: Cross-Examination.

25 MS. STEWART: Thank you, Your Honor.

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1 IN-CAMERA CROSS-EXAMINATION

2 BY MS. STEWART:

3 Q. So this PCMD is per call measurement data, right?

4 A. Yes, ma'am.

5 Q. Not measured in distance, right?

6 A. Yes, ma'am.

7 Q. Okay. And so your analysis of the cell site data is
8 based on what is provided to you by the Solicitor's
9 office, right?

10 A. That they obtain from whoever the provider was;
11 Sprint, Verizon or whoever.

12 Q. From the provider, right?

13 A. Yes, ma'am.

14 Q. So you're getting records directly from say Sprint
15 or Verizon or AT&T, right?

16 A. Or the law enforcement agency got it directly from
17 them and they forward it to me.

18 Q. Right. So in order for you to testify accurately to
19 those records those records have to be accurate to begin
20 with, right?

21 A. Sure. They are records that are obtained through a
22 normal course of business for whatever company it is.

23 Q. And so I understand that you testified on direct
24 with the Solicitor that PCMD records at least by Sprint
25 and Verizon are considered not accurate and not complete?

1 A. That's their caveat that they place on there for the
2 reasons I stated earlier.

3 Q. In fact in this case Sprint is unable to explain,
4 certify or testify to the accuracy of these records as
5 they may be erroneous.

6 A. I don't know if that's the word that they -- I don't
7 recall what their -- how they word it. I'm not going to
8 dispute that is not the word but I know they don't --
9 they have a caveat within their explanation sheets for
10 PCMD.

11 Q. And I'd like to show you a page of your report so
12 that I can explain to the Judge what exactly it is that
13 you would be testifying to today.

14 MS. STEWART: I'm going to place it on the
15 overhead, Judge.

16 THE COURT: Does he have his report up there with
17 him?

18 Q. [Ms. Stewart] Do you have your report up there with
19 you?

20 A. No, ma'am.

21 THE COURT: Give him a copy of his report.

22 [Whereupon, Ms. Stewart provides document to the
23 witness]

24 Q. [Ms. Stewart] And we're specifically looking at
25 page 6 of your report I believe.

1 [Whereupon, the witness reviews document]

2 A. Okay.

3 Q. And so what you intend to testify to based on this
4 PCMD data is that there is an arc or there are two arcs
5 that are coming together over the Defendant's house, is
6 that right?

7 A. That's correct.

8 Q. And so you intend to render an opinion that that
9 means the phone was likely at the Defendant's house?

10 A. Based on that information and from my understanding
11 from the investigation of witness statements that the
12 phone would have been in that general area.

13 If I was looking for this particular individual
14 that's where I would have started based on a known
15 address that falls within the PCMD data around 3:22 in
16 the morning.

17 Q. But the PCMD is an estimate, right?

18 A. Sure.

19 Q. It's not an end all be all. You can't say 100
20 percent that that arc is where the phone is.

21 A. Through our training in utilizing this technique we
22 have found phones to be within that arc. Now where
23 specifically on there I cannot tell you. Just like when
24 we look at call detail records and they provide us with a
25 tower and sector that was utilized I can't tell you

1 specifically where that phone was within that tower and
2 sector. And same thing with PCMD, I can't tell you
3 specifically where that phone was with the arc without
4 additional information that may be gleaned from the
5 investigation.

6 Q. Okay. And these arcs that you've made on page 6 of
7 your report they are based on PCMD?

8 A. That's correct.

9 Q. And they are based on the information that you
10 received from law enforcement in this case.

11 A. From the records that they received from in this
12 case Sprint, yes ma'am.

13 Q. And again, Sprint will not testify to the accuracy
14 of these records?

15 A. That is their caveat in their explanation form, yes
16 ma'am.

17 MS. STEWART: I have nothing further, Judge.

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1 THE COURT: Very well. All right. I've listened
2 to this carefully and I told counsel I would. And also
3 she asked me to do it in camera outside the presence of
4 the jury. Apparently the State intends to introduce
5 testimony from this witness and counsel for the Defendant
6 has objected that the testimony will include some
7 historical cell site analysis calculations using in part
8 what has been identified to me as PCMD.

9 This is a term from Sprint that they will not
10 certify according to counsel for the Defendant the data
11 or its use. The witness has not relied exclusively on
12 this in reaching his opinion. The witness has been
13 previously qualified. I think it goes to the weight and
14 not the admissibility. The objection is respectfully
15 overruled.

16 Bring us the jury, please. You are free to cross-
17 examine this witness about PCMD as long as you wish.

18 MS. STEWART: Thank you.

19 [Off the record momentarily]

20 [Whereupon, the jury enters at 3:22 p.m.]

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1 THE COURT: Call your witness, Solicitor.

2 MR. WARING: Thank you, Your Honor. The State
3 calls Agent Clay Simmonds.

4 [Whereupon, the witness is duly sworn by the Clerk
5 of Court]

6 CLERK OF COURT: And again for the record, please
7 state your full name spelling your last name.

8 THE WITNESS: Robert Clayton Simmonds, S-I-M-M-O-N-
9 D as in David, S.

10 THE COURT: Your witness, counsel. Direct
11 Examination. The jury is present.

12 MR. WARING: Thank you, Your Honor.

13 - - - - -

14 CLAY SIMMONDS,

15 Having been first duly sworn,

16 Was examined and testified as follows:

17 DIRECT EXAMINATION

18 BY MR. WARING:

19 Q. Good afternoon, Agent Simmonds.

20 A. Hello.

21 Q. Agent Simmonds, please tell the jury where you work.

22 A. I'm a supervisory Special Agent with the FBI. I am
23 assigned to what we call our cellular analysis survey
24 team or CAST team out of FBI headquarters but I live here
25 in Charleston.

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1 Q. How long have you worked for the FBI?

2 A. A little over 17 years.

3 Q. And can you describe your educational and training
4 background?

5 A. Sure. I have a business and accounting degree from
6 the College of Charleston. Afterwards receiving those
7 two degrees I became a police officer with the Charleston
8 Police Department from 1995 to 2000. I did two years on
9 patrol answering calls for service; 911 calls and things
10 of that nature.

11 And then I spent three years on an FBI violent
12 crimes taskforce. I left the police department and went
13 to graduate school at Clemson for about a year or so.
14 9/11 took place and the FBI started hiring once again and
15 I became a Special Agent with the FBI in May of 2002.

16 I was assigned out to Norman, Oklahoma for my first
17 assignment. I stayed in the Oklahoma City division for
18 ten years. I worked primarily violent crimes, gangs,
19 drug offenses, some child pornography, some white color
20 things of that nature.

21 I then took a supervisory position at FBI
22 headquarters in 2012 where I was on the executive staff
23 for the Assistant Director of the criminal program at FBI
24 headquarters. I did that for approximately nine months
25 until CAST became an official standalone unit of its own

1 in April of 2013 and I was moved over to the CAST unit as
2 a supervisor. I conducted and coordinated training,
3 organized plan training for individuals who wanted to
4 learn our techniques of analyzing cell phones from it.

5 I stayed at FBI headquarters until July of 2014
6 where I received a transfer back here to Charleston where
7 I continued to work violent crimes, gangs; anything
8 reactive at the time, and became certified as a CAST
9 agent shortly after being transferred back to Charleston.

10 Q. All right. Now can you explain what the CAST unit
11 actually is and does?

12 A. Sure. CAST unit is a group of special agents or
13 task force officers that receive specialized training and
14 to be able to look at, read, analyze, and visually depict
15 cell phone transactions that take place over a period of
16 time.

17 So what we do is when an individual makes a phone
18 call or receives a text or anything of that nature a
19 record is created that shows you the date, the time, the
20 duration of the call, who was called or texted, who you
21 called or texted at that particular moment.

22 And then they provide us with a little bit of extra
23 information where we have the switch, which is basically
24 a group of towers that provide service to an area, a cell
25 site I.D. which is a specific tower that is used, and

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1 then the sector or the orientation of that tower so we
2 know what side of the tower that was utilized when that
3 transaction took place.

4 So when we have that information and we couple that
5 with the tower list that is provided by the network
6 providers we're able to put those two things together and
7 visually depict the general area where a phone was when
8 these transactions took place.

9 Q. Now, I know you mentioned some of your training.
10 Did you have to undergo any specific training to enter
11 the CAST unit?

12 A. Sure. CAST agents receive almost 400 hours of
13 training to become certified and testify as expert
14 witnesses in the analysis of historical cell site data.

15 The first class that we take is just a basic course
16 just telling us hey, these are cell site records, this is
17 what is available to you, this is how you legally obtain
18 them. Then we give you scenarios or records and say hey,
19 plot and analyze these records and provide a
20 demonstration to the class.

21 The second phase of our training is another about a
22 week long course where we give you records that have some
23 sort of anomalies in it; whether the records are not in
24 local time, they're in UTC or for folks that were in the
25 military GMT time, you have to convert that to a local

1 time. There might be some information that is missing
2 that you have to go reflect in the tower list to go grab
3 that information so that you can properly depict where
4 the phones were at those particular times. And again, we
5 give you several situations or cases and have you analyze
6 them and present them to the class.

7 We then have a two-week long course down in Florida
8 where we teach you how to use what we call a cell site
9 simulator. So we use it to track phones. So we go down
10 to this class and learn how the equipment works.

11 And then every day we utilize that equipment and
12 they strategically place phones out into the community
13 and we use the cell site simulator to interact with the
14 phone so we can specifically know where that phone was.

15 So the phone thinks our truck is a cell tower and it
16 connects with us and then it gives us an area where to go
17 look for the phone. And we do that for approximately two
18 weeks.

19 We also have a class because part of the duties of
20 being a CAST agent is to teach these techniques to other
21 local, state and federal law enforcement officials. So
22 you spend a week learning how to teach adults these
23 concepts.

24 After than we have two, two-week sessions of
25 certification. Our first session of two-weeks is a

1 weeklong of radiofrequency. How does a cell phone use
2 radiofrequencies to talk to the tower? How does a phone
3 interact with the towers? The towers with the cell phone
4 produce these records. We have that class for a week.

5 And then the second week we have all the cell phone
6 providers come into town and teach us what is available.
7 So Sprint, Verizon, AT&T, T-Mobile and U.S. Cellular all
8 come in bringing the law enforcement relation's group
9 personnel and their engineers in there to tell us what
10 records are available, how do we get them, how long are
11 those records available for?

12 And then the engineers explain their network, how it
13 works, how it works and why the phones -- why the
14 networks are set up the way that they are.

15 We also take a tour of a switch, which is a group of
16 towers or a tower and then the processing center where
17 the calls, texts, and data sessions go through. And we
18 go through that and talk to the personnel there, people
19 that service the towers and things of that nature.

20 And then our second two-week session is again we
21 take a weeklong moot court -- not moot court training,
22 expert witness testimony where we have individuals come
23 in and instruct us on what is expected of us as expert
24 witnesses, what we can say, what we can't say, how expert
25 witnesses are different than your normal witnesses. Here

1 on the stand that we're able to give opinions once you're
2 certified as an expert witness. And then we have
3 provided them with a scenario and asked them, the second
4 week and asked them to map out the scenario, place the
5 cell phones on the map, use a piece of equipment that we
6 go and drive test so we can get the actual footprint of
7 the tower and then present that for moot court.

8 And during moot court, during that second week we
9 fly attorneys in from all over the country to play
10 prosecutor, defense attorney, and judge and we make them
11 present their findings.

12 And then they get the opportunity to cross-examine
13 and we critique and grade them after each one of these
14 stages of training.

15 Q. Now Agent Simmonds, do private experts that are
16 civilians that are not law enforcement do they have
17 access to the same kind of training and access to the
18 phone companies like y'all do?

19 A. They don't have access to our training because the
20 training is for our law enforcement, our folks, and then
21 our law enforcement partners.

22 And I'm not aware of any private individuals having
23 access to the cell phone providers in the manner that we
24 do because we have the cell phone providers come back
25 every year to reinstruct us on any changes to the

1 network.

2 Q. Can you tell us in practice procedurally how you
3 conduct historical cell site analysis?

4 A. Sure. So we get requests every day about records to
5 be analyzed and whether that is from a local police
6 department or local state or federal police department or
7 from a prosecutor's office and we're asked to look at
8 cell site records.

9 So they provide us with the cell site records they
10 obtain from the cell company themselves. They provide us
11 with relevant data for the analysis that is needed such
12 as date and time of the crime, location of the crime, any
13 alibi statements, any witness statements that could help
14 with the analysis.

15 They provide us that information and then we take
16 those cell phone records along with a tower list and kind
17 of combine them together for lack of a better word so we
18 can visually depict where the phone was, generally depict
19 where the phone was at that particular moment in time.

20 Q. Approximately how many times have you conducted
21 historical cell site analysis?

22 A. Hundreds if not pushing 1000 times by now.

23 Q. Is that procedure is that peer reviewed?

24 A. Yes, sir. When we initially do our analysis of
25 phones we send it out as a draft to kind of give the

1 detective if it's an ongoing investigation a general idea
2 of where the phones were at that moment. And then once
3 we're coming here to Court that draft analysis is sent
4 out to another CAST agent to peer review.

5 If they find any mistakes that we might have made;
6 misspelled words or information that we shouldn't have
7 put in there or should have added in there and we
8 generally talk about that and make those changes.

9 And then once those changes have been made we send
10 the final draft or the final analysis over to the person
11 that asked for it.

12 Q. Have you testified before Agent Simmonds?

13 A. Many times.

14 Q. Can you give us an idea about how many times?

15 A. Pushing over 20 at this point.

16 Q. And is that in the field of historical cell site
17 analysis?

18 A. Yes, just in historical cell site analysis.

19 MR. WARING: Your Honor, at this point the State
20 moves to declare the witness an expert in the field of
21 historical cell site analysis.

22 THE COURT: Any objection as to qualification?

23 MS. STEWART: No, sir.

24 THE COURT: Ladies and gentlemen recalling my
25 earlier instruction to you concerning expert witness

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1 testimony the witness is qualified without objection.

2 You may proceed.

3 MR. WARING: Thank you, Your Honor.

4 Q. [Mr. Waring] Agent Simmonds, can you tell the jury
5 what PCMD data is?

6 A. So it's called per call measurement data. Per call
7 -- its distance per call measuring distance per call
8 measuring data. It's a piece of information that is
9 provided by Sprint. They are the ones that use PCMD.

10 That is kept in the normal course of business. It's
11 what they call a timing advance mechanism. So they use
12 that PCMD data to optimize their network.

13 So what they're doing is they're sitting up there
14 and they want to know where a phone is at a particular
15 moment in time so it sends a signal out to the phone and
16 the tower is going hey phone, where are you? And the
17 phone says hey, I'm over here.

18 And ever how long it takes that phone to respond and
19 that signal to get back to the tower the companies
20 estimate how far away from that tower and within that
21 sector that phone is.

22 And that data can be made available if you get
23 within a reasonable time period that those companies keep
24 it.

25 Q. Does the FBI CAST unit use that on a regular basis?

1 A. Yes, sir. We use it to locate fugitives, generally
2 find out a path of travel for individuals, missing kids;
3 things of that nature. We use it daily for that.

4 Q. Now Agent Simmonds, can you tell the jury will phone
5 companies typically attest to the accuracy of this kind
6 of data?

7 A. No. The two phone companies that provide that PCMD
8 are Verizon calls it real time to arrange the tower.
9 They both have a caveat within their explanation sheets
10 that they do not rely or that the data is not reliable
11 information to utilize in the records.

12 Q. Approximately how many times would you say the FBI
13 CAST unit has used PCMD data to successfully locate
14 people?

15 A. Thousands and thousands of times. I've used it
16 personally myself to locate missing kids, fugitives and
17 things of that nature; corroborate statements of other
18 individuals in cases. And then my counterparts who are
19 placed throughout the country we use it every day.

20 Q. Now are you using this data to say 100 percent this
21 is where a phone is at?

22 A. No. Just like when we're looking at the call detail
23 records in there the towers are usually divided up into
24 three equal sectors and we say hey, the phone is using
25 this sector in this 120 degree area and we say it's

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1 somewhere in that area. The same thing with PCMD; the
2 only thing that it does is kind of narrows down how far
3 away we believe the phone is.

4 And we draw an arc within that sector and say hey,
5 that phone is somewhere on that arc ever how far away the
6 PCMD data says it is in that tower -- in that tower and
7 sector.

8 Q. For this specific case were you in preparation for
9 trial were you provided with two sets of phone records to
10 analyze?

11 A. Yes, sir.

12 Q. And were you also provided the details about the
13 case?

14 A. Of course.

15 Q. Now is one of those numbers 843-640-9680?

16 A. That's correct.

17 Q. And the other one, the Defendant's records, what did
18 you do once you got those records, can you explain to the
19 jury?

20 A. Sure. Once I received the records and the
21 information about the case, the pertinent information
22 such as the crime scene, date and time of the crime I
23 opened up the records to see what if there were any
24 transactions that were available to be plotted during
25 that timeframe. Then took that information along with

1 the tower list and merged those two together and created
2 a power point -- a map on Google and then placed that map
3 into a power point presentation so we could visually see
4 where that phone was at that particular, generally see
5 where that phone was at that particular moment in time.

6 MR. WARING: Your Honor, may I approach the
7 witness?

8 THE COURT: You may.

9 Q. [Mr. Waring] Agent Simmonds, I'm showing you what
10 has been marked for identification purposes only as
11 State's exhibit 131.

12 [Whereupon, the witness is shown exhibit]

13 Q. Do you recognize that?

14 A. Yes, sir.

15 Q. And can you tell the jury what that is?

16 A. It's the power point presentation I created for this
17 particular case for the analysis of telephone number 843-
18 640-9680, which is a Sprint phone, and telephone number
19 702-786-4391 which is a Verizon phone.

20 Q. And is the information you were provided that those
21 are one number for co-defendant Terrance Doucet and one
22 number for the Defendant?

23 A. That's my understanding of it.

24 Q. And does that exhibit 131 fairly and accurately
25 depict your report?

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1 A. Yes, sir.

2 MR. WARING: Your Honor, the State seeks to admit
3 131.

4 THE COURT: As to 131?

5 MS. STEWART: We renew our ---

6 THE COURT: --- subject to your earlier objection?

7 MS. STEWART: Yes, sir.

8 THE COURT: Nothing further?

9 MS. STEWART: Nothing further.

10 THE COURT: Ladies and gentlemen, State's exhibit
11 131 will be admitted into evidence in the trial of this
12 case over objection.

13 [Whereupon, State's exhibit number 131 is entered
14 into evidence by the Court]

15 THE COURT: State's exhibit 131 is in evidence.
16 You may publish to the jury.

17 MR. WARING: Thank you, Your Honor.

18 Q. [Mr. Waring] Agent Simmonds, I'm going to put up on
19 the overhead State's exhibit 131 what we were just
20 talking about.

21 [Whereupon, the exhibit is shown to the jury]

22 Q. Is this the report that you were referring to?

23 A. Yes, sir.

24 Q. All right. And are those the two numbers that you
25 just talked about?

1 A. Yes, sir.

2 Q. Now starting with I believe this is page one can you
3 just tell the jury what this is?

4 A. Sure. This is our background information sheet that
5 tells us what numbers we were asked to analyze, the date
6 that they asked us to analyze it, and then our
7 methodology which basically is what I stated earlier.

8 We need the call detail records, tower list and
9 we'll merge them together to visually depict the general
10 area where the phone was at a point in time. Then those
11 maps will be on the following pages.

12 Q. All right Agent Simmonds, I'm now flipping to page
13 2. Can you explain what we're looking at here?

14 A. Sure. So generally especially here in South
15 Carolina cell phone towers are divided up into three 120
16 degree sectors so we get a 360 degree coverage area.

17 And within the tower list that is provided it tells
18 us the orientation or the direction that that sector is
19 facing. And so in this particular example it shows that
20 we have sector one facing at a 60 degree angle.

21 And so for us to cover that 120 degree sector we
22 have to sit up there and say that's generally at 2
23 o'clock. We're going to draw our sector at 60 degrees to
24 the right of that, 60 degrees to the left of it so we'll
25 have our 120 degree sector. And it tells us what side of

1 the tower the phone utilized with that information. And
2 then we just go around for each of the other sectors
3 based on the orientation of sectors two and three.

4 Q. All right. I'm now going to flip to page 3. Agent
5 Simmonds, can you tell us what we're looking at here?

6 A. Sure. So when we depict these phones using the
7 towers and sectors on our maps they're generally looking
8 like this.

9 And this is basically to show you that the phone can
10 be anywhere between these two arms of the sector and not
11 necessarily down here [indicates] in the highlighted
12 area.

13 We have that highlighted area to show you this is
14 where the radiofrequency energy is coming out from that
15 particular tower and sector and it's coming out that way
16 but the phone could be anywhere in this area [indicates].

17 Q. All right. Now moving along to page 4 can you tell
18 us what we're looking at here, Agent Simmonds?

19 A. Sure. This is an overall view of the Sprint and
20 Verizon towers in the Charleston market around June of
21 2017. It also has the relevant locations that are
22 pertinent to this investigation.

23 The green tab being marked as LW as Lanica Walker's
24 residence at 210 Miami Street in Ladson, the Bistro which
25 I understand is a bar restaurant kind of place located at

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1 2025 Reynolds Avenue in North Charleston, the Defendant's
2 residence as marked in the orange tab as D; it's at 3127
3 Azalea Drive in North Charleston.

4 The victim's residence is purple marked with a V at
5 2278 Bailey Drive in North Charleston. And the Cheap Way
6 gas and convenience store is at 3615 Dorchester Road
7 located as a blue tab with the letters CW on it.

8 Q. All right. Now I'm going to page 5. Agent
9 Simmonds, can you tell us what is being depicted here?

10 A. Sure. This is a general depiction of the towers
11 that were utilized by 843-640-9680 on June 8th from
12 basically 3:22 in the morning until 10:36 that night.

13 Q. Now kind of jumping ahead a little bit and then I'm
14 going to go back in time but looking at the top left of
15 this map right here [indicates] Lanica Walker's house
16 what can you tell us about the phone calls up here
17 [indicates] in relation to her location?

18 A. So that one her residence is extremely close to the
19 Sprint tower that provides service to her residence and
20 that calls that took place that day began at 11:06 and
21 ended around 10:36 that night with significant gap in
22 time of almost 12 hours because of the phone not being in
23 that general area at that time.

24 Q. And we're talking about June 8th, 2017, is that
25 correct?

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1 A. Yes, sir.

2 Q. And this is for the number 843-640-9680?

3 A. That's correct.

4 Q. All right. Now I want to flip to page 6. Can you
5 tell the jury what this is?

6 A. Sure. Basically, this is the same view of the map
7 from earlier but covering the time period of 3:05 in the
8 morning till 4:45 in the morning on June 8th.

9 Sprint along with historical cell site data they
10 also maintain data called per call --

11 THE COURT REPORTER: -- called what?

12 A. Per call measurement distance data that is available
13 from them. So again, that's what I talked about earlier.
14 It's a general range how far that phone is away from the
15 tower within that sector.

16 And they give us a range in miles of how far it is
17 away and we draw an arch showing us the general location
18 where that phone would be.

19 If you ever look at the records they also provide us
20 with a latitude and longitude but I don't use that
21 information because we've found that that data, the
22 latitude and longitude is erroneous and has led to phones
23 not being in that specific point.

24 So we draw the arc and say the phone is somewhere on
25 that arc at that particular moment when the PCMD data is

1 generated.

2 Q. [Mr. Waring] All right Agent Simmonds, so I kind of
3 want to go through chronologically what is going on in
4 this analysis starting with, I'm going to zoom in the top
5 left, starting with the calls around 3:05 in the morning
6 up here [indicates] at the top left.

7 Can you tell us what is the nearest landmark that
8 was on the legend that you talked about earlier?

9 A. It would be the Cheap Way gas that was located right
10 there [indicates] marked with a blue icon with a CW on
11 it. In this particular situation the telephone 843-640-
12 9680 placed an outgoing call at 3:05 and 20 seconds a.m.
13 using this tower and sector.

14 Within that during that same time period there was
15 PCMD data that was captured by Sprint at 3:05 and 38
16 seconds stating the phone was generally in this area on
17 this arc [indicates].

18 Q. All right. Now I want to scroll over to what is
19 taking place at the top right. Can you tell me what is
20 going on with these calls up here 3:22 a.m., 3:47; can
21 you tell us about those?

22 A. Sure. So the phone moved southwards towards tower
23 609 sector one so the dash one on there means it placed
24 another outgoing call at 3:22 and six seconds. During
25 that time period it also had a PCMD data at 3:22 and 24

1 seconds coming out to right here [indicates] on this arc
2 that falls over the Defendant's residence. And then
3 again at 3:47 a.m. and 52 seconds the phone appears to be
4 over here [indicates] in this general area on this
5 particular arc.

6 Q. Now, at 3:22 and with 24 seconds are you able to
7 offer any opinion of where you think or where you would
8 start looking for that phone at that time?

9 A. So with this PCMD data and then coupled along with
10 the PCMD data at 3:24 and 55 seconds, which is this part
11 here [indicates] and the information that I gleaned from
12 the investigation I would have started looking for this
13 particular phone in the area of the Defendant's residence
14 because it's another location that we have.

15 We have from my understanding there were statements
16 that they believe the Defendant was there and I would
17 have looked for this particular phone, the 640-9680,
18 starting off at that Defendant's residence. And then if
19 it wasn't there we would have moved on to the next
20 logical location.

21 Q. All right. And then scrolling down I guess kind of
22 backtracking slightly 3:24 at 3:24 a.m. can you tell us
23 anything about this tower or any of the data?

24 A. Sure. Towers within any network are set up sort of
25 like a sprinkler system. You want to have overlapping

1 coverage from one tower to the next; one tower to the
2 next. So when you're moving, the phone is moving, you
3 don't drop your call because it makes you mad and it
4 aggravates you and you want to change your service
5 provider.

6 So these phone calls or these towers are set up in
7 an overlapping fashion just like a sprinkler system
8 because you have the energy shooting from the tower from
9 this way [indicates], energy shooting from the tower that
10 way [indicates] and you want them to overlap so when you
11 travel you don't drop your calls.

12 Same thing with sprinkler system. If a water head
13 on here and water head over there you want them to
14 overlap a little bit so you don't have dead grass in the
15 middle of it. Sprinkler system -- or cell phone towers
16 are basically the same thing.

17 So this phone appears to be in an overlap or sort of
18 moving closer to this tower 527 sector 2 at around 3:24
19 in the morning based on the data that was provided by
20 Sprint.

21 Q. Okay. And then towards the bottom of the page these
22 calls at 4:45 a.m. can you tell us anything about that?

23 A. Correct. So for approximately an hour and 20
24 minutes there is no data with cell site information
25 available or PCMD that we could utilize to visually show

1 where the phone was. So at around 4:45 in the morning
2 the phone moved down to this tower 709 sector 3 and
3 utilized -- received an incoming call at 4:45 and 23
4 seconds.

5 Q. Are you able to offer any opinion about what the
6 general path of this phone was making say from 3:05 in
7 the morning in the top left until 4:45 which I believe is
8 the latest phone calls on this particular page?

9 A. So generally it started off up here [indicates]
10 towards the top -- open it up -- generally it started off
11 up here [indicates] at the top at tower 531 and moved in
12 a southerly direction.

13 And then when we get over to, move down in a
14 southerly direction it has a call over here [indicates]
15 at 4:30 this way [indicates].

16 And then eventually it would be my most logical
17 belief that it went up 526 beginning at 4:45 based on
18 this arc and the times that were generated here.

19 Q. And then you already explained that starting around
20 11:06 in the morning later that same morning your opinion
21 is that the phone travelled up towards Lanica Walker's
22 house?

23 A. Sure. So it was down here [indicates] at 3 o'clock
24 in the morning and basically kind of did this general
25 movement there where it travelled south, west and then

1 back up north.

2 Q. All right. Agent Simmonds, I now want to transition
3 over to page 7. Can you tell us what was going on here?

4 A. So yes, this is an overview of the towers that were
5 used by 702-786-4380 -- 4391, the Verizon phone on June
6 8th until approximately 10:48 in the morning.

7 Q. All right. Now I'm showing you page 8. What can
8 you tell us about this?

9 A. So generally these two towers, tower 326 and 384
10 based on measurements that I took while analyzing this
11 they are approximately two miles away from each other.

12 And that the phone equally seemed at various times
13 to use both towers because you have calls at 12:06 within
14 a few seconds of each other at both towers which makes me
15 believe that the phone is in the overlap area of it.

16 It primarily seems to use this tower 326 which
17 provides service both to the victim and the Defendant's
18 residence up until 4:53 in the morning on June 8th.

19 MR. WARING: Your Honor, may I approach the
20 witness?

21 THE COURT: You may.

22 Q. [Mr. Waring] I'm showing you what has already been
23 admitted Agent Simmonds as State's exhibit 130.

24 [Whereupon, the witness is shown exhibit]

25 Q. These are the Defendant's phone records. Can you

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Clay Simmonds-Direct Examination by Mr. Waring
November 6, 2019

1 tell us during this time frame which is mapped out here
2 are there phone calls going to that 843-640-9680 number?

3 A. So yes sir, the call at 3:22 is from 843-640-9680 to
4 the Defendant's phone.

5 Q. Agent Simmonds, are you able to offer any opinion
6 about whether or not those two phones were at any
7 particular location at any given point in time in that
8 time frame?

9 A. Again like I said earlier with the Sprint phone
10 based on the PCMD data that overlapped over the
11 Defendant's residence and my understanding from witness
12 statements that is where I would have started off to find
13 this Sprint phone, that particular Sprint phone based on
14 this information.

15 And what is being analyzed there knowing that we
16 have a known address it would be my belief at that time
17 that around the 3:22, 3:30 mark when the phone is using
18 this particular tower it is somewhere in this general
19 area which provides service to the Defendant's residence
20 due to that tower and sector that provides service to
21 that Defendant's residence.

22 THE COURT: What's the exhibit number?

23 MR. WARING: 131, Your Honor.

24 THE COURT: 131?

25 Q. [Mr. Waring] Are you able to definitely, are you

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Clay Simmonds-Direct Examination by Mr. Waring
November 6, 2019

1 able to say 100 percent that the Defendant's phone did
2 leave his house?

3 A. I mean at some point it did because if we look later
4 on through the day the phone starts travelling south
5 towards downtown Charleston.

6 [Whereupon, Mr. Waring and Mr. Sowards confer]

7 Q. Please answer any questions the defense has.

8 THE COURT: Cross-Examination.

9 MS. STEWART: Thank you, Your Honor. May it please
10 the Court?

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State v Gregory Green
Clay Simmonds-Cross-Examination by Ms. Stewart
November 6, 2019

1 CROSS-EXAMINATION

2 BY MS. STEWART:

3 Q. Is it Agent Simmonds?

4 A. Yes, ma'am.

5 Q. Agent Simmonds, what is a drive test?

6 A. It is equipment we utilize to determine the actual
7 footprint of a tower. It tells us what our most logical
8 area that was utilized, that would be utilized for that
9 particular cell tower and the probable area that is used
10 for it.

11 Q. And it's basically like a double check on these
12 records, right?

13 A. I wouldn't necessarily call it a double check. It
14 tells us so with the presentation that you've just seen
15 it provides a 120 degree perfect little angle for the
16 sectors.

17 The drive test radiofrequency is not that way. It's
18 an irregular shape polygon and the drive test equipment
19 allows us to determine what shape that irregular shape
20 polygon is from that particular tower and sector.

21 Q. Do you know whether a drive test was done in this
22 case?

23 A. No, ma'am. I didn't receive these records until a
24 couple of months ago. And based on the crime happening
25 two years ago I didn't think it would be prudent to

1 perform a drive test.

2 Q. Because a drive test now wouldn't tell us anything
3 about the cell towers back in 2017, right?

4 A. With the changes and development that has taken
5 place in Charleston I think the footprints would have
6 been slightly different than what they were two years
7 ago.

8 MS. STEWART: May I review an exhibit, Your Honor?

9 THE COURT: [Nods affirmatively]

10 [Whereupon, Ms. Stewart reviews exhibits]

11 MS. STEWART: Permission to publish State's 131?

12 THE COURT: 131 is in evidence.

13 MS. STEWART: Yes, sir.

14 THE COURT: You may publish.

15 [Whereupon, the exhibit is shown to the jury]

16 Q. [Ms. Stewart] So I'm showing you page 6 of State's
17 exhibit 131, which is your report, right?

18 A. Yes, ma'am.

19 Q. And we've talked about the PCMD, right?

20 A. Yes, ma'am.

21 Q. And this page specifically only uses PCMD?

22 A. No, it uses the cell tower information too from the
23 call detail records. So the calls that are marked
24 outgoing call voice are the actual calls from the call
25 detail records. The ones that just say voice call those

State v Gregory Green
Clay Simmonds-Cross-Examination by Ms. Stewart
November 6, 2019

1 are PCMD.

2 Q. But the arcs those are PCMD, right?

3 A. PCMD only, yes ma'am.

4 Q. And you are aware that both Verizon and Sprint will
5 not testify to the accuracy of PCMD?

6 A. Yes, ma'am.

7 Q. In fact they say that they will not explain, certify
8 or testify to their accuracy as they may be erroneous.

9 A. That's my understanding of the caveat that they
10 place in their explanation sheet, yes ma'am.

11 Q. You also testified on direct with Mr. Waring that
12 the intersection of these arcs is important, right?

13 A. Correct.

14 Q. There are some other intersections on this document,
15 is that correct?

16 A. That's correct.

17 Q. For example, there is an intersection of those two
18 arcs, the 3:24 PCMD and the 3:22 PCMD, is that correct?

19 A. Yes ma'am, here [indicates] and here [indicates].

20 Q. So there are two different spots where those arcs
21 intersect?

22 A. Yes, ma'am.

23 Q. And in fact there is another intersection of an arc
24 on page 6 as well, isn't that true?

25 A. Yes, up here [indicates]. But it's a 20 minute

1 difference in the phone calls.

2 Q. I understand that. Further regarding the PCMD you
3 did mention that there is the latitude and longitude data
4 provided as part of that, right?

5 A. Yes, ma'am.

6 Q. And you said that you and the FBI in general have
7 found that that data is erroneous.

8 A. Those specific locations are misleading.

9 Q. And that's PCMD, right?

10 A. The latitude and longitude within PCMD, yes ma'am.

11 Q. And like all cell site data PCMD is an estimate.

12 A. Correct.

13 Q. These lines that are shown as hard lines are not
14 hard lines, is that correct?

15 A. No, ma'am. It's just showing you in the middle of
16 the arc that is the distance that was provided within the
17 PCMD data.

18 Q. So your opinion is based on the Sprint PCMD, right?

19 A. Yes, ma'am.

20 Q. And the information that the Solicitor provided to
21 you?

22 A. Yes, ma'am.

23 Q. I'm now showing you page 8 of State's 131 and I want
24 to talk to you a little bit about the movement of this
25 phone. You had mentioned that the phone moved and went

State v Gregory Green
Clay Simmonds-Cross-Examination by Ms. Stewart
November 6, 2019

1 downtown.

2 A. Eventually, yes ma'am.

3 Q. Okay. Can you give me an estimate of about what
4 time that would have been?

5 A. Well, on this particular side [indicates] so the
6 last transaction that occurred on this slide is at 4:53
7 and 58 seconds, which used this tower.

8 But if you were to flip over to page 9 we would see
9 several, I think it was a couple of hours later, that
10 phone had moved south down towards downtown Charleston.

11 Q. Okay. So this was several hours after 5 a.m.,
12 right?

13 A. An hour and a half or something like that. I'd have
14 to see page 9 to give you an exact time.

15 Q. I'm now showing you page 9.

16 A. Yes, ma'am. So at 6:23 the phone moved down here
17 [indicates] to the downtown area and used tower 425
18 sector 1.

19 And then eventually started going back up in this
20 general area [indicates] using this tower 400 sector 2
21 and sector 3.

22 Q. All right. And I'm sorry; I have a few more
23 questions about page 6. You mentioned on direct with the
24 Solicitor that there is a gap in time for Mr. Doucet's
25 phone, the 843-640-9680 number, is that correct?

1 A. For information that provided tower data for it
2 Sprint is one of the few -- well, it's one of the
3 companies that has not provided us cell site data for
4 text messaging.

5 They only do it for phone calls so there was not any
6 phone calls from basically 3:47 until 4:30; so about 45
7 minutes or so that there was any data for us to clock.

8 Q. And could that mean that the phone was for instance
9 off during that time?

10 A. I'd have to look at the records. If I recall
11 correctly from my analysis I believe he is receiving text
12 messages but I don't want to state that for a fact until
13 I look at the records.

14 MS. STEWART: Beg the court's indulgence.

15 [Whereupon, Ms. Stewart and Ms. Norris confer]

16 MS. STEWART: I have no further questions, Your
17 Honor.

18 THE COURT: Exhibit back to the court reporter.

19 MS. STEWART: Yes, sir.

20 [Whereupon, Ms. Stewart returns the exhibit to the
21 court reporter]

22 THE COURT: Redirect?

23 MR. WARING: Thank you, Your Honor.

24

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State v Gregory Green
Clay Simmonds-Redirect Examination by Mr. Waring
November 6, 2019

1 REDIRECT EXAMINATION

2 BY MR. WARING:

3 Q. Agent Simmonds and I can put your report back up if
4 necessary. Are you able to tell, just for clarification
5 are you able to tell whether the Defendant's phone
6 inbetween say 2 and 5 a.m. left his house?

7 A. It was using both towers that provided overlap they
8 overlap each other. So the phone had to move away from
9 the area that would be the Defendant and victim's house
10 and move to an area that provided service to that
11 southern, what I can the southern tower of it. So it had
12 to be moving around at some point.

13 Q. Now just so I have it right at 3:22 and 3:24 a.m. it
14 was your opinion that both phones were in the area of
15 both the victim and Defendant's house?

16 A. If I remember correctly from the analysis the
17 Verizon phone, the Defendant's phone, utilized the tower
18 and sector at 3:22 a.m. that would provide service to his
19 residence.

20 And based on the PCMD data, the overlapped area, and
21 the reason why we go to the overlap area with the
22 Defendant's residence because that's a known area and not
23 to the other one where it overlapped. That's where I
24 would have started to find that Sprint phone between 3:22
25 and 3:24 a.m.

1 Q. At the Defendant's house?

2 A. In that area, yes sir.

3 Q. Okay. Now based on your experience is PCMD data
4 more accurate or not?

5 A. Than what?

6 Q. Meaning like have you found it in your experience to
7 be accurate?

8 A. Sure. Drawing the arcs out where they are, how far
9 it is from the tower within that sector where you found
10 it to be accurate especially when we have other known
11 information such as a residence, a crime scene or if we
12 find the overlapping.

13 Or another situation which I've had we find where
14 the PCMD consistently overlaps over the same area over
15 and over again over a period of time. And then we have a
16 known area of all those multiple overlaps that is an area
17 that we start to go try and find that phone.

18 Q. And again how many times would you say the FBI has
19 used this before successfully?

20 A. I mean thousands of times with the ADM center out
21 there doing it we're looking at this kind of stuff every
22 day.

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

24 THE COURT: Recross limited to redirect.

25 MS. STEWART: Yes, Your Honor, very briefly.

State v Gregory Green
Clay Simmonds-Recross Examination by Ms. Stewart
November 6, 2019

1 RECCROSS-EXAMINATION

2 BY MS. STEWART:

3 Q. Agent Simmonds, you just testified that the change
4 in tower usage from the Defendant's phone means that it
5 had to be moving.

6 A. Yes. It's not stationary. Now how much it moves
7 from one location to another I can't state you know
8 mainly because those two towers are a couple of miles
9 apart and they overlap each other.

10 So the phone could be in the overlap area and
11 getting signals from each tower differently at different
12 times. But at some point that phone had to be moving; at
13 some point.

14 Q. But there are other explanations for switching
15 towers as well, right? For example if a tower were
16 overloaded it's possible that a phone could switch from
17 one tower to the other assuming overlapping coverage
18 area.

19 A. Usually when that happens it's kind of like you're
20 at a football game or some other big event where you're
21 trying to text your friend, hey did you see that great
22 catch and your phone sees that particular tower and with
23 a clear strong signal, which is usually the way these
24 phones work and you try and send that text message or
25 that call or whatever and it's taking forever to link and

1 you look at it. Well, it's because that phone sees that
2 particular tower with a clear strong signal and wants to
3 use it and will wait until services are available on that
4 tower.

5 It's very, very rare. It's got to be usually a
6 tragic event or catastrophic event would be a better way
7 to put it like the Boston Marathon bombing or something
8 where we're going to have an overloaded tower.

9 Engineers don't like it. It shows they're not
10 optimizing their network the best and if it's a
11 continuous problem the engineer's job could be in
12 jeopardy based on what they're telling us.

13 They also have parameters set up that if a tower
14 consistently gets to a certain capacity they're already
15 starting to think about adding even more antennas in that
16 particular area or where they can erect another tower to
17 provide a service to the customers that are utilizing it.

18 Q. I understand that it is a rare event. But it is
19 possible that if a tower were overloaded a phone could
20 change towers.

21 A. The phone would have to see that other tower as it's
22 clearest strongest signal. Again, once the phone locks
23 onto a tower that has the clearest strongest signal and
24 you press the button to send a text or call or whatever
25 and it doesn't go through you will get that fast busy

State v Gregory Green
Clay Simmonds-Recross Examination by Ms. Stewart
November 6, 2019

1 signal and it will wait for that service to come
2 available on that tower. Then again if the phone moves
3 and it could be in an overlap situation and it finds that
4 another tower provides a clear strong signal and you
5 press the button again to send your text or call or
6 whatnot that's when a new tower can be populated.

7 Q. As far as you can say today the Defendant's phone
8 could have been at his house for all of those calls.

9 A. For the ones that -- especially for the one where --
10 I'll call it the northern tower because I forget the
11 tower number off the top of my head but the one that
12 provides that is closest to his residence yes, his phone
13 could have been at his residence.

14 Q. Thank you.

15 THE COURT: As to this witness, counsel?

16 MR. WARING: Please excuse him, Your Honor.

17 THE COURT: Any objection?

18 MS. STEWART: No, Your Honor.

19 THE COURT: All right Mr. Simmonds, you may step
20 down. Leave my exhibits with me. You're excused from
21 the trial of this case. You may leave the courtroom.

22 THE WITNESS: Yes, sir.

23 [Whereupon, the witness is excused and exits the
24 witness stand]

25 THE COURT: Call your next witness.

State v Gregory Green
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1 MR. WARING: Your Honor, the State rests.

2 THE COURT: Counsel approach.

3 [Whereupon, an off the record bench conference is
4 held]

5 THE COURT: Mr. Foreman and ladies and gentlemen of
6 the jury I'm going to ask you if you would quickly step
7 to your jury room. I need to take up a matter of law.
8 It will not be long. I'll be back with you in just a few
9 moments. Please do not discuss the case.

10 [Whereupon, the jury exits at 4:13 p.m.]
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State v Gregory Green
Fifth Amendment Rights
November 6, 2019

1 FIFTH AMENDMENT RIGHTS

2 THE COURT: Let the record reflect that the jury is
3 out. Counsel, would you and your client come around.

4 MS. STEWART: Yes, Your Honor.

5 THE COURT: Payton, would you please swear the
6 Defendant?

7 [Whereupon, the Defendant and his counsel come
8 forward]

9 CLERK OF COURT: I'll just ask you to raise your
10 right hand to be sworn.

11 [Whereupon, the Defendant complies]

12 [Whereupon, the witness is duly sworn by the Clerk
13 of Court]

14 THE COURT: If you'll step back over to my
15 microphone there with your lawyer.

16 [Whereupon, the Defendant complies]

17 THE COURT: Turn it around for him please.

18 MS. STEWART: Yes, sir.

19 THE COURT: State your name for the record?

20 MR. GREEN: Gregory Kyle Green, sir.

21 THE COURT: Mr. Green, at this time I'm going to
22 explain to you certain of your rights. If you do not
23 understand anything that I say please let me know. If
24 you want me to explain anything in further detail, please
25 let me know. Do you understand?

State v Gregory Green
Fifth Amendment Rights
November 6, 2019

1 MR. GREEN: Yes, sir.

2 THE COURT: We've now reached the stage of the
3 trial where you may present your defense. You have the
4 right to testify in your own behalf; however no one can
5 make you testify.

6 In the event you have a criminal record for any
7 conviction involving dishonesty or false statement or for
8 any crime punishable by imprisonment of more than one
9 year and this Court determines as a matter of law that
10 the probative value of admitting this evidence outweighs
11 its prejudicial effect to you if you testify the
12 Solicitor may be able to introduce this record for
13 impeachment purposes to try to attack your creditability
14 or your believability.

15 If you elect not to take the witness stand I will
16 charge the jury and they are not to give the fact that
17 you did not testify any consideration whatsoever. And
18 there is to be absolutely no prejudice to you because you
19 did not testify. You have the constitutional right to
20 remain silent.

21 The burden of proof in this case is on the state of
22 South Carolina to prove guilt beyond a reasonable doubt.
23 The decision as to whether or not you testify in this
24 case will be left entirely up to you as to whether or not
25 you testify. You certainly may talk with your attorney,

State v Gregory Green
Fifth Amendment Rights
November 6, 2019

1 attorneys. However, it is not your attorney or
2 attorney's decision. It is your decision so the ultimate
3 decision as to whether or not you testify in the trial of
4 this case will be left entirely and solely up to you; not
5 your attorneys, not your family but you. Do you
6 understand this?

7 MR. GREEN: Yes, sir.

8 THE COURT: Have you had sufficient time to decide
9 whether or not you wish to testify in the trial of this
10 case?

11 MR. GREEN: Yes, sir.

12 THE COURT: Is this your decision and no one else's
13 decision?

14 MR. GREEN: Yes, sir.

15 THE COURT: And you're making it up your own free-
16 will?

17 MR. GREEN: Yes, sir.

18 THE COURT: No one has promised you anything or
19 threatened you in any manner in order to make this
20 decision?

21 MR. GREEN: No, sir.

22 THE COURT: And what is your decision as to whether
23 or not you wish to testify in the trial of this case?

24 MR. GREEN: I decide I have the right to remain
25 silent.

State v Gregory Green
Fifth Amendment Rights
November 6, 2019

1 THE COURT: You do not wish to testify?

2 MR. GREEN: Yes, sir. I don't wish to testify.

3 THE COURT: Very well. And you've understood
4 everything I've said to you?

5 MR. GREEN: Yes, sir.

6 THE COURT: You may return to your seat.

7 [Whereupon, the Defendant returns to his seat]

8 THE COURT: Counsel, I'll hear your motion. I
9 understand you have a Motion for Directed Verdict.

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State v Gregory Green
Motion for Directed Verdict-Remarks by Ms. Stewart
November 6, 2019

1 MOTION FOR DIRECTED VERDICT

2 MS. STEWART: Thank you, Your Honor. And I would
3 at this time like to renew all of our earlier motions and
4 objections.

5 THE COURT: And my rulings have been reflected
6 thereon throughout the pretrial conferences we had and
7 during the course of the trial.

8 MS. STEWART: Your Honor, at this time the defense
9 moves for a directed verdict on all three charges. We
10 don't believe that the State has carried its burden
11 today. I would like to address specifically one charge
12 and that is the charge of arson.

13 Judge, the co-defendant testified that the burning
14 down of the house was his idea. Nobody can put him there
15 to say that he was involved in burning down this house.
16 Nobody saw him there and no one say anything about him
17 being there.

18 Judge, I don't think there is any evidence
19 whatsoever that he committed the crime of arson. We
20 would ask that you grant a directed verdict on that and
21 the other two charges as well, Your Honor.

22 THE COURT: Solicitor, let me hear from you.
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State v Gregory Green
Motion for Directed Verdict-Remarks by Mr. Waring
November 6, 2019

1 MR. WARING: Thank you, Your Honor, just briefly.
2 May it please the Court? The burden is on the State in
3 this case, Your Honor. And putting that in the light
4 most favorable to the State, the non-moving party, we're
5 looking at the existence of any evidence in this case.

6 And we believe that there is substantial evidence
7 enough to get past the directed verdict stage. We think
8 there is enough evidence to give it to the jury, Your
9 Honor and we would ask that the motion be denied.

10 THE COURT: Solicitor, while it is not my job to
11 weigh the evidence; that is of course that of the jury.
12 I completely understand your motion on arson and I'm
13 going to charge the jury that it has to be willful and
14 malicious as far as setting a fire.

15 But your motion is respectfully denied based on the
16 standard I have to use at this stage of the litigation.
17 And that is as to all three charges at this point. All
18 right. Does the defense intend...

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State v Gregory Green
Motion for Directed Verdict-Remarks by Ms. Stewart
November 6, 2019

1 MS. STEWART: Oh, Your Honor, I did also want to
2 put on the record briefly the issue with Detective
3 Sanchez and the lineup.

4 THE COURT: Yes?

5 MS. STEWART: Judge, I was not given any
6 photographic lineup that was shown to Kendyl Rice. I
7 wanted ---

8 THE COURT: --- nor was any introduced in the trial
9 of this case.

10 MS. STEWART: I understand that, Your Honor. But
11 if there was such a lineup and such a lineup was
12 completed and not disclosed to me I absolutely would have
13 questioned Mr. Rice about that lineup especially given
14 that it was so close in time to the crime.

15 THE COURT: The only time that was brought up was
16 with the testimony of Mr. Sanchez. It was not elicited
17 during Mr. Rice's testimony either by the State. The
18 State in direct examination of Mr. Sanchez asked about
19 it.

20 Solicitor let me hear from you on this because my
21 understanding is you went back and he confirmed that
22 there was such a thing.

23

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State v Gregory Green
Motion for Directed Verdict-Remarks by Mr. Waring
November 6, 2019

1 MR. WARING: Your Honor, it got a little confusing.
2 I believe the discovery mentions a photographic lineup.
3 I don't believe we've ever received a photographic lineup
4 and I honestly don't know whether one exists or not.

5 THE COURT: You have none in your file?

6 MR. WARING: Not to my knowledge, Your Honor. Of
7 course I'm going to go back and comb through it but I
8 don't remember ever seeing one.

9 THE COURT: Well, the defense attorney is right if
10 there had been one you had a duty you understand under
11 Rule 5 ---

12 MR. WARING: --- yes, Your Honor ---

13 THE COURT: --- and under Brady if it was to any
14 extent it was exculpatory. I don't see any prejudice to
15 the Defendant from what was elicited. And I told counsel
16 that at the bench when she raised the issue to me during
17 the objection during the examination of Detective Sanchez
18 because he was asked was he shown a lineup and he
19 couldn't pick anybody out from the lineup.

20 So I don't think there is any prejudice from the
21 Defendant for the way the jury was given the information.
22 I don't know whether or not there is any exculpatory
23 language. The Solicitor tells me he doesn't have a photo
24 lineup at this stage that he knows of. And he believes
25 he has given you all the discovery materials. So to the

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Motion for Directed Verdict-Remarks by Mr. Waring
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1 extent your motion now says that you want some relief, I
2 assume a mistrial as a result of this, your motion is
3 respectfully denied.
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1 THE COURT: Now, does the Defendant intend to
2 present any evidence to the jury?

3 MS. STEWART: No, Your Honor.

4 THE COURT: Okay. Then when I bring the jury back
5 I'll ask you whether or not you wish to present any
6 evidence and you will rest. At that point I'm going to
7 excuse the jury and I want you and counsel for the State
8 in chambers so we can go over the charges so you can
9 prepare your closing arguments for in the morning.

10 MS. STEWART: Yes, sir.

11 THE COURT: I have all of your requests to charge
12 from both the State and the Defendant, is that right Mr.
13 Waring?

14 MR. WARING: Yes, Your Honor.

15 THE COURT: Is that correct?

16 MS. STEWART: Yes, Your Honor. I assume that you
17 would be giving a standard charge regarding the Defendant
18 not testifying.

19 THE COURT: I will.

20 MS. STEWART: Then so I have no further ---

21 THE COURT: --- obviously if the Defendant doesn't
22 testify counsel I'll be charging the jury that the
23 failure of the Defendant to testify shouldn't be
24 considered by them. I just told your client that when he
25 was placed under oath.

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1 MS. STEWART: Yes, sir.

2 THE COURT: All right. Bring us the jury please.

3 [Whereupon, the jury enters at 4:23 p.m.]

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

5 THE COURT: Thank you very much. Mr. Foreman and
6 ladies and gentlemen of the jury you've heard the
7 evidence from the state of South Carolina. We will now
8 hear from the Defendant. Counsel, you may call your
9 first witness.

10 MS. STEWART: The defense rests.

11 THE COURT: Mr. Foreman and ladies and gentlemen of
12 the jury you've heard all the evidence in this case. But
13 you've not heard the closing arguments of the attorneys
14 nor have you received my charge on the law. I'm going to
15 get you home hopefully ahead of the traffic although I
16 will tell you this.

17 I tried to leave here 4:22, and what is it now, 4:22
18 -- I tried to leave here at 4:22 but I have to go 46
19 miles; a little bit further -- does anybody have to go
20 further than 30 miles on my jury?

21 [Whereupon, no juror responds]

22 THE COURT: Nobody's got to go to Awendaw; nobody's
23 got to go to Seabrook?

24 UNIDENTIFIED JUROR: I've got to go to Seabrook.

25 THE COURT: You got to go to Seabrook? How far do

1 you gauge that, about 30?

2 UNIDENTIFIED JUROR: Twenty-six.

3 THE COURT: Twenty something? Well, hopefully I'm
4 going to get you -- I'm very familiar being from
5 Walterboro the intersection of Main Road and U.S. 17 but
6 I don't have to tell you about it. I'm sure you are just
7 as familiar with it as I am. I'm going to try to get you
8 home timely tomorrow.

9 I want you to be back here in your jury room at 10
10 a.m. in the morning. I don't know whether there will be
11 anything on television, radio, or in the newspaper about
12 this case. Please do not read such, watch such, or
13 listen to such. Don't try to do any independent
14 investigation about any witness or any issue that came up
15 in this case even if you think it would help you in
16 deciding the case.

17 When you come back in the morning my excellent help
18 with the Charleston County Clerk's Office and my beloved
19 Julie Armstrong who I think is one of the best Clerk's in
20 the state is going to see that you have Krispy Kreme
21 donuts in the morning.

22 So I want to make sure that you get here early so I
23 can feed you and not tell my doctor about the Krispy
24 Kreme donuts since he forbids me to get close to them
25 since they are almost solid sugar. I hope you'll enjoy

1 them. I'm sorry I didn't have them for you this morning.
2 I tried; I just didn't use the right source. But I've
3 cured that problem now. Peyton is going to see to it
4 that they are here and you'll get a choice of different
5 ones. I hope everybody drives carefully and safely.
6 Please be in your jury room prior to 10 a.m. in the
7 morning.

8 If someone comes up to you and wants to discuss this
9 case simply say I'm on the jury and the Judge has asked
10 me not to discuss the case. If that person persists in
11 trying to talk to you just get their name and give it to
12 me and I'll handle the problem for you.

13 Thank you for your service. You are now excused
14 until tomorrow. You may leave the courtroom at this
15 time. Everyone else remain seated while the jury is
16 leaving.

17 [Whereupon, the jury exits at 4:26 p.m.]

18 THE COURT: All right counsel, as you know my
19 office is on the third floor and I've been making y'all
20 go back and forth but I'm having to do the same thing.
21 This is the first time since 2000, what is that 19 years?
22 This is the first time; I don't know how many weeks I've
23 held Court in Charleston. I've been on the third floor,
24 I've been on the fourth floor, I've been in the jury
25 assembly room. I've never had the situation where you

1 have an office on one floor and have the courtroom on the
2 other. It makes it a little hard on my lawyers and I
3 understand that. And I'm sorry that I'm having to make
4 you get all this exercise but it's the way things were
5 assigned this week. Please bring with you any copies --
6 I've got your pretrial briefs. I have your request to
7 charge included within your pretrial briefs.

8 [Off the record momentarily]

9 MS. NORRIS: Your Honor, could we have just maybe
10 five or ten minutes beforehand so we can pack our stuff
11 up because I think these officers probably want to lock
12 up this courtroom and we need to get out of here ---

13 THE COURT: --- you can leave your stuff right on
14 these desks and these officers will certify nobody is
15 going to touch it. You don't have to pack it up to do
16 that. Are you worried they are going to go ---

17 MS. NORRIS: --- no, no, no. I just mean what we
18 need ---

19 THE COURT: --- I've left everything that I have on
20 this bench every night that we have been in this trial
21 and that will include tonight, counsel.

22 MS. NORRIS: I understand.

23 THE COURT: So you don't need to pack up yet
24 because we'll be working in the morning starting at 10
25 o'clock. Now if you want to pack up, fine ---

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1 MS. NORRIS: --- I just meant ---

2 THE COURT: --- time is precious right now. I want
3 to work once I get a room. You can pack up after we
4 finish all right. As soon as I hear from Peyton we're
5 going to head to a room where we got enough room.

6 [Off the record momentarily]

7 [Whereupon, Court adjourns at 5:00 p.m.]

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State v Gregory Green
Certificate of the Court Reporter
November 6, 2019

C E R T I F I C A T E

I, the undersigned, Joyce C. Rueger, Official
Circuit Court Reporter for the Ninth Judicial Circuit of
the State of South Carolina, do hereby certify that the
foregoing is a true, accurate, and complete Transcript of
Record of the proceedings had and evidence introduced in
the trial of the captioned case, relative to appeal, in
the Court of General Sessions for Charleston County,
South Carolina on the 6th day of November, 2019.

I do further certify that I am neither of kin,
counsel, nor interest to any party hereto.

January 19, 2020



Joyce C. Rueger, CVR-M

Court Reporter

STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSIONS
COUNTY OF CHARLESTON	)	2017-GS-10-06993 & 06994
STATE OF SOUTH CAROLINA,	)	
	)	
Plaintiff,	)	
	)	
Vs	)	Transcript of Record
	)	
GREGORY KYLE GREEN,	)	NOVEMBER 7, 2019
	)	
Defendant.	)	
	)	

B E F O R E:

The Honorable Perry M. Buckner
Charleston County Courthouse
Charleston, South Carolina

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

Richard Waring, Esquire
Whit Sowards, Esquire
Attorneys for State

Taylor J. Stewart, Esquire
Teresa L. Norris, Esquire
Attorneys for Defendant

Sallie Beth Todd
Official Court Reporter

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I N D E X

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(There were no witnesses called during the hearing.)

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10 Certificate of Court Reporter

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E X H I B I T S

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(There were no exhibits marked during the hearing.)

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1 **THE COURT:** Alright. Let the record reflect that counsel
2 is present along with the defendant. The jury is not present.
3 Last night when we adjourned, I had a charge conference with
4 the lawyers. I went over every single thing that I'm going to
5 charge. The lawyers are completely aware of the content of my
6 charge. I have now shown the lawyers the verdict form in this
7 case and they've approved the verdict form. Is that correct
8 from the State?

9 **MR. WARING:** Yes, Your Honor.

10 **THE COURT:** Is that correct from the defendant?

11 **MS. STEWART:** Yes, Your Honor.

12 **THE COURT:** We also went over the order of closing
13 argument in light of the South Carolina Supreme Court's case
14 of *State versus Beaty*. I promised you earlier, Richard, I
15 will also give you a copy of (inaudible) since you say you
16 don't have it. I want to see you get it for your trial
17 folder. I'll give you one too. It's my understanding that
18 defense is required -- defense has put up evidence in this
19 case, that is defendant's exhibit number one that was placed
20 in evidence during State's case by counsel for the defendant.
21 That is the only exhibit by the defendant; however, because it
22 was placed into evidence under *State versus Beaty*, the
23 defendant wants the State to open on both the law and the
24 facts. The defendant will then argue. The State will have a
25 reply argument to the defendant's argument, but the State

1 cannot introduce any new matter in their reply argument under
2 the rule pronounced by the Supreme Court in *State versus*
3 *Beaty*. My understanding last night was that the lawyers felt
4 that they could do it in 30 minutes; however, Mr. Waring who
5 must be a Baptist, thinks that the jury wants to hear him go
6 beyond 30 minutes. So, tell me now, counsel, whether or not
7 30 minutes is sufficient, or you feel you need more time? I'm
8 not gone -- I told you I'd tap when you have five minutes
9 remaining, but we don't get a hook, put it around your neck
10 and pull you back to counsel table. We just want to make sure
11 you have enough time to close. What's your preference now,
12 solicitor?

13 **MR. WARING:** Your Honor, a little leeway in the tune of
14 five to seven minutes extra could be useful, Your Honor. I'm
15 not saying I'm going to take all of that time, just having it
16 ---

17 **THE COURT:** I will give you the same amount of leeway
18 that the solicitor is asking for. Do you understand that, Ms.
19 Stewart?

20 **MS. STEWART:** Yes, Your Honor.

21 **THE COURT:** I'm assuming, Ms. Stewart, that you're going
22 to argue for the defendant; is that correct?

23 **MS. STEWART:** Yes, Your Honor.

24 **THE COURT:** And it appears that Mr. Waring is going to
25 argue for the State; is that correct?

1 **MR. WARING:** Correct, Your Honor.

2 **THE COURT:** Alright. Now, Peyton did a great job this
3 morning. How long have you been here now, Peyton?

4 **CLERK:** I've been here since May, Judge.

5 **THE COURT:** So, what five months?

6 **CLERK:** Five months. Yes, sir.

7 **THE COURT:** And this is his first time obtaining Krispy
8 Kreme Doughnuts. He is to be congratulated for doing such a
9 good job. I understand my court reporter's got one now. He
10 tells me he's even hidden some back that he can give me. But I
11 can promise you my doctor's not going to let me have that.

12 I want to remind my lawyers that I've got representatives
13 from Judge Norton's office behind you that have come this
14 morning with the opportunity to learn. So, I want you to set
15 a good example for them and not be verbose in your closing
16 arguments.

17 We will go over the exhibits. Sallie Todd drove from
18 Conway this morning. She has not been our court reporter. I
19 realize there's a number of exhibits. I've already explained
20 to her about Court's Exhibit Five and Court's Exhibit Six,
21 which are transcripts. What I want you to do, solicitor, is
22 make sure that you have those transcripts, which are Court's
23 Exhibits, out. Okay.

24 Alright. Solicitor says he wants five to seven more
25 minutes, something like that. Are we now in agreement with

1 the order of closing arguments, the verdict form, and the
2 charge so far as the State is concerned?

3 **MR. WARING:** Yes, Your Honor.

4 **THE COURT:** And so far as the defendant is concerned?

5 **MS. STEWART:** Yes, Your Honor.

6 **THE COURT:** Alright. Sallie, are you ready to go?

7 **COURT REPORTER:** Yes, sir.

8 **THE COURT:** Would you bring us the jury, please?

9 **MS. STEWART:** Your Honor.

10 **THE COURT:** Hold, just a moment.

11 **MS. STEWART:** I neglected yesterday after the defense
12 rested, to put on the record that we wanted to renew all of
13 our motions and objections.

14 **THE COURT:** Let the record reflect that defense chose not
15 to put up any evidence in this case. Let the record reflect
16 that counsel for the defendant is renewing the motions for
17 directed verdict, which she made at the close of the State's
18 case, as if made at the close of all the evidence even though
19 the time in this case was exactly the same point in time in
20 the trial. So noted for the record.

21 **MS. STEWART:** Your Honor.

22 **THE COURT:** Yes, sir.

23 **MS. STEWART:** One quick matter, I wanted to clarify for
24 the record, there was mention of a possible lineup with the
25 witness Kendall Rice. I just wanted to put it out there that

1 it was mentioned in the discovery that one was compiled for
2 him. It's my understanding that it wasn't actually shown to
3 him due to his saying that he didn't get a good look at the
4 suspect and we done have one and it's my understanding there
5 wasn't one, Your Honor.

6 **THE COURT:** Counsel, the mysterious lineup gets another
7 explanation today; you understand that?

8 **MR. WARING:** Yes, sir.

9 **THE COURT:** And once again I want to point out that even
10 though I got a motion concerning that lineup, that the only
11 testimony in this case about it elicited by the solicitor of
12 the witness yesterday, which was I believe by Detective
13 Sanchez; wasn't it?

14 **MR. WARING:** Yes, Your Honor.

15 **THE COURT:** Was whether or not he had shown this lineup
16 to this witness and the response was he couldn't pick anybody
17 out; which is consistent with earlier testimony in the case
18 that he didn't get a good look at anybody. So, I denied the
19 motion for mistrial in connection therewith even though I had
20 an argument from counsel that she thought it might be "a brady
21 violation", which I did not think gave rise to the type of
22 conduct that would require the Court to declare a mistrial.
23 Is that everything now, solicitor?

24 **MR. WARING:** Yes, Your Honor.

25 **THE COURT:** Is the State ready to proceed?

1 **MR. WARING:** Ready to go, Your Honor.

2 **THE COURT:** Is the defendant ready to proceed?

3 **MS. STEWART:** Yes, Your Honor.

4 **THE COURT:** I lost the bailiff now. Tell him to bring us
5 the jury.

6 **REPORTER'S NOTE:** (Jury enters courtroom at 10:23AM)

7 **THE COURT:** Good morning. Did you get a Krispy Kreme
8 Doughnut?

9 **JURORS:** Yes.

10 **THE COURT:** Good. Always helps to make the day go
11 better.

12 **BAILIFF:** Your Honor, the jury is complete.

13 **THE COURT:** Thank you very much. Good morning, Mr.
14 Foreman.

15 **FOREMAN:** Good morning.

16 **THE COURT:** Good morning, ladies and gentlemen of the
17 jury. Thank you for being here on time. We stayed long after
18 you left last night to get ready for you. I reminded you
19 before you left last night that you had not heard the closing
20 arguments of the attorneys, nor have you heard my charge on
21 the law of this case. Now, we have rules about the argument.
22 In this case the solicitor will open, followed by an argument
23 by counsel for the defendant, then the solicitor gets a reply
24 because the solicitor has the burden of proof, to the argument
25 of counsel for the defendant. That's gone take probably

1 about, I would guess, a little more than an hour for everybody
2 to finish and it's now 10:17(sic). Mr. Foreman, I'll be
3 asking you at the end of the arguments whether the jury would
4 like a break so you can step to the jury room, use the
5 restroom, before I begin my charge which should be around 28
6 minutes, something like that. So, if you need a break, I'm
7 gone see to it that you get one this morning. Now, I want you
8 to listen carefully to the lawyers. I remind you, as I told
9 you at the offset, what the lawyers tell you in the closing
10 argument is not evidence. You must decide this case based on
11 the evidence presented. The lawyers are advocates for the
12 parties they represent, either the State of South Carolina or
13 the defendant. They've worked hard to prepare the case for
14 you and I certainly want you to listen to them, but I want to
15 remind you that this is closing argument. They're going to
16 try to persuade you in their argument, to agree with their
17 version of the facts in this case based on evidence introduced
18 during the trial of the case. Thank you. I know you'll give
19 them your attention.

20 Solicitor, closing argument for the State.

21 **MR. WARING:** Thank you, Your Honor. May it please the
22 Court? Your Honor, permission to move the microphone over
23 there if I talk loudly enough?

24 **THE COURT:** Yes, until Sallie -- by the way, ladies and
25 gentlemen, so you know we've got a new court reporter. She

1 drove all of the way from Conway. So, she's having to come in
2 in the middle of trial. This is Sallie Beth Todd and she and
3 I -- she's, of course, made sure she's got all of the exhibits
4 and had sure she has all of the information from the previous
5 court reporter, Joy. She's going to do us a great job.

6 Sallie, if you can't hear what the lawyers is saying,
7 they like to walk around, particularly some of my lawyers that
8 can't sit still at the roster. Alright. They turn their back
9 to you, if you can't hear, you just let me know. Okay. You
10 look at me and wink or raise your hand, I'll see to it that
11 you can hear. Do you understand?

12 Alright. Solicitor.

13 **MR. WARING:** Thank you, Your Honor. May it please the
14 Court?

15 Good morning, everybody.

16 **JURORS:** Good morning.

17 **MR. WARING:** Closing argument time. Disrespect, a
18 subsequent act of unspeakable cruelty and a plan to cover it
19 all up. I mentioned that to you at the beginning of the trial
20 because that's really what this case is all about. What I'd
21 like to do at this point is take you back through some of the
22 evidence that proves this defendant's guilt. Now, y'all have
23 been here during the course of this trial. Our main witness
24 is Terrance Doucet. He's the main witness that implicates the
25 defendant in this murder. He's crucial to proving the

1 defendant's guilty. Now, as you've seen and I'll talk about
2 it more in a little bit, the defendant can't stand the fact
3 that we have this witness; and the reason is because he
4 implicates him in this crime. He knows what really happened
5 that night, and that is that the defendant killed his cousin.
6 Now, I'm sure you've wondered at some point, how can we trust
7 Terrance Doucet's testimony? He's got pending charges of his
8 own. He lied a bunch; how can we trust him? Well, that's
9 what I'd like to go through right now when talking about him.
10 He testified that he went to the defendant's house after the
11 fish fry after 2AM and that he, Brandi Dobbins, and the others
12 were playing cards and hanging out. The defendant's wife got
13 a phone call from the defendant who then had him go pick up
14 the defendant. This was proven to be true by Brandi Dobbins
15 testimony who was right there when the phone call came in.
16 Doucet said he drove by the victim's house, didn't see the
17 defendant, so he asked the two guys if they had seen Kone.
18 That was proven to be true by both Jonathan Seabrook and
19 Kendyl Rice. Terrance said that he then left, came back after
20 the defendant called him to come back. Seabrook corroborates
21 that testimony that the car came and picked somebody up who
22 was coming out of the victim's house. Now, the phone records
23 corroborate all of this too. We're going to get to that in a
24 little bit. Now, Doucet said that at one point the defendant
25 came out of the victim's house holding a gun and that he had

1 blood on him. When the defendant got in the car, he said to
2 Doucet I don't know if the n word dead. Now, Doucet said that
3 he then took the defendant back to the victim's house and at
4 some point, told him to burn down the house. That's
5 corroborated by the fact that the house was indeed burned down
6 and there was testimony that the driver of the Chrysler 200
7 never went in the house. Doucet said the defendant hadn't
8 changed his shirt. Bottom line is Doucet's testimony can be
9 backed up by Lanica Walker, Brandi Dobbins. I want to talk
10 about Doucet's proffer agreement for a minute too. He signed
11 a contract with the solicitor's office that if he tells the
12 truth we cannot use anything he says against him. He's got
13 every incentive to tell y'all the truth. If he came in here
14 and lied, changed his story, we could use everything against
15 him. Furthermore, why implicate himself at all? All we had
16 against him was Lanica Walker who went to the police and said
17 that he spilled the beans to her. It's not like there was a
18 ton of evidence against him at that time. Why implicate
19 himself at all? What's more believable: that Terrance is
20 wrongly pointing the finger at the defendant as the
21 perpetrator in this case and that all of the other witnesses
22 and evidence in this case that corroborates his story has
23 somehow been manufactured and the State entered into a
24 conspiracy with the FBI, the phone companies, North Charleston
25 Police Department, Charleston County Detention Center; or that

1 the simplest and most logical explanation is correct? That
2 the defendant actually killed his cousin, the victim, and the
3 evidence proves it's him beyond a reasonable doubt. Without
4 question it's the latter. Now, you heard from Lanica Walker,
5 Terrance testified later in the morning, he told her what
6 happened. He went to her house. That's corroborated by
7 Lanica Walker's testimony that he did, in fact, tell her what
8 happened. She testified that he came to her, he was scared,
9 and he told her pretty much precisely what he testified to.
10 She said all of that on the stand. She said that Terrance
11 said that the guy he was with said he killed his cousin. Now,
12 keep in mind that what Terrance told Lanica was prior to being
13 arrested in this case, any law enforcement involvement. That
14 speaks volumes about how she corroborates his story. Now, of
15 course, she did tell the police that Terrance gave a second
16 story in which he claimed to have participated a little bit
17 more in the murder, but she took the stand under oath; she
18 said you know what I was angry at the time, I was scared, I
19 made that part up, but the first part was true, the part that
20 Terrance testified about. His phone records show that
21 Terrance did, in fact, go to her house later that morning.
22 Jonathan Seabrook testified that he got home from work about 3
23 - 3:30 in the morning. He saw a Chrysler 200 coming and
24 going. The driver never went into the house, he testified to
25 that and the individual that was coming and going out of the

1 victim's house got into the passenger's side of the Chrysler
2 200. This is all right in sync and in tune with Terrance
3 Doucet's testimony and it's in tune. And it's in tune with
4 the phone records that the defendant and co-defendant, aka
5 Terrance Doucet, were talking and communicating during that
6 time frame. Now, you also saw the text messages. These two
7 guys, Jonathan Seabrook and Kendyl Rice, they're out there
8 during this exact time frame, early in the morning, 3:30 -
9 4:30 in the morning when this is taking place. It means that
10 Terrance's story is backed up by Jonathan Seabrook. Kendyl
11 Rice, as y'all saw, he's an interesting character. Now, his
12 story backs up both Terrance Doucet's and Jonathan Seabrook's
13 as well. Said he went to the El Cheapo around 3:00AM. Y'all
14 saw still shots from the surveillance video of that where he's
15 greeting Terrance Doucet. He said he went home, hung out with
16 Jonathan Seabrook. He said that the driver of the Chrysler
17 200 never went into the house. Now, what's interesting is
18 that he did get up on the stand and he testified that he
19 didn't get a good look at the guy who was coming and going in
20 and out of the victim's house, but then he turned around and
21 said oh but it ain't the guy on trial today. Well, you don't
22 get it both ways. You can't say you didn't get a good look at
23 him then turn around and say but it's not the defendant. I'm
24 asking you to consider only what can be corroborated. Brandi
25 Dobbins is an extremely important witness because she was the

1 only other eyewitness that can give y'all the idea that the
2 defendant left his house in between 2:00 and 5:00AM,
3 eyewitness. Now, the defendant said in his jail calls that he
4 was at his house in between 2:00 and 5:00AM. Brandi backs up
5 Terrance's story that they went to the defendant's house after
6 that because she said she went there, defendant's wife was
7 there, defendant was there, Terrance was there. And there was
8 a time period on multiple occasions the defendant was no
9 longer there, he left. Terrance got a phone call. He had to
10 go pick somebody up. Terrance testified to the exact same
11 thing. Now, she said that when they finally came back,
12 everybody was kicked out of the house. I think it's safe to
13 say that at that point the defendant does not feel like
14 playing host anymore at his house. And she says that the
15 bleach in Terrance Doucet's car, this is all perfectly in sync
16 with Terrance's testimony that he bleached the car. She's a
17 crucial witness. Now, the DNA. I'm sure some of that was
18 difficult to follow along and I understand that, but I'm going
19 to break it down to you in simple terms. What do you get when
20 you put the defendant's DNA, the victim's DNA, and Terrance
21 Doucet's DNA all in blood spots in Terrance Doucet's car? You
22 get corroboration for Terrance Doucet. Now, I'm going to go
23 through briefly each one. In blood spot on the passenger's
24 side front door panel we've got moderate support for the
25 defendant's DNA and weak support for the victim's DNA. Now,

1 what is the defendant's DNA doing inside of a blood spot
2 inside of Terrance's vehicle? Isn't that odd for an innocent
3 person? Not if the defendant was, in fact, involved though,
4 right? Now, you may be thinking, well there's weak support
5 for some of this DNA so we shouldn't give it much thought. My
6 response to that is to refer to Ms. Money, the SLED analyst's
7 testimony when she said well it's weak but it's still positive
8 for inclusion. Remember, they used bleach to clean this car,
9 so you're not going to find an ultra-high level of statistics
10 on there. You're not going to find a very strong DNA sample
11 on there. Next, on the passenger door rear top frame, we've
12 got strong support for Terrance's DNA and weak support for the
13 victim's and the defendant's DNA. And I would ask you to
14 refer again to Ms. Money's testimony that even though there's
15 weak support for the defendant's and victim's DNA on that,
16 that it's still positive for inclusion. Lastly, on the B post
17 of the passenger side in between the front and rear seats
18 we've got a strong support for the victim's DNA and weak
19 support for the defendant's DNA in all of that. That's more
20 corroboration that Doucet is telling the truth, further proof
21 that the defendant is guilty. A person's DNA does not just
22 materialize out of thin air. The defendant's DNA is in that
23 car because he was involved in this crime. A cigarette butt
24 that was found in the trash outside of the victim's house.
25 You may be asking yourself what's the big deal, it's a

1 cigarette butt. Well, it's in the trash bag next to the
2 victim's house so it puts the defendant at the scene. You may
3 be saying, well you can't time stamp that, you can't time
4 stamp DNA.

5 **FOREMAN:** There's a phone going off somewhere.

6 **THE COURT:** Is that the distraction?

7 **FOREMAN:** Yes, sir.

8 **THE COURT:** Alright, Mr. Foreman. We'll take care of
9 that.

10 Solicitor, get the microphone and bring it back over
11 there on the table.

12 **MR. WARING:** Yes, Your Honor.

13 **THE COURT:** They won't have any trouble hearing you now.
14 Proceed.

15 **MR. WARING:** Now, I was talking about the cigarette butt.
16 As you may be thinking, what's the big deal it's a cigarette
17 butt? Well, it's at the victim's house and it's in the trash
18 bag. So, that would have come from inside the house whenever
19 whoever took the trash out, threw it out in the garbage can.
20 So, that means at some point the defendant was in the victim's
21 house. Since the trash bag was at the top of the trash can,
22 you can assume that it was at some point recent in time. Now,
23 the defendant did some interesting things when he was
24 confronted with his capture. What's the two things he did
25 immediately? He was called out, you heard from Officer

1 Souther, 20 - 30-minute standoff before the defendant came out
2 of the house. In addition, when they went in, they found his
3 phone cracked in half. Seems kind of odd for an innocent man
4 to do both of those things. Now, why am I putting this up?
5 You may recall at some point the defendant tried to say that
6 his nickname was not Kone in a jail call. Well, we've got it
7 on his phone dump where here he is, he's referring to himself
8 as Kone. And why is that important? Because he knows that
9 that corroborates Terrance's story. Now, the video -- in one
10 video the defendant tells his wife and another person to
11 delete the contents of his phone, delete his whole drive.
12 Isn't that kind of odd? Not unless he had something about
13 this case that he didn't want us to find out about. He had to
14 get rid of whatever evidence that was in that particular
15 phone. In another video he talks about how witnesses heard
16 someone asking for the name Kone. Again, this is where it
17 gets really interesting because it shows that Terrance really
18 was looking for him. Let's talk about his Facebook posts real
19 quick. Two days before the incident, June 6th, 2017, in his
20 posts says: those who don't know the value of loyalty won't
21 understand the cost of betrayal. Is it just coincidence that
22 the victim, his own cousin, was murdered two days later? Not
23 for a second. Again, here's another post two days before the
24 victim was killed and the defendant is talking about cutting
25 off people with no hesitation, no warning and the post

1 includes a graphic of a gun. He's talking about his cousin,
2 the victim Freeman Rivers, who as you all know was shot to
3 death. With all of the other evidence in this case, including
4 how the victim owed him money, you know that he's talking
5 about the victim. There's no other explanation. The
6 defendant had not received his money, he was hurt from the
7 fact that the victim had betrayed his trust, so he got even;
8 plain and simple. Here is the day before the incident, June
9 77th, 2017, and you've got the defendant sharing a post from
10 Terrance Doucet, the co-defendant. You know they at least
11 know each other because he's sharing his post. And you saw
12 the Facebook post also where the defendant shared Terrance's
13 venue post of the fish fry. Terrance isn't just pulling this
14 name out of thin air. Now, I briefly want to talk about the
15 cell phone records. Doucet testified that he and the
16 defendant were in constant communication during the time of
17 the incident. That's corroborated by both Doucet's phone
18 records and the defendant's own phone records. You're going
19 to have these back with you in the jury room. At 3:22 in the
20 morning to 6 -- or pardon me, 4:54 in the morning; shortly
21 after the 9-1-1 call, they're communicating with each other
22 constantly. This is not a coincidence. The 9-1-1 call was at
23 4:46AM, you've got the defendant calling Doucet a minute
24 before that at 4:45AM and then you've got the defendant
25 calling Doucet again at 4:54AM about 8 minutes after that.

1 That's when the house would have been engulfed in flames. For
2 a guy who supposedly had nothing to do with this case, these
3 phone records tend to show that he was involved and I'm
4 submitting to you that they prove he was involved. There's no
5 coincidence here. You heard about Special Agent Clay
6 Simmonds' testimony with the FBI, about the co-defendant's
7 phone records and how they can be used to give a kind of
8 guideline of the location of where that phone was. Now, those
9 phone records tell a story. Doucet's phone is up in the top
10 left at the Cheapway around 3:05AM. That was proven to be
11 true; y'all saw the still shot surveillance photos where he
12 was saying hello to Kendyl Rice, so that was proven true.
13 Now, Agent Simmonds testified that if you were looking to find
14 both the co-defendant's phone and the defendant's phone at
15 3:22 and 3:24 in the morning he would start in the area of the
16 defendant's house. That corroborates Terrance's story that
17 they were hanging out at the defendant's house and that they
18 were coming and going from the victim's house. And I already
19 mentioned, Terrance testified that he went to Lanica Walker's
20 house later that morning and spilt the beans to her. That's
21 corroborated precisely by the phone records. Now, these are
22 Terrance's other phone records and just like the other ones
23 that I showed you, they tell a story too. Here you've got
24 from 3:37AM to 3:44AM, you've got these two individuals',
25 Terrance Doucet and the defendant, communicating pretty much

1 every minute on the minute. Is that a coincidence, that that
2 is in the middle of the exact time frame when the victim was
3 killed? Not for a minute. I mean, look at that, we're
4 talking, I can't even count how many phone calls that is, 30
5 phone calls in between 3:45 and 4:05AM. Again, in the precise
6 time frame of when the victim was killed and when Terrance
7 says that he and the defendant were communicating back and
8 forth as they were going to and from the defendant and
9 victim's house. That's crucial evidence that proves the
10 defendant's guilt. Now, the victim's cell phone records.
11 It's important to note that the last person the victim ever
12 spoke with was the defendant. That phone call down there at
13 the bottom, June 8th, 2017, excuse me it's UTC time so it's
14 four hours difference, four hours behind, so we've got to
15 convert it. So, that would be June 7th, 2017 at 11:47 at
16 night, hours before the victim was killed and that last phone
17 call was with the victim and the defendant. There's no
18 coincidence there. That's further evidence that proves the
19 defendant is guilty. Defendant's cell phone records, these
20 paint a picture too. They show not just communications
21 between the defendant and Terrance Doucet's 640-9680 number,
22 but they also show interactions between him with his other
23 number too, the 200-7909. This paints and serves as a bookend
24 for the other side of the phone records, which really
25 completes the picture here. These guys are communicating back

1 and forth all during the time of the incident, which is in
2 between 3:20AM and 4:46AM. Y'all are going to have these
3 records back in the jury room with you. You're not going to
4 be disappointed. If you take a look, you look for the
5 connection like I challenge you to do, you're going to see
6 that this corroborates Terrance's testimony. Now, here's the
7 cell mapping report that Agent Simmonds talked about for the
8 defendant's records. And he said that if he were going to
9 search for the defendant's phone at 3:22 and 3:24 in the
10 morning that he would search in the area of the defendant's
11 house. Now, he testified that he can't say for sure 100
12 percent looking at those records whether or not the
13 defendant's phone left. However, I'm telling you that based
14 on the other evidence in this case, that phone left his house
15 because Terrance Doucet said he left, Brandi Dobbins said he
16 left, and the defendant himself said on his jail call, and
17 I'll play it again in a minute, Terrance is the only one that
18 can put me at the scene. He left the house. Now, the jail
19 calls tell a story of an escalating and ascending
20 progressively more desperate defendant as he finds out what
21 information has been disclosed about him in this case.

22 **REPORTER'S NOTE:** (Jail call is played)

23 **MR. WARING:** Alright. So, he wants you to believe that
24 he's not Kone in this jail call. And why is he doing that?
25 Because he knows that that is a huge connection that

1 corroborates Terrance Doucet's story when he asks those two
2 guys, Jonathan Seabrook and Kendyl Rice, if they had seen
3 Kone. That's why he's trying to distance himself from that
4 nickname, but as we've seen in other evidence, he's already
5 identified himself as Kone.

6 **REPORTER'S NOTE:** (Jail call is played)

7 **MR. WARING:** Alright. So, we know that the victim owes
8 him money. And remember, this call is using his own jail pin
9 number. It's not until we get to his calls using other pin
10 numbers that he really spills the beans. But this is the
11 motive for this whole thing, the unpaid debt.

12 **REPORTER'S NOTE:** (Jail call is played)

13 **MR. WARING:** So, as I mentioned, this is an evolving
14 storyline. This call was two days after the defendant's
15 arrest on July 13th, 2017. He hadn't figured out yet that
16 Terrance had really implicated him in this murder. So, as we
17 see in subsequent jail calls, once the defendant finds out
18 more and more about what Terrance has said, the defendant uses
19 different pin numbers and becomes more volatile and orders a
20 hit on Doucet. But, before all of that happens, what does the
21 defendant do on his jail call? He denies his own involvement,
22 but he also goes to bat for Doucet by saying he wasn't
23 involved either. So, that then begs the question, why would
24 Doucet implicate him in such a horrific murder? It doesn't
25 make sense unless what Terrance said actually happened.

1 **REPORTER'S NOTE:** (Jail call is played)

2 **MR. WARING:** So, we know he watches CSI: Miami and we
3 know that he knows what not to do. The only problem is that
4 Donna Money testified that his DNA was present in this case.

5 **REPORTER'S NOTE:** (Jail call is played)

6 **MR. WARING:** So, the defendant is so innocent that he
7 felt the need to use a different pin number to throw everyone
8 off and ask somebody to get to Terrance and ask him to change
9 his story. Those are not the words of an innocent man.

10 **REPORTER'S NOTE:** (Jail call is played)

11 **MR. WARING:** Alright. Using somebody else's pin number
12 again to conceal his words and when he finds out what Terrance
13 is saying, he needs him gone. He needs him out of here,
14 nothing else. Are those the words of an innocent man?
15 Absolutely not.

16 **REPORTER'S NOTE:** (Jail call is played)

17 **MR. WARING:** Now, with that clip, there is no longer any
18 doubt, he was at that scene. At the same point, he has
19 corroborated Terrance's testimony. In his own words, he says
20 if this shit can't be done, I'll just go ahead and plead.
21 Isn't that an odd thing for an innocent person to say? That
22 if he can't find a way to get his co-defendant murdered that
23 he'll just go ahead and plead guilty. Really? Those are
24 clearly the statements of a guilty man.

25 **REPORTER'S NOTE:** (Jail call is played)

1 **MR. WARING:** I don't think anything else needs to be said
2 about that one.

3 **REPORTER'S NOTE:** (Jail call is played)

4 **MR. WARING:** There should be nothing to figure out
5 thought, right? If he's innocent, there's nothing to figure
6 out.

7 **REPORTER'S NOTE:** (Jail call is played)

8 **MR. WARING:** He sure does want Terrance dead; doesn't he?
9 And why not? Because Terrance knows what he did. Now,
10 briefly, about the injuries. This was personal. Four shots
11 to the head, this was execution, plain and simple. The
12 defendant was really hurt that the victim had failed to pay
13 him back what was owed. He felt disrespected and so he killed
14 his cousin. This was absolutely personal. Now, of course,
15 the defense was trying to get Detective Sanchez, a non-medical
16 person, to commit to the idea that the victim's blunt trauma
17 to his face was caused by fire debris or something like that.
18 But the pathologist testified that it could have been caused
19 by the butt of a gun. Now, finally I want to get to the
20 elements of these crimes that we have to prove. Starting with
21 murder, the killing of another person with malice a
22 forethought. Malice is the wrongful intent to injure another,
23 indicates a wicked or depraved spirit intent on doing wrong.
24 It's the doing of a wrongful act intentionally without just
25 cause or excuse. Now, as I mentioned before at the beginning,

1 it's got to be a forethought, which means it must have
2 occurred just prior to and at the moment the shots were fired;
3 this ill will or intent to injure the victim. For this case
4 the defendant's malice began at the moment he decided to take
5 it out on the victim for disrespecting him for not paying his
6 debts. The defendant's malice continued until he shot and
7 killed him. Now, we've proven the defendant guilty of murder.
8 For the gun charge, if you believe that we've proven murder,
9 which I submit to you that we have beyond a reasonable doubt,
10 then automatically we've proven this charge as well because he
11 used the gun to kill the victim. Lastly, for arson 2nd degree
12 we have to prove the defendant burned or set fire to the
13 victim's house and I submit to you again, that since we've
14 proven those other two crimes that we've also proven this.
15 Remember witness testimony was that the driver of the Chrysler
16 200 never went in the house. That it was the other guy.
17 Through all of the other evidence in the house, we know that
18 the other guy is the defendant. This case is all about
19 disrespect. Now, at the beginning of the trial I challenged
20 you to look at all of this evidence in conjunction with
21 everything else and I want you to do that again when you go
22 back in the jury room. You're going to see that it points to
23 a guilty verdict.

24 **REPORTER'S NOTE:** (Jail call is played)

25 **MR. WARING:** I think y'all know what to do. It's time to

1 find him guilty.

2 **THE COURT:** In or out, up or down. Take a seat.

3 Proceed.

4 **MS. STEWART:** Thank you, Your Honor. May it please the
5 Court?

6 This case is a self-fulfilled prophecy. I say that
7 because that man, Detective Sanchez, lied under oath to get
8 him arrested. Then he lied under oath about Mr. Green in his
9 preliminary hearing. That let the case proceed to trial.
10 Then months and months after that in comes Terrance Doucet.
11 Mr. Doucet lied under oath and here we are today. Make no
12 mistake, Terrance Doucet knew exactly who they wanted. He had
13 already gotten a deal in the form of a lesser charge and his
14 deal gets better and better the more he helps them. So, he
15 fed them what they already had. He said it was Mr. Green
16 after he had already been arrested and now the State wants you
17 to convict him based on Doucet's testimony. That, members of
18 the jury, is a self-fulfilling prophecy. So, let's talk about
19 Mr. Doucet, the reformed criminal. I asked you at the
20 beginning of the trial to consider any bias or motive he might
21 have to testify. He told you about his pending charges,
22 accessory to murder, financial identity fraud, unlawful
23 carrying of a firearm. He told you about the additional
24 charges he had pending that were resolved for trafficking
25 drugs. And the State just told you that Ms. Walker and Ms.

1 Dobbins, well they are unbiased corroboration of Mr. Doucet,
2 right? Isn't it a coincidence that both of these women are
3 girlfriends or ex-girlfriends of Terrance Doucet? And that
4 Ms. Walker herself admitted crying to Detective Sanchez.
5 We've also heard about a strong case against Terrance Doucet.
6 Ms. Walker told you that she told him she was going to the
7 police because she knew too much and he knew it. He even
8 threatened her. Lanica Walker told Detective Sanchez more
9 than once that Mr. Doucet shot Mr. Rivers. She told Detective
10 Sanchez that she was terrified of him. Mr. Seabrook
11 identified Mr. Doucet's car, that Chrysler 200. It's
12 recognizable and he's recognizable. Mr. Rice saw him at the
13 gas station nearby. There was video of him there. There are
14 phone records putting him in the area. There's demeanor
15 evidence for both Ms. Walker and Ms. Dobbins about how anxious
16 and how nervous he was. He testified he was high as a kite on
17 cocaine, marijuana, which he lied about, and alcohol. The
18 State also introduced evidence, these receipts, showing he had
19 access to guns. It doesn't matter whether a 357 can fire a 22
20 long riffle bullet. I refer to that to show you he can get a
21 gun and he admitted on that witness stand that he told Lanica
22 Walker he had a gun that night and that's because he did. I
23 also want to talk to you about the fact that Mr. Doucet had
24 time to concoct a story. Ms. Walker said that he came to her
25 house at 8:45 or 9 in the morning and I think those cell phone

1 records that FBI Agent Simmonds talked about show that he went
2 to her house in the area of 11AM. So, what was he doing
3 between 5ish in the morning and when he got to Ms. Walker's
4 house? He made a statement by his own admission in this
5 courtroom that he was lying to officers in July 2017 and that
6 he was still lying in January 2018 until his lawyer sent him
7 to tell the truth, which is judged by this man. And more
8 importantly the witness said that Mr. Waring had to explain
9 (inaudible) in the proffer. That was Detective Sanchez. It's
10 a little bit ironic. Mr. Doucet has blood in his car, his car
11 gets stolen, the heat was on him. Everybody's telling him how
12 much evidence that is against him. He had to point the finger
13 at somebody else to get that heat off of him. Mr. Doucet
14 admitted repeatedly lying to law enforcement. Ms. Walker
15 testified that her opinion of him is that he's a liar. First,
16 he said that he wasn't involved at all, didn't give anybody a
17 ride, didn't know the name of the person he picked up. Then
18 he had the proffer interview. He says he picked up Mr. Green,
19 says that guy didn't say anything on our ride back to that
20 house, that 30 second ride. Said that guy didn't have blood
21 on him, that guy didn't have a gun. I didn't bleach my car.
22 I never took him back to Bailey Drive and I can pass a
23 polygraph on all of that. Then we've got proffer part two,
24 after his lawyer told him to save his own skin. Now, Mr.
25 Green's all bloody and why did I keep bringing up that white

1 shirt? Doucet said Mr. Green was wearing a white shirt and
2 that's how he could see the blood. You can't see blood on
3 dark clothes. But it's funny because Mr. Seabrook and Mr.
4 Rice say that the guy that they saw was wearing all dark
5 clothing. These are eyewitnesses with absolutely no reason to
6 lie. In proffer part two, now Terrance Doucet suddenly sees
7 Mr. Green holding a gun and now he's suddenly made all of
8 these incriminating statements and now he told him to burn the
9 house down. Mr. Waring said in opening and in closing, he
10 talked about a plan to cover it all up. Mr. Doucet testified
11 that plan was all his. Mr. Doucet further said he never
12 communicated again with Mr. Green because he's this terrible
13 murdered. And I ask you, you'll have exhibit 61 and 64 back
14 with you in the jury room and I ask you to take a look at
15 these and see if you can find any other times when they
16 communicated after this supposedly happened. Despite that
17 proffer interview Mr. Doucet said to an independent witness
18 that Kone wasn't there. He said he was going to take back his
19 statement. That he felt pressured by prosecutor's and he
20 would just take a charge for lying, no big deal. He said
21 these things April 2018. That's three months after he
22 supposedly went in and reformed himself. Three months after
23 he implicated this man to the prosecutors. Mr. Doucet came in
24 this week and he couldn't even say Mr. Green's name even
25 though they are clearly connected on Facebook and phone calls.

1 And, again, the State wants you to convict this man based on
2 his testimony. Really? It's your call. It's your decision.
3 But, at least from where I'm standing, I think it's an insult
4 to your intelligence to ask you to believe him and his story.
5 I also want to talk to you about Detective Sanchez, the case
6 agent. He told you how involved he was in this case. He said
7 he was involved in 90 percent of the interviews. He lied in
8 the arrest warrant. He said Mr. Green's phone records put him
9 on Bailey Drive. He didn't even have those phone records. He
10 lied at the preliminary hearing. He said Mr. Doucet mentioned
11 dropping someone at his cousin's house, which he never said.
12 He said on June 8th, 2017 in the early morning hours, that was
13 the only time that Mr. Green and Mr. Doucet ever communicated
14 and that's just simply not true. He said Mr. Green's phone
15 records disproves his alibi, conclusively puts him on Bailey
16 Drive, said he couldn't be at his own house and he did not
17 those records. Even if he had those records can't put him in
18 a specific place like that. You heard the FBI agent. They
19 can give you a general area but both the victim's house and
20 the defendant's house are very close together. Detective
21 Sanchez talked to you about mishandled evidence, that search
22 warrant with the evident information a day later. And
23 Detective Sanchez even brought up the names Gregory and Kone
24 to Jerome Rice, a witness who said he never heard the name
25 Kone. Basically, even when Detective Sanchez didn't have

1 evidence, he made it up. Is it surprising that even when
2 eyewitness evidence pointed away from Mr. Green, he ignored
3 it? The State has brought you a lying witness and a lying
4 case agent. They bring you repeated, admitted liars and say
5 believe them now. That's what they're asking you to do.
6 After the evidence that we have heard from Detective Sanchez
7 that he is willing to lie under oath to a Judge more than
8 once, that tells me that he is willing to do anything. That's
9 terrifying to me as a citizen, as a defense attorney, that a
10 detective would lie in a murder case and that I could be
11 sitting right where he is. I want to talk with you about
12 whether these allegations even make sense. I am showing you
13 now State's 66, and as you can see there's a path marked on
14 that exhibit and it's a path from the victim's house to the
15 defendant's house. And you can see there's a little man
16 walking, and it says six minutes. It's a six-minute walk in
17 between these two houses, ladies and gentlemen. If I just
18 committed a murder does it make sense that I would call and
19 involve someone I don't really know that well, for something I
20 could run in much faster than 60 minutes -- six minutes? And
21 believe me, I'm not a fast runner. What about that fire? Who
22 has more to gain by burning the victim's house? A man who's
23 related to Mr. Rivers, who has reasons to be a Mr. Rivers
24 house? Or a man that has no reason to be there, is not a
25 relative and doesn't have much of a prior relationship with

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1 Mr. Rivers? And then there's that motive, that \$60 debt that
2 Mr. Green talks about in his jail calls. I think you may
3 remember from the call that he said that Mr. Rivers had paid
4 him. Members of the jury, I ask you to use your common sense
5 in evaluating this evidence. So, what is the evidence against
6 Mr. Green? I want to talk about these calls between Mr.
7 Doucet and Mr. Green. The solicitor wants to make a lot of
8 these calls mostly based on the testimony of Terrance Doucet.
9 The only thing that these calls show me is that Mr. Doucet
10 called Mr. Green a bunch that morning. I also want to talk to
11 you about this Cell tower evidence putting Doucet supposedly
12 at Mr. Green's house. And I ask when you evaluate that cell
13 tower evidence, again, that you look at exhibit 61. These are
14 Mr. Doucet's phone records. And what you'll see on exhibit 61
15 is that there are calls between the defendant and Mr. Doucet
16 at 3:22 and 3:24AM. Those are the exact times that that FBI
17 agent tells you that they were together at my client's house.
18 So, why do I bring that up? I bring that up because calls
19 back and forth means they aren't together because you don't
20 call somebody that's standing right next to you. So, what do
21 these calls tell us? Nothing. Now, let's talk about the jail
22 calls. I know Mr. Waring likes these a lot. I assume he'll
23 probably try to show you them again. Mr. Green had been in
24 jail for months and months at this time and I do agree with
25 Mr. Waring on one thing, he was getting desperate. He was

1 away from his family, from his wife for months. And as he
2 could see it, Mr. Doucet was the only thing in between him and
3 freedom. If you are the innocent guy in jail under these
4 circumstances, you get a little desperate. Several of these
5 calls are made on other people's jail phone accounts. And
6 Detective Sanchez says he can identify his voice after a 5 to
7 10-minute phone call with him and an interview. And he told
8 you how overworked he is and how overloaded. He must have had
9 100's of interviews between now and then. But assuming the
10 calls were the defendant, don't you think that if something
11 ever happened to Terrance Doucet that they would tell you
12 about it? These are empty threats. These are the ramblings
13 of a person in jail months and months for something he didn't
14 do. And that comment about pleading, members of the jury, he
15 didn't. He's sitting right here. Ms. Bloodworth, the jail
16 employee said he's been out of jail since March 9th, 2018.
17 He's been out on the streets with Mr. Doucet for more than a
18 year and a half. If something had happened to Mr. Doucet the
19 State would have told you about it. Plus, these calls are
20 candid conversations. They are honest and open, and he never
21 said anything implicating himself in the actual crime. If he
22 had said something implicating himself in the crime over the
23 eight months that he was incarcerated, don't you think they
24 would have told you about that? Don't you think they would
25 have played jail calls and clips of videos? In fact, in those

1 calls he consistently said he didn't have anything to do with
2 this. And, members of the jury, it's the understatement of
3 the century to say that I'd be angry too if somebody lied
4 about me and said that I committed a murder. What about the
5 defendant breaking the phone? My life is on this. My private
6 information is on this. My pictures of my family are on this.
7 I wouldn't want somebody else to have that either, but it
8 doesn't matter because we have the phone dump anyway. There's
9 a portion of it in evidence. We have the cell phone data. We
10 have that information about him talking about his nicknames
11 Kone and Unc. If there was some sort of admission, some sort
12 of picture of something evil on that phone, you would have
13 seen it. So, let's talk about that cigarette butt, exhibit
14 88. These comingled cigarette butts that were all put in one
15 bag and then removed and put in separate bags by the SLED
16 agent. The DNA analyst wouldn't say what Mr. Waring wanted
17 her to say and that's that it's the defendant's DNA. He
18 repeatedly tried asking her about that, but she wouldn't say
19 that. She said he cannot be excluded as a possible
20 contributor. She also said she was given no information about
21 a family relationship between the victim and the defendant.
22 She said that that could be significant, that a family
23 relationship can affect the results of a DNA test. This is
24 their expert. But, even if it is the defendant's DNA, so
25 what? Mr. Rivers and Mr. Green are cousins. They live very

1 close to each other, very quick walking distance, that six-
2 minute walk. It's not like they're strangers. I'm not
3 denying that they ever communicated before. And again, Ms.
4 Money testified that DNA has no time stamp. So, that could
5 put him at Mr. Rivers' house maybe at some point, but
6 certainly cannot put him there at the time of the murder or
7 say he was the murderer. Now, the solicitor wants you to
8 believe that that puts him inside the house. Members of the
9 jury, do people usually smoke inside the house? Smoking a
10 cigarette with your cousin does not equal killing them. So,
11 what really happened? Frankly, we will never know what
12 happened inside Mr. Rivers' house that night. You definitely
13 heard testimony that law enforcement kept reminding Mr. Doucet
14 about how much more evidence they had against him. Members of
15 the jury, there's just as much reliable evidence that that man
16 was inside this home the entire time and that either Doucet or
17 Doucet and a friend committed the crime. There is just as
18 much truthful reliable evidence that he was at home. You will
19 hear an instruction today called the hand of one, the hand of
20 all and the Judge will explain to you what the law is on that,
21 but basically what it means is that if two people commit a
22 crime together they're both just as guilty. This is not the
23 hand of one is the hand of all. Don't let them tell you it
24 is. Don't let them fall back on that. There's absolutely no
25 evidence that Mr. Doucet and Mr. Green were working together

1 to commit this crime. Don't let them throw darts at a board
2 and make it up as they go along. So, let's talk about the
3 evidence of Mr. Green being at home. Ms. Dobbins said she
4 assumed he left. And, yes, Detective Sanchez said that Mr.
5 Green told them he was downtown. He also told you he lied at
6 the prelim. He also told you he didn't write it down at the
7 time. He also told you he made a report about it almost a
8 year after this happened. And that FBI agent, Agent Simmonds,
9 said that Mr. Green could have been at home the entire time in
10 his expert opinion. I want to talk to you a little bit about
11 charges. The Judge has mentioned a charge before and
12 basically what a charge is, he's going to tell you what the
13 law is. This case is based on circumstantial evidence and
14 he'll explain to you a little bit about what that means. But,
15 basically in this case there's not been any testimony from any
16 witness saying that they saw Mr. Green shoot Mr. Rivers. We
17 ask you to listen very carefully on the Judge's charge on
18 circumstantial evidence. The Judge is going to tell you that
19 to the extent the State relies on circumstantial evidence all
20 of the circumstances must be consistent with each other and
21 point conclusively to the guilt of the accused beyond a
22 reasonable doubt. So, let's talk about beyond a reasonable
23 doubt. That is the highest burden in our justice system.
24 Higher than a civil case, higher than a family law case,
25 higher than a probate case. Where a person's freedom is

1 involved is just that important. Because it's so important we
2 ask you to closely consider all of the evidence that you have
3 heard this week. If you need to rehear testimony, please do.
4 If you need to relisten to those jail calls to remember what
5 they do say and what they don't say, please do. Please look
6 through all of these exhibits. We've got a pretty full table
7 here and I'll make sure to return these back in just a minute.
8 This is my only chance to talk to you. Mr. Waring will have a
9 few minutes to respond to my argument in just a minute, but I
10 want to point you to two pieces of evidence that alone create
11 reasonable doubt in this case, and that is number one
12 eyewitness testimony. First, Mr. Seabrook, he said the person
13 he saw was 5 foot 8. A thick person with pretty dark skin.
14 Mr. Rice said the guy he saw was short, 200 pounds, late 40's,
15 early 50's. Mr. Rice specifically said the guy he saw is not
16 that guy. Ms. Bloodworth, the jail employee testified that at
17 the time of his arrest, Mr. Green was 5 foot 11 and 153
18 pounds. You've heard testimony as to his height and weight.
19 Mr. Green, will you please stand up? Take a good look at him.
20 You're being asked to make a decision about whether he's
21 guilty. He is nothing if not a tall, skinny man. It's about
22 as polar opposite as you can get unless we're talking about a
23 white woman. The second item that I think creates reasonable
24 doubt is DNA evidence presented by the State's expert. They
25 mentioned item 25, which is also exhibit 84, the swab from the

1 B post of Terrance Doucet's car. Ms. Money testified that
2 there was strong support for the victim's DNA bring in Mr.
3 Doucet's car. She testified that it was a two-person mixture
4 and that the other person could not be Mr. Green or Mr.
5 Doucet. We believe that DNA belongs to that short, thick
6 person that Mr. Rice and Mr. Seabrook saw. Members of the
7 jury, you have heard evidence of Mr. Doucet's bias and motive
8 to lie. You have heard about this motive for Mr. Green, the
9 \$60 dollars. And you have heard that Mr. Green is not the
10 person that the eyewitnesses saw across the street. We think
11 those are more than enough to show you that he is innocent.
12 We ask you to find Mr. Green not guilty on all charges.

13 **THE COURT:** Are all of my exhibits back?

14 **MS. STEWART:** Yes, sir.

15 **THE COURT:** Mr. Waring, reply?

16 **MR. WARING:** Thank you, Your Honor.

17 Ms. Stewart would like you to believe that Detective
18 Sanchez here just got up here and lied about everything
19 involving this case. There's a difference between willfully
20 lying about something and being mistaken about certain things
21 in this case. He works for the North Charleston Police
22 Department. He works in the persons crime unit. He is one of
23 six detectives that handles all of these kinds of cases. They
24 are overworked. That does not excuse what happened in this
25 case, but it shows that he's human, he's overworked, mistakes

1 were made. But that's what these are, mistakes; these are not
2 lies. He's not getting up there and lying. Now, Ms. Stewart
3 would like you to believe that some of these things that she
4 pointed out about the search warrant and things like that have
5 some bigger meaning to the bigger picture of this case, which
6 somehow negates all of the evidence that we've put up during
7 this week. I submit to you not to buy that, it's a red
8 herring, has nothing to do with the evidence that came in in
9 this case. I want to make something clear about Terrance
10 Doucet, I've given him no deal. I want that to be clear. He
11 has not received a deal from us. Now, everything Terrance
12 Doucet said and testified about can be corroborated. Now, I
13 would not expect you to convict the defendant if I merely just
14 put up Terrance alone, that's what all of this other evidence
15 is, it's corroboration. All of these other witnesses, they
16 back up his story and that's why he can be believed. Now, the
17 defense brought up the white shirt that Seabrook brought up or
18 that was mentioned in this case. Now, Jonathan Seabrook --
19 she didn't mention this in her closing, but he did say that
20 the suspect he saw had a white shirt around his neck, was
21 wearing all black or dark clothes but did have a white t-
22 shirt. That's contrary to what she just told you. Now, the
23 phone records, they don't lie. As I put them up, all of that
24 highlighted portion of those calls, we're talking 30 plus
25 calls all in between 2:30 and 4:46 in the morning; right smack

1 dab in the window that these crimes took place. That is not
2 coincidence. What happened before or later that does matter.
3 What matters is that day, that morning specifically in between
4 2:30 and 4:46 in the morning. If you study those records,
5 they tell a story just like I said. These two guys were in
6 constant communication with each other and that corroborates
7 Terrance Doucet's story. Now, the jail calls, Ms. Stewart
8 actually wants you to discount those because they are probably
9 some of the most damning evidence of this case coming straight
10 from the defendant's mouth. They are as clear as day. The
11 defendant wants the co-defendant Terrance Doucet, who got up
12 here and told that story, he wants him out of here. He wants
13 him gone or domed as he said; and the reason is because he
14 knows what happened and he implicates him, and he puts him on
15 scene. The defendant puts himself on scene in this jail call,
16 it can't be any clearer. He's the only one that can put me at
17 the scene. There's no debate there. That's what he said and
18 that means he was at the scene. It's not just desperation.
19 He used other pin numbers; he knew what he was doing. If he
20 wanted to be up front about what happened, why not just use
21 your own pin number? He used other pin numbers multiple times
22 and he did that so that nobody would be able to find that
23 call. Study those jail calls back in the jury room if you're
24 so inclined, listen to them at your own leisure. You're going
25 to have them back there. You're going to have all of this

1 evidence. I would encourage you to study them. You won't be
2 disappointed. Now, briefly about the phone, cracked in half,
3 whether or not we presented any other damning evidence from
4 that phone is that there's a difference. The defendant at
5 least had the mindset that he needed to break the phone and
6 that's what's important. Whether or not we actually got a
7 bunch of damning evidence from the phone, that doesn't matter.
8 He knew that there might be something on there, so he cracked
9 it. And while he was at it, he was in the process of having a
10 standoff for 20 or 30 minutes. Think about that. Why not
11 just come right out if there's nothing to hide? Now, the
12 cigarette butt, yes you can't put a time stamp on it, but as I
13 went through the analysis, it's in the trash bag that's at the
14 top of the trashcan next to the victim's house and it's in the
15 trash bag. Most often people keep trash bags in the trashcan
16 inside of their house and then when they're done, they remove
17 it, tie it up, walk outside and toss it in the garbage can.
18 The cigarette butt was at the top of that trash bag. That
19 means it came from inside the house. And both the victim and
20 the defendant's DNA is on that. They were smoking a cigarette
21 in the house, that's what happened and it's recent in time
22 because it's at the top of the garbage can. The defense
23 pretty much wants you to ignore all of the evidence in this
24 case and want's you to believe that this is some huge
25 conspiracy. She mentioned Seabrook again and she mentioned

1 Rice and she mentioned that Rice came up with this idea or
2 this statement for the first time that it wasn't the
3 defendant, but of course he said that he didn't get a good
4 look at the suspect because it was raining and it was dark
5 out. Oh wait, but it wasn't the defendant. So, it can't be
6 both, either you know who did it and you got a good look at
7 him or you don't know who it is, and you can't say whether
8 it's the defendant or not. You can't have it both ways.
9 Again, all of this evidence when looked at together, it tells
10 a story, it paints a picture. I'm asking you to consider it
11 as a whole, but just look at one piece in and of itself,
12 isolated. If you put everything together, you're going to see
13 that it paints a picture and proves the defendant's guilt.

14 **THE COURT:** Mr. Foreman, would the jury like to take a
15 break before I begin my charge, or do you want to go on and
16 work?

17 **FOREMAN:** We'd like to take a break, Your Honor.

18 **THE COURT:** Alright. Ladies and gentlemen of the jury,
19 if you'll retire to your jury room. Do not discuss the case.
20 You have not received my charge on the law. Thank you.

21 **REPORTER'S NOTE:** (Jury retires to jury room at 11:41AM)

22 **REPORTER'S NOTE:** (Conference with attorney's, reporter
23 and Court to go over all exhibits.)

24 **THE COURT:** Alright. Is the State satisfied that the
25 court reporter has all exhibits?

1 **MR. WARING:** Yes, Your Honor.

2 **THE COURT:** Is the defendant satisfied that the court
3 reporter has all exhibits?

4 **MS. STEWART:** Yes, sir.

5 **THE COURT:** Alright. Put on the record for me, Sallie,
6 if you would that I have had the lawyers in this case since we
7 changed court reporters and Sallie Todd is now with us, we
8 have gone through every exhibit from my notes and the previous
9 court reporters notes. The State has advised me that they're
10 satisfied that the court reporter has all of the exhibits and
11 defense counsel has advised me they're satisfied that we have
12 all of the exhibits. Alright. I'm going to break. I know
13 y'all haven't had a break yet because I've worked you, so take
14 five minutes right now, run to the restroom. Nobody's coming
15 in and out of this courtroom and walking around anymore during
16 my charge. When I start that door is closed. This walking
17 around distracts the jury. You're in, you stay in. If you
18 get out now, you're not going to come back in until after we
19 finish. Everybody understand that? We'll take five minutes.

20 **(COURT IN RECESS)**

21 **THE COURT:** Check and tell me if all of the jurors have
22 had a chance to use the restroom and are ready to go?

23 Bring me the defendant.

24 **BAILIFF:** Your Honor, they're ready.

25 **THE COURT:** Alright. Take a seat.

1 Do I have anybody outside the doors that wants to come
2 in? Now is the time to come in. If you can't sit still
3 during the charge, get up now and step out.

4 Bring us the jury, please.

5 **REPORTER'S NOTE:** (Jury enters the courtroom at 12:00PM)

6 **BAILIFF:** The jury is all present, Your Honor.

7 **THE COURT:** Thank you very much. Alright.

8 Mr. Foreperson, ladies and gentlemen of the jury, it's
9 now my duty to charge you on the law of this case.

10 Hand me the indictments, Peyton.

11 **CLERK:** Yes, sir.

12 **THE COURT:** The State of South Carolina has charged the
13 defendant in this case, Gregory Kyle Green, with these
14 indictments that I hold in my hand. One indictment charges
15 the defendant with the offense of murder. One indictment
16 charges the defendant with the offense of arson 2nd degree.
17 One indictment charges the defendant with the offense of
18 possession of a weapon during the commission of a violent
19 crime. I remind you that the fact that the defendant was
20 arrested, the fact that the defendant was charged, the fact
21 that the defendant was indicted in this case is not evidence
22 in this case nor does it create any presumption or inference
23 of guilty. These documents that I hold in my hand, these
24 three indictments that I hold in my hand right now are simply
25 the formal written instruments by which the case is brought

1 into this court. They contain the charges made against the
2 defendant. They're the formal documents by which the case
3 arrives here in the Court of General Sessions of Charleston
4 County. I remind you that during this trial you and I have
5 had certain duties to perform. As the Trial Judge it has been
6 my duty and my responsibility to preside over the trial of the
7 case. I also have the duty to rule on the admissibility of
8 evidence that is offered during the trial of the case. You
9 are to consider only the competent evidence before you. If
10 you heard me say that any testimony was ordered stricken from
11 the record in this case during this trial, you must disregard
12 that testimony or that evidence. You are to consider only as
13 a jury the testimony which was presented from the witness
14 stand by the sworn witnesses who have testified during the
15 trial of this case, any exhibits which have been introduced
16 into evidence, and you heard me say during the trial of the
17 case exhibit so and so in evidence, you may now publish to the
18 jury. The exhibits now become -- that are in evidence become
19 part of the evidence in this case and you will have the
20 exhibits with you in your jury room. However, there are a
21 couple of exhibits that require the use of equipment here in
22 the courtroom. So, if you want to use those exhibits it will
23 be necessary to bring you back into the courtroom,
24 particularly exhibits for which you also had the aide of a
25 transcript, which we will pass back out if you want to hear

1 and allow you to use that if you so desire. If there were any
2 stipulations between the lawyers or the parties in this case,
3 that were made a part of the record in this case, that also
4 would constitute evidence; sworn testimony, exhibits, and
5 stipulations, if any, which may have occurred during the trial
6 of the case. Now, in addition to that I have the additional
7 duty as the Presiding Judge to charge you the law that applies
8 to this case. As the Presiding Judge I'm the sole judge of
9 the law of this case and it is your duty, ladies and
10 gentlemen, under that oath which you took at the beginning on
11 Monday, to accept and to apply the law as I now state it to
12 you. If any of you already have any ideas as to what you
13 think the law is or what you feel that law ought to be and it
14 does not agree with what I now tell you the law is, under that
15 oath which each of you took as jurors you must abandon any of
16 your preconceived ideas or your preconceived opinions because
17 you swore or affirmed in the oath which you took as jurors
18 that you would accept the law and apply the law exactly as I
19 now state it to you. In every case tried in this Court before
20 a jury, the jury becomes the sole and the exclusive judge of
21 the facts in the case based on evidence introduced during the
22 trial of the case. A Trial Judge, such as myself, cannot
23 intimate, state, comment on, or make any kind of statement to
24 a trial jury about the facts or the evidence in a case. Since
25 you, ladies and gentlemen, the jury are the sole judges of the

1 facts in this case, you are not to infer from what I have said
2 during the progress of this trial and ruling upon the
3 admissibility of evidence or any objection or anything that I
4 say now during the course of this instruction of the law to
5 you that I have any opinion whatsoever about the facts in this
6 case. The law does not allow me to have an opinion about the
7 facts in this case. This is a matter solely and only for you,
8 the members of jury. It is your job, ladies and gentlemen, as
9 jurors to determine the effect, the value, the weight of the
10 evidence that's been presented during the trial of this case.
11 Now, to the indictments, ladies and gentlemen, and you'll
12 notice Mr. Foreman I've handed the three indictments to my law
13 clerk, Austin McCoy, he's going to want you ultimately to
14 write the same words that you write on the verdict form that
15 I've prepared for you on the indictments. He'll show you
16 where so don't leave without writing the same words that are
17 on the verdict form on the indictments, that's part of his
18 job. To these indictments, ladies and gentlemen, the
19 defendant in this case, Mr. Gregory Kyle Green, has pled not
20 guilty and that plea by the defendant of not guilty places the
21 burden on the State of South Carolina to prove the defendant
22 guilty beyond a reasonable doubt. A person charged with
23 committing a criminal offense in South Carolina is never
24 required to prove himself innocent. I charge you, ladies and
25 gentlemen of the jury, that it is an important rule of the law

1 that the defendant in a criminal trial, no matter what the
2 seriousness of the charge may be, will always be presumed to
3 be innocent of the crime for which the indictment was issued
4 unless guilt has been proven by evidence satisfying you of
5 that guilt beyond a reasonable doubt. This presumption of
6 innocence does not end when you begin your deliberations but
7 it accompanies the defendant throughout the trial until you,
8 ladies and gentlemen of the jury, reach a verdict of guilt
9 based on evidence satisfying you of that guilt beyond a
10 reasonable doubt. The presumption of innocence, ladies and
11 gentlemen, is not just a legal theory. It is not just a legal
12 phrase. It is a substantial right to which every defendant is
13 entitled unless you the jury are satisfied from the evidence
14 of the defendant's guilt beyond a reasonable doubt. What is a
15 reasonable doubt in the law? A reasonable doubt is the kind
16 of doubt that would cause a reasonable person to hesitate to
17 act. The State of South Carolina has the burden of proving
18 the defendant guilty beyond a reasonable doubt. Some of you
19 may have served in the past in a civil case, such as an
20 automobile collision or a contract dispute case, those are
21 examples of civil cases. In a civil case the judge would
22 charge the jury on burden of proof that is only necessary to
23 prove that a fact is more likely true than not true. We call
24 that burden of proof in a civil case by the greater weight or
25 the preponderance of the evidence. In a criminal case, such

1 as the case here, the State of South Carolina's proof must be
2 more than a civil case. It must be beyond a reasonable doubt.
3 Proof beyond a reasonable doubt is proof that leaves you
4 firmly convinced of the defendant's guilt. Now, ladies and
5 gentlemen, there are very few things in this world that any of
6 us know with absolute certainty and in criminal cases such as
7 the case here the law does not require proof that overcomes
8 every possible doubt. If based on your consideration of the
9 evidence you are firmly convinced that the defendant is guilty
10 of the crime or crimes charged, you must find the defendant
11 guilty. On the other hand, if you think there's a real
12 possibility that the defendant is not guilty of the crime or
13 crimes charged, you must give the defendant the benefit of the
14 doubt and find the defendant not guilty. Now, like many
15 things in the law there are two types of evidence that are
16 generally presented in a trial. We have names for those
17 general types of evidence, we call it direct evidence and
18 circumstantial evidence. Direct evidence, ladies and
19 gentlemen of the jury, is the testimony of an eyewitness.
20 It's the testimony of a person who claims to have actual
21 knowledge of a fact. It is evidence -- direct evidence is
22 evidence which immediately establishes the main fact to be
23 proved. Circumstantial evidence as contrasted with direct
24 evidence is proof of a chain of facts or proof of a chain of
25 circumstances indicating the existence of a fact.

1 Circumstantial evidence, ladies and gentlemen of the jury, is
2 evidence which immediately establishes collateral facts from
3 which the main fact may or may not be inferred.
4 Circumstantial evidence is based on inference and not on
5 personal knowledge or personal observation. The law makes
6 absolutely no distinction between the weight or the value to
7 be given to either direct evidence or circumstantial evidence
8 nor is a greater degree of certainty required of
9 circumstantial evidence than of direct evidence. However, to
10 the extent the State of South Carolina relies on
11 circumstantial evidence, all of the circumstances must be
12 consistent when each other and when taken together point
13 conclusively to the guilt of the accused beyond a reasonable
14 doubt. You, ladies and gentlemen of the jury, should
15 consider, weigh, and evaluate all of the evidence in this
16 case, both direct and circumstantial, ladies and gentlemen.
17 After considering all of the evidence if you are not convinced
18 of the guilt of the defendant beyond a reasonable doubt you
19 must find the defendant not guilty. On the other hand, after
20 weighing, considering, and evaluating all of the evidence in
21 the case, both direct and circumstantial, if you are convinced
22 of the guilt of the defendant beyond a reasonable doubt, you
23 must find the defendant guilty. Necessarily, ladies and
24 gentlemen of the jury, you will have to determine as I told
25 you at the outset, the credibility or the believability of the

1 witnesses who have taken the witness stand during the trial of
2 this case. Credibility simply means believability. It
3 becomes your duty, ladies and gentlemen, as jurors to analyze.
4 It becomes your duty as jurors to evaluate the evidence and
5 determine which evidence convinces you of its believability.
6 In determining the believability of witnesses who have
7 testified in this case, you may believe one witness over
8 several witness or several witnesses over one witness. You
9 may believe a part of the testimony of the witness and reject
10 the remaining part of the testimony of that same witness. You
11 may believe the testimony of a witness in its entirety or you
12 may reject the testimony of a witness in its entirety. You
13 may consider whether any witness has demonstrated or exhibited
14 to you any interest in the outcome of the case, any bias, any
15 prejudice or other motive in the case in deciding upon the
16 credibility or believability of the witnesses you may also
17 consider the appearance of the witness, the manner of the
18 witness, we call that the demeanor of the witness, while the
19 witness is on the witness stand. Anything that is in
20 evidence, ladies and gentlemen of the jury, you as a jury have
21 the right to consider in passing upon the credibility or
22 believability of the witnesses who have testified during the
23 trial of this case. Now, normally ladies and gentlemen, our
24 rules of evidence do not allow a witness to take the oath, sit
25 down, and look at you and say my opinion of what happened is

1 this. That happens a lot, sometimes at my house, but that
2 does not happen in the courtroom, ladies and gentlemen,
3 because the rules of evidence ordinarily do not permit
4 witnesses to testify to opinions or conclusions. An exception
5 to the opinion rule in our rules of evidence is for those
6 witnesses whom we call expert witnesses. A witness who by
7 education, training, or experience claims to have become an
8 expert in some art, science, or profession and if qualified by
9 the Court as a matter of law first, may give an opinion -- may
10 give an opinion as to any matters in which the expert claims
11 to be so skilled, ladies and gentlemen. You may, ladies and
12 gentlemen, understand that you should consider any expert
13 opinion given by a witness, and just like any other witness in
14 the case, you have to give it the weight that you feel it
15 deserves. If you decide that an expert witnesses opinion is
16 not based on sufficient education and experience, or if you
17 decide that the reasons given in support of the opinion are
18 not sound or that the opinion is outweighed by other evidence
19 in the case you may disregard the expert opinion entirely. An
20 expert witness's testimony to be given no greater weight than
21 any other witness simply because the witness is an expert and
22 you do not have to accept an expert witness's opinion even
23 though it is uncontradicted. I instruct you, ladies and
24 gentlemen, that the fact that the defendant in this case did
25 not testify is not a factor to be considered by you in any way

1 in your deliberations and in your consideration on the
2 question of the guilt or innocence of the defendant. It must
3 not be considered by you in any manner whatsoever. A
4 defendant, any defendant, has the constitutional right to
5 remain silent and the assertion of that right must not be
6 considered by you in your deliberations. I repeat, that under
7 that oath as each of you took as jurors, you are to draw no
8 conclusion whatsoever from the fact that the defendant in this
9 case did not testify. The fact that the defendant did not
10 testify should not even be discussed in your jury room. The
11 burden of proof, as I have already instructed you, is on the
12 State of South Carolina. The defendant is not required to
13 prove his innocence. The burden of proof remains on the State
14 to prove guilt beyond a reasonable doubt. I charge you,
15 ladies and gentlemen, that an issue in this case is the
16 identification of the defendant. That is the perpetrator of
17 the crime or crimes charged. The State of South Carolina has
18 the burden of proving the identity beyond a reasonable doubt.
19 You as a jury must be satisfied beyond a reasonable doubt of
20 the accuracy of the identification of the defendant before you
21 may convict the defendant. Identification testimony is simply
22 an expression of belief or impression by a witness. You must
23 determine the accuracy of the identification of the defendant.
24 You must consider, as you would any witness, the believability
25 of any identification witness offered during the trial of this

1 case in the same way as any other witness. You may consider
2 things such as whether the witness had an adequate opportunity
3 to observe the offender at the time of the offense. This may
4 be affected if in evidence in this case by things such as how
5 long or short a time was available, how far or close the
6 witness was, the lighting conditions, and whether the witness
7 had the chance to see and know the person in the past. Once
8 again though, I instruct you the burden of proof is on the
9 State and extends to every element of the crime charged or
10 crimes charged and this specifically includes the burden of
11 proving beyond a reasonable doubt the identity of the
12 defendant as the person who committed the crime. If after
13 examining the evidence in this case, you have a reasonable
14 doubt as to the accuracy of the identity of the defendant you
15 must find the defendant not guilty. I charge you, ladies and
16 gentlemen, that the three indictments in this case allege
17 different criminal offenses against the defendant. As I told
18 you, the charges are murder, arson 2nd degree, and possession
19 of a weapon during the commission of a violent crime. And
20 although I will have instructions on the verdict for you, Mr.
21 Foreman, each charge is a separate and distinct offence. You
22 must decide each charge separately on the evidence and the law
23 that applies to it. For instance, if you find the defendant
24 guilty of murder or arson 2nd degree then you may also find the
25 defendant either guilty or not guilty of possession of a

1 weapon during the commission of a violent crime. If you find
2 the defendant not guilty of murder and also not guilty of
3 arson 2nd degree, then you cannot find the defendant guilty of
4 possession of a weapon during the commission of a violent
5 crime. Arson 2nd degree and murder, I charge you, are violent
6 crimes under the laws of the State of South Carolina. You
7 will be asked on your verdict form, which I've prepared for
8 you, to reach a separate verdict of guilty or not guilty for
9 each charge following the instructions that I've written for
10 you on the verdict form. I will now define the offenses for
11 you, but first in order to establish criminal liability,
12 criminal intent is required. For example, and these are just
13 examples of criminal intent, this is the mental state required
14 to be proven by the State for a particular crime. It might be
15 purpose, it might be knowledge, it might be intent, it might
16 be recklessness, it might even in some cases be what we call
17 criminal negligence. Those are just examples of criminal
18 intent, but criminal intent must be proven by the State beyond
19 a reasonable doubt. Criminal intent is always a matter that
20 must be determined by the jury from the circumstances
21 surrounding the situation based on evidence introduced during
22 the trial of the case. Now, there is no way, ladies and
23 gentlemen, to prove intent to any mathematical certainty.
24 There is no way that medical science can dissect a person
25 brain and tell what that person or determine what that person

1 had in mind. So the law says, ladies and gentlemen, criminal
2 intent may be inferred from the circumstances shown to have
3 existed based on evidence introduced during the trial of the
4 case. This is how you make a determination about whether or
5 not any element in any crime requiring intent was present. It
6 is not necessary to establish intent by direct evidence, but
7 intent may be established by inference in the same way as any
8 other fact by taking into consideration the acts of the
9 parties and all of the facts and circumstances of the case
10 based on the evidence that's been introduced during the trial
11 of the case, sworn testimony, exhibits, and if any
12 stipulations. Criminal intent is a mental state, is a
13 conscious wrongdoing. It is up to you, the members of the
14 jury, to determine what the defendant intended to do based on
15 the evidence introduced during the trial of the case.
16 Criminal intent can arise from action or failure to act. It
17 may arise from action or inaction or indifference to duty or
18 to consequences considered by the law to be the equivalent of
19 criminal intent. Now, we have in the law a doctrine known as
20 the hand of one is the hand of all. If a crime is committed
21 by two or more people who are acting together in committing a
22 crime, the act of one is the act of all. A person who joins
23 with another person to accomplish an illegal purpose is
24 criminally responsible for everything done by the other person
25 which occurs as a natural consequence of the acts done in

1 carrying out a common plan and a common purpose. If two or
2 more people are together, acting together, assisting each
3 other in committing the offence, the act of one is the act of
4 all or as it is sometimes said, the hand of one is the hand of
5 all. Prior knowledge that a crime is going to be committed
6 without more is not sufficient to make a person guilty of that
7 crime. Mere knowledge that another person is going to commit
8 a crime, even if the defendant is present when the crime is
9 committed, is not sufficient to convict the defendant as a
10 principal. Guilt as a principal is shown by actual or
11 constructive presence at the scene as a result of a prior
12 arrangement. Therefore, a finding of a prior arranged plan or
13 a common scheme is necessary for the finding of guilt as a
14 principal. The State must prove beyond a reasonable doubt by
15 the evidence presented during the trial of the case the theory
16 of the hand of one is the hand of all. A principal in a crime
17 is the one who either actually commits a crime or who is
18 aiding, abetting, and assisting in committing a crime. When a
19 person does an act in the presence of and with the assistance
20 of another person the act is done by both. Where two or more
21 people acting with a common plan or intent are present at the
22 commission of a crime it does not matter who actually commits
23 the crime, all are guilty. The hand of one is the hand of
24 all. Present at the commission of the crime means to be
25 sufficiently near to aid and abet and assist in the commission

1 of a crime. However, mere presence at the scene of a crime is
2 not sufficient to convict one as a principal on the theory of
3 aiding and abetting. Intent, criminal intent is also a
4 necessary element, so there must have been a common design, a
5 common intent to commit the crime. The crime must have been
6 committed pursuant thereto with the person aiding and abetting
7 by some overt act. Intent means intending the result which
8 actually occurs, not accidentally or involuntarily. Intent may
9 be shown by the acts and conduct of the defendant and all of
10 the facts and circumstances of the case based on evidence
11 introduced during the trial of the case when which you as a
12 jury may naturally and reasonably infer intent. The State
13 must prove these elements, however, beyond a reasonable doubt.
14 Now, that I've charged you the theory of the hand of one the
15 hand of all, I caution you that mere presence at the scene is
16 not sufficient to prove someone guilty of a crime. A
17 defendant's presence where a crime is being committed or mere
18 association with a person who commits a crime does not make a
19 defendant an accomplice or an aider and abettor of the person
20 committing the crime. The burden is on the State to prove
21 every element of the crime charged. If you find after
22 reviewing all the evidence that the State has proved that the
23 defendant was only present at the scene of the crime and that
24 they have not proved beyond a reasonable doubt any other
25 participation in the crime then you must find the defendant

1 not guilty. The law is that proof at the scene of the crime
2 alone, or presence at the scene of the crime alone is not
3 sufficient to find someone guilty. Now, in this case the
4 defendant has raised the defense of alibi. That means the
5 defendant was not at the scene of the crime at the time it was
6 committed, but elsewhere and had nothing to do with the crime.
7 The word alibi means elsewhere. There is no burden upon the
8 defendant to prove that he was not at the scene of the crime.
9 There is no burden upon the defendant to prove his alibi. The
10 defendant need not prove he was somewhere else. The burden is
11 on the State of South Carolina to prove beyond a reasonable
12 doubt that the defendant was present at the scene of the crime
13 actually participating in the crime and was not somewhere
14 else. Thus, the State has the burden of proving beyond a
15 reasonable doubt that the defendant was present and committed
16 the crime. The State has the burden of disproving the
17 defendant's alibi of defense. Now, ladies and gentlemen, I
18 charge you that in one indictment the defendant is charged
19 with the offense of murder. For this offense the State must
20 prove beyond a reasonable doubt that the defendant killed
21 another person with malice aforethought. Malice, ladies and
22 gentlemen of the jury, is hatred. It is ill will. It is
23 hostility towards another person. It is the intentional doing
24 of a wrongful act without just cause or excuse and with an
25 intent to inflict and injury. Malice aforethought does not

1 require that malice exist for any particular time before the
2 act is committed. But malice or this hostility or hatred or
3 ill will must exist in the mind of the defendant just before
4 and at the time the act is committed. Therefore, there must
5 be a combination of this hostility, this evil intent, this
6 hatred which we call malice, and the act itself. Malice
7 aforethought can be express or implied. These terms express
8 and implied do not mean different kinds of malice or different
9 kinds of hostility or hatred or ill will, but merely the
10 manner in which malice may be shown to exist. That is either
11 by direct evidence or by inference from the facts and
12 circumstances based on evidence introduced during the trial of
13 the case. Express malice is shown when a person speaks words
14 which express hatred or ill will for another. Or when the
15 person prepared beforehand to do the act which was later
16 accomplished. For example, lying in wait for a person or any
17 other act of preparation based on the evidence introduced
18 during the trial of the case to show that the deed was within
19 the defendant's mind would be examples of express malice.
20 Malice may be inferred from conduct showing a total disregard
21 for human life. I charge you, ladies and gentlemen, in a
22 second indictment the defendant is charged with the offense of
23 2nd degree arson. In order to prove 2nd degree arson the State
24 must prove beyond a reasonable doubt that the defendant
25 willfully and maliciously caused an explosion, set fire to,

1 burned, caused to be burned, aided, counseled, or procured the
2 burning of certain property. Willfully means that it was done
3 not by accident but was done knowingly or intentionally. It
4 must be shown that the burning was by the willful act of some
5 person and not as a result of a natural or accidental cause.
6 Maliciously means, as I told you with malice, hatred, ill will
7 or hostility towards another person. A person who
8 intentionally doing a wrongful act without legal justification
9 or excuse does the act maliciously. A malicious burning is an
10 act done with a condition of mind that shows a heart bent on
11 mischief. Showing a design to do an intentional wrongful or
12 wrong act towards another or towards a property without any
13 legal justification or excuse. Malice need be express but it
14 may be inferred from the conduct of the parties based on
15 evidence introduced during the trial of the case. Burning
16 means actual combustion of some portion of the property or
17 piece of property. It is not necessary that the property be
18 consumed or destroyed. Charring of the material of the
19 property, which the property is constructed or a change in the
20 fiber or composition of the structure is required for burning.
21 Singeing, smoking, blistering, scorching or discoloring by the
22 heat, these things alone are not sufficient, there must be
23 some burning to constitute a burning. The State must prove
24 beyond a reasonable doubt that the property that was burned
25 was a dwelling house which is any structure designed for human

1 occupancy for arson 2nd degree. A dwelling house, ladies and
2 gentlemen of the jury, is a building in which a person
3 ordinarily sleeps. I charge you in the third indictment,
4 ladies and gentlemen, that the defendant is charged with the
5 offense of possession of a weapon during the commission of a
6 violent crime. As I have previously instructed you, I charge
7 you that murder and arson 2nd degree are violent crimes under
8 the laws of the State of South Carolina. A person charged
9 with possession of a weapon during the commission of or
10 attempt to commit a violent crime the State must prove beyond
11 a reasonable doubt that the defendant was in possession of a
12 firearm or visibly displayed what appeared to be a firearm
13 during the commission of a violent crime. A firearm means any
14 machine gun, automatic rifle, revolver, pistol, or any weapon
15 which will or is designed to expel a projectile. In order to
16 find the defendant guilty of possession of a weapon during the
17 commission of a violent crime, you must first find the
18 defendant guilty of either committing a violent crime or
19 attempting to commit a violent crime. I charge you again,
20 ladies and gentlemen, that murder is a violent crime under the
21 laws of the State of South Carolina. I charge you that arson
22 2nd degree is a violent crime under the laws of the State of
23 South Carolina. The State must prove possession of a weapon
24 during the commission of a violent crime beyond a reasonable
25 doubt, that the weapon furthered, advanced, or helped in the

1 commission of the violent crime. Now, Mr. Foreman, ladies and
2 gentlemen of the jury, I have prepared a verdict form for you.
3 Pay absolutely no attention to the order in which I wrote the
4 forms of verdict. I obviously had to write one before the
5 other, so the order has no significance whatsoever. At the
6 top of your verdict form I put the caption of the case. It
7 says State of South Carolina, County of Charleston in the
8 Court of General Sessions which is the Ninth Judicial Circuit.
9 I put the indictment numbers and I styled it State of South
10 Carolina versus Gregory Kyle Green. My law clerk wrote
11 plaintiff on here, ladies and gentlemen, but we're not in
12 Civil Court, it's the State of South Carolina versus Gregory
13 Kyle Green so I've struck through the word plaintiff on the
14 verdict form. And I put the heading Verdict Form on the
15 verdict form. There are, ladies and gentlemen, three
16 questions on your verdict form. Question number one, we the
17 jury by unanimous consent find Gregory Kyle Green on the
18 charge of murder and the first indictment number 2017-GS-10,
19 that's Charleston, ladies and gentlemen, 06993 that's the
20 indictment number. First form of verdict is guilty of murder.
21 If that be your form of verdict, Mr. Foreman, you would check
22 on the line beside that form of verdict. The second form of
23 verdict under question one is not guilty of murder. If that
24 be your form of verdict, Mr. Foreman, you would check on the
25 line beside that form of verdict. You must find one form of

1 verdict or the other. You cannot find both, either guilty or
2 not guilty on the indictment for murder. The second question
3 on your verdict form, we the jury by unanimous consent find
4 Gregory Kyle Green on the charge of arson 2nd degree in
5 indictment 2017-GS-10-06995, the first form of verdict is
6 guilty of arson 2nd degree. If that be your form of verdict
7 you would check on the line, Mr. Foreman, for the entire jury
8 by that form of verdict. The second form of verdict under
9 question two is not guilty of arson 2nd degree. If that be
10 your form of verdict, Mr. Foreman, you would check on the line
11 beside that form of verdict. You must find one find one form
12 of verdict or the other for arson 2nd degree, guilty or not
13 guilty. You cannot find both, it must be one or the other.
14 Then I wrote you instructions on your verdict form. I said if
15 you find the defendant guilty of murder or guilty of arson 2nd
16 degree, you must find the defendant in question three either
17 guilty or not guilty of the offense of possession of a weapon
18 during the commission of a violent crime. At the top of the
19 second page of your verdict form I said if you find the
20 defendant not guilty of murder and not guilty of 2nd degree
21 arson, you must find the defendant not guilty of possession of
22 a weapon during the commission of a violent crime because the
23 element of possession of a weapon is that you be convicted of
24 a violent crime in order to be convicted of possession of a
25 weapon during the commission of a violent crime. If you reach

1 question three, keeping in mind my instructions that I wrote
2 on the verdict form, question three says we the jury by
3 unanimous consent find Gregory Kyle Green on the charge of
4 possession of a weapon during the commission of a violent
5 crime in indictment 2017-GS-10-06994 the first form of verdict
6 is guilty of possession of a weapon during the commission of a
7 violent crime. If that be your form of verdict, Mr. Foreman,
8 you would place a check mark on the line beside that form of
9 verdict for the jury. The second form of verdict under
10 question three is not guilty of possession of a weapon during
11 the commission of a violent crime. If that be your form of
12 verdict, Mr. Foreman, you would check for the entire jury on
13 the line beside that form of verdict following the
14 instructions on my verdict form. When you have completed the
15 verdict form you will then where it says foreperson and fill
16 in today's date. I've already got November and 2019 on there.
17 You will then knock on your jury room door, inform the bailiff
18 that you've reached a verdict. We will then bring you back
19 into the courtroom in order to publish your verdict. I remind
20 you that whatever you write on this verdict form, my law clerk
21 Austin McCoy will be coming to you and asking you to write the
22 same words on the back of the indictment that you have written
23 for the entire jury on the verdict form. Now, ladies and
24 gentlemen, your verdict must be unanimous, that is your
25 verdict must be the verdict of each and every one of you. All

1 12 of you must agree on a verdict. Mr. Foreman, and ladies
2 and gentlemen of the jury, I've now charged you on the law in
3 this case in order to help guide you to a just result. You
4 are the judges of the facts based on the evidence in this case
5 and based on your determination of the facts in this case and
6 on the law as I've explained it to you, you will soon begin
7 your deliberations. Each of you were selected as fair and
8 impartial jurors. You took an oath that you would fairly and
9 impartially try and determine the facts of this case and when
10 you comply with that oath no one can criticize your verdict.
11 But you are to decide this case based solely on the evidence
12 that's been introduced during the trial of this case.
13 Testimony from the witness stand, any exhibits which have been
14 introduced and I'll send all of the exhibits except those that
15 you need the equipment to play and if you want to hear those
16 I'll bring you back in the courtroom so we can use the
17 equipment out here to let you hear it and I'll also provide
18 you if necessary, if you want, the exhibits for which I gave
19 you the aid of a transcript I will pass those back out if you
20 so desire, if you'll let me know. You must base your -- your
21 decision only on the evidence which is the sole basis of your
22 decision. You must decide the issues in this case, ladies and
23 gentlemen, without any bias, without any prejudice towards
24 either party. You cannot allow yourself to be governed by
25 prejudice for or against either party in this case. You can't

1 allow yourself to be governed by public opinion or any other,
2 your sentimental feelings, any other arbitrary factor that is
3 not in evidence in the trial in this case. Both the
4 defendant and the State of South Carolina have the absolute
5 right to expect that each of you on this jury will carefully
6 and impartially consider all of the evidence in this case and
7 that you will follow the law as I've instructed it to you to
8 be in reaching your verdict in this case. Now, Mr. Foreman,
9 and ladies and gentlemen of the jury, I'm going to ask you to
10 retire to your jury room. Do not begin your deliberations
11 yet. I may have to call you back for some additional
12 instructions. When it is time for you to begin your
13 deliberations I will have the bailiff bring in all of the
14 exhibits and the verdict form which I've prepared for you and
15 I will have the bailiff instruct you that you may then
16 commence your deliberations. So do not begin your
17 deliberations until I instruct you through the bailiff to
18 commence your deliberations. You may retire to your jury
19 room. My alternate jurors remain with me in the courtroom.

20 **REPORTER'S NOTE:** (Jury retires to jury room at 12:40PM)

21 **THE COURT:** Now, you remember when I qualified you on
22 Monday morning at 10 o'clock? What did I promise you?

23 **ALTERNATE JUROR:** That if you don't waste your time, you
24 won't waste our time.

25 **THE COURT:** That's true, but I also promised you this

1 wasn't going to be a multi-week term of court; do you remember
2 that?

3 **ALTERNATE JUROR:** Yes, sir.

4 **THE COURT:** And you listened to me.

5 **ALTERNATE JUROR:** Yes, sir.

6 **THE COURT:** I'm happy to tell you that without you,
7 ladies and gentlemen, justice could not be accomplished in a
8 courtroom and I can't tell you how much I appreciate your
9 service. No one became ill or for some reason -- we never
10 know. I actually had a case one time; it didn't involve these
11 lawyers or this county. I had a case where five people got
12 sick on the jury and we only had three alternates. You never
13 know when that can happen. A bug was going around and they
14 were really ill, and we don't know, that's why we draw
15 alternate jurors. I want to thank you for your service on
16 behalf of Charleston County. Now, I'm going to see to it,
17 Peyton's going to join you out there, that you get lunch.
18 We're going to mail your -- how much do y'all pay, Peyton?

19 **CLERK:** Twenty-five dollars a day.

20 **THE COURT:** You get a whopping \$25 a day for your service
21 and we're going to mail that, ladies and gentlemen, to the
22 address that we sent your subpoena to be here. This concludes
23 your participation for the week. You don't have to come back,
24 you're done. If you listened to me you also know that you can
25 claim now that you've been here, you can claim you exemption

1 from jury service if the computer were to draw you in the next
2 three years, you're exempt for three years by virtue of your
3 being here this week. Have we treated you okay? I'm always
4 looking for a way to improve it.

5 **ALTERNATE JUROR:** It's been wonderful.

6 **THE COURT:** Has it been clear?

7 **ALTERNATE JUROR:** Yes, sir.

8 **THE COURT:** Do you feel like you understood what went on?

9 **ALTERNATE JURORS:** Yes, sir.

10 **THE COURT:** Did anybody have a problem?

11 **ALTERNATE JURORS:** No, sir.

12 **THE COURT:** I've got thick skin. If anybody's got a
13 complaint or an issue, please tell me about it because I want
14 to improve the way we do business. Anybody have a problem or
15 an issue?

16 **ALTERNATE JURORS:** No, sir.

17 **THE COURT:** Now, sometimes people are going to want to
18 talk to you about this case. That decision is entirely up to
19 you. If you want to talk to people about what you felt you
20 can, if you don't you don't have to. If somebody tries to
21 push you to talk about it, get their name, give it to me and
22 I'll handle that problem for you, ladies and gentlemen. It's
23 entirely up to you as to whether or not you wish to talk.
24 Now, does anybody need a work excuse for serving? You do.
25 Peyton, you handle it. Peyton's gone -- y'all see how

1 efficient he is? He's only been here for five months. He's
2 doing a great job. I can't tell you how much I've appreciated
3 Peyton this week. When you walk through this door -- does
4 everybody have their belongings?

5 **ALTERNATE JUROR:** Cell phones are still back there.

6 **THE COURT:** Alright. What you got back there?

7 **ALTERNATE JURORS:** Cell phones.

8 **THE COURT:** Alright. You're going to see that he gets
9 his cell phone back. You can't go back to the jury room, but
10 we're going give you your cell phone back. Nobody left a
11 pocketbook, you didn't leave a pocketbook or anything like
12 that, or a coat? Alright. You can't go back in the jury room
13 now; this concludes your service for the week and as an
14 alternate juror. On behalf of Charleston County and this
15 Court I want to thank you for your service, and I mean that.
16 When I tell jurors that I appreciate them, you left your
17 homes, you left your family, you left you job, we're going to
18 give you a work excuse to show your employer what you've been
19 doing. We very much appreciate that. We need people to give
20 of their time in order that justice can be accomplished in a
21 courtroom and we appreciate that. So, now with God speed and
22 my blessing if nobody's got a complaint, nobody's got any
23 issue they want to ask me about this case, I'll send you back
24 to your families and your homes with our sincere thanks. You
25 may leave the courtroom, Peyton's gone meet you in the back

1 and we'll give you a work excuse. Thank you. Give them the
2 box -- they can't go back in the jury room. Give them the box
3 and give them another room. If they want to eat here or take
4 it home with them. Thank you very much.

5 **ALTERNATE JURORS:** Thank you.

6 **THE COURT:** Any exceptions or additions to the Court's
7 charge from the State of South Carolina?

8 **MR. WARING:** None from the State, Your Honor.

9 **THE COURT:** From the defendant?

10 **MS. STEWART:** No, Your Honor.

11 **THE COURT:** Alright. Counsel, let the record reflect
12 that during the previous break that the jury asked for between
13 closing argument and the judge's charge, that both of you went
14 through all of the exhibits. You are satisfied. We're going
15 to have to hold the exhibits that contain the use of
16 equipment. I believe that's 97 and 102; is that correct?
17 I've asked that question four times and every time nobody
18 looks at me.

19 **MR. WARING:** That's correct, Your Honor.

20 **THE COURT:** Alright. Ninety-seven -- both of you agree
21 97 and 102 should remain in the courtroom?

22 **MS. STEWART:** Yes, sir.

23 **MR. WARING:** Yes, Your Honor.

24 **THE COURT:** Alright. With the exception of 97 and 102,
25 does the State have any objection -- on the record again, both

1 sides are satisfied that the court reporter, even though we
2 changed court reporters, has all of the exhibits. Any
3 objection to the bailiff taking the verdict form that you
4 approved of? Notice I scratched out the word plaintiff, which
5 Austin -- oh he's given me another one now. He's already
6 typed another one since I've said that during the charge. So,
7 we don't have plaintiff on there anymore but it's the same.
8 Do y'all have any -- does the State have any objection to the
9 bailiff taking the verdict form and all of the exhibits except
10 97 and 102 into the jury room and the bailiff informing the
11 jury they may now commence their deliberations?

12 **MR. WARING:** No objection, Your Honor.

13 **THE COURT:** Does the defendant have any objection to the
14 bailiff taking the verdict form, which you've approved, and
15 the exhibits with the exception of 97 and 102 into the jury
16 room and the bailiff informing the jury they may now commence
17 their deliberations?

18 **MS. STEWART:** No objection.

19 **THE COURT:** Alright. Here's the verdict form and I need
20 you to make sure that you've got the right exhibits because
21 they are not in sequential order. Now, did y'all the ones
22 that are out -- did y'all leave them like that up here? Come
23 on up here to make sure he gets the right ones that we agreed
24 on because they're not in sequential order. Ninety-seven and
25 102 stay right here with me and the court reporter.

1 **MS. STEWART:** Judge, I think number 1 as well.

2 **MR. WARING:** The 9-1-1 call, would you like that to stay?

3 **THE COURT:** Oh yeah, that's number 1.

4 **MR. WARING:** Okay.

5 **THE COURT:** Number 1 will also stay here by agreement of
6 counsel.

7 **MR. WARING:** Your Honor, also number 3, body cam.

8 **THE COURT:** Alright. Number 3 will also stay here by
9 agreement of counsel, 1, 3, 97, and 102 because of equipment
10 needed to play the exhibit. Just so y'all know so Austin
11 doesn't take the biggest hit, both of y'all read that verdict
12 form and neither one of y'all as lawyers caught the fact that
13 it said plaintiff, so don't feel bad, Austin; you hear. They
14 weren't going to say anything.

15 **MS. STEWART:** It's our fault.

16 **THE COURT:** Alright. Are you both satisfied the exhibits
17 remaining on the table should go to the jury room from the
18 State?

19 **MR. WARING:** Yes, Your Honor.

20 **THE COURT:** From the defendant?

21 **MS. STEWART:** Yes, sir.

22 **THE COURT:** Pick them up for me, Mr. Bailiff. Take the
23 verdict form and exhibits. Is anything in that box? What's
24 that ---

25 **MR. WARING:** Your Honor, that's our box.

16 **THE COURT:** 2:48 -- I mean, 12:48. They've had it about
17 two hours. We received a note from the jury, the jury would
18 like to get a transcript or review the testimony of Jonathan
19 Seabrook. I assume that you both understand we don't have a
20 transcript of the testimony but we have an audio recording and
21 I assume there is no objection to my telling the jury that
22 there is no written transcript available, but we do have an
23 audio. The court reporter tells me it's about 32 minutes and
24 I'll tell them we'll play as much or as little as they would
25 like and when they've heard as much as they want, they can get

1 the foreperson to raise their hand to signify they've heard
2 all they need if they want to stop prior to the completion of
3 it, otherwise we'll play the entire testimony. Is that
4 satisfactory with the State?

5 **MR. WARING:** Yes, Your Honor.

6 **THE COURT:** With the defendant?

7 **MS. STEWART:** Yes, sir.

8 **THE COURT:** Bring us the jury, please. And I'm going to
9 make the jury's note a Court's Exhibit. It will be Court's
10 Exhibit Number Eight. Any objection, solicitor?

11 **MR. WARING:** No, Your Honor.

12 **THE COURT:** Any objection, Ms. Stewart?

13 **MS. STEWART:** No, Your Honor.

14 **REPORTER'S NOTE:** (Jury enters courtroom at 2:52PM)

15 **BAILIFF:** Your Honor, the jury is complete.

16 **THE COURT:** Thank you very much. Mr. Foreman, please be
17 seated, I received your note. I read it as the jury would
18 like to get a transcript or review the testimony of Jonathan
19 Seabrook.

20 **FOREMAN:** Yes, Your Honor.

21 **THE COURT:** We do not have a written transcript of
22 testimony, but we have an audio recording of the testimony.
23 I'm advised by the court reporter that it is approximately 32
24 minutes in length. We will play the entire testimony, however
25 Mr. Foreman, when you have heard as much as you want if you

1 will just raise your hand, I will stop it at point that the
2 jury feels is significant. Do you understand?

3 **FOREMAN:** Yes, sir.

4 **THE COURT:** Very good. Does that answer your question
5 now?

6 **FOREMAN:** Yes, sir.

7 **THE COURT:** Very well. Madam court reporter, would you
8 begin the replaying of the audio testimony of the witness
9 Jonathan Seabrook?

10 **REPORTER'S NOTE:** (Audio testimony of Jonathan Seabrook
11 played.)

12 **THE COURT:** Can everybody hear that alright?

13 **FOREMAN:** (Affirmative response.)

14 **THE COURT:** Is that one of the phones in the box outside?
15 Stop it for me.

16 **REPORTER'S NOTE:** (Audio paused)

17 **THE COURT:** Ladies and gentlemen, if anybody has a cell
18 phone in the courtroom please turn it off so the jury can hear
19 the audio portion that's being played.

20 If you can't understand or hear, please let me know. We
21 will continue.

22 **REPORTER'S NOTE:** (Audio testimony of Jonathan Seabrook
23 continued.)

24 **THE COURT:** Mr. Foreman, have we answered your question?

25 **FOREMAN:** Yes. Yes, Your Honor.

13 **THE COURT:** Thank you. Please be seated. I understand
14 from the bailiff that the jury has reached a verdict. Ladies
15 and gentlemen, I'm happy for people to stay in the courtroom
16 when we publish the verdict, but the jury deserves respect.
17 They've worked hard. They've had the case now almost four to
18 five hours. I don't allow any emotional outbursts, no
19 clapping, nothing. These people have left their homes to
20 serve on the jury and I don't allow people to react to any
21 verdict. If you can't control your emotions, please step up
22 now and step in the hall. We'll be happy to tell you what the
23 verdict was, not in the presence of the jury. I'll enforce
24 that with the contempt powers of this court if necessary. So,
25 if you feel you can't control your emotions when the jury

1 verdict is published please leave the courtroom at this time.

2 Anything from the State before we publish the verdict?

3 **MR. WARING:** No. Your Honor.

4 **THE COURT:** From the defendant?

5 **MS. STEWART:** No, Your Honor.

6 **THE COURT:** Bring us the jury, please.

7 **REPORTER'S NOTE:** (Jury enters the courtroom at 4:44PM)

8 **BAILIFF:** Your Honor, the jury is complete.

9 **THE COURT:** Thank you. Mr. Foreman, has the jury reached
10 a verdict?

11 **FOREMAN:** We have, Your Honor.

12 **THE COURT:** Would you give the verdict form to my bailiff
13 and let him bring it to me?

14 Will the defendant and counsel please rise?

15 In the State of South Carolina versus Gregory Kyle Green,
16 defendant, we the jury by unanimous consent find Gregory Kyle
17 Green on the charge of murder in indictment number 2017-GS-10-
18 06993 guilty of murder. Question two, we the jury by
19 unanimous consent find Gregory Kyle Green on the charge of
20 arson 2nd degree in indictment number 2017-GS-10-06995 not
21 guilty of arson 2nd degree. Question three, we the jury by
22 unanimous consent find Gregory Kyle Green on the charge of
23 possession of a weapon during the commission of a violent
24 crime in indictment number 2017-GS-10-06994 guilty of
25 possession of a weapon during the commission of a violent

1 crime. Ladies and gentlemen of the jury, if this be your
2 verdict as published by the Court would you indicate by
3 raising your right hand? Thank you. Let the record reflect
4 12 hands were raised in response to the Court's questions.
5 Anything further from the defendant from this jury before I
6 excuse the jury?

7 **MS. STEWART:** No, Your Honor.

8 **THE COURT:** Mr. Foreman, ladies and gentlemen of the
9 jury, on behalf -- please be seated -- on behalf of Charleston
10 County and this Court I want to thank you for your service
11 this week. You've been patient. You gave of your time. You
12 left your homes, you left your family, you left your jobs.
13 That's all a judge can ask of a jury is that you listen and
14 listen carefully and each of you did that. And on behalf of
15 this county and this Court I want to thank you for your
16 service. This concludes your service for the entire week. If
17 you listened to me during your general qualifying, you'll know
18 that you are now exempt from jury service for three years as a
19 result of your service if the computer were to choose you
20 again during the next three years, you can claim your
21 exemption. We will be mailing you a check for your service.
22 I understand from Peyton that we pay the exorbitant amount of
23 \$25 per day here in Charleston. We know it's not enough,
24 ladies and gentlemen, we know it's inadequate. That's what --
25 each county has a different pay schedule for jurors, and we

1 run a lot of juries, believe me you'd be amazed at the expense
2 in larger counties like Charleston that it entails. Now,
3 sometimes people will want to talk to you about your jury
4 service. If you want to talk to someone you can. If you do
5 not want to talk to someone just tell them I don't want to
6 discuss it. If someone persists in wanting to talk to you
7 about your service, you get their name and you give it to me.
8 I'll handle that problem for you, and I can assure you that
9 person won't bother you anymore. Does anybody on my jury need
10 a work excuse from the Court for serving on jury duty this
11 week. Please raise your hand for me. We've got one, Peyton.
12 Peyton will have it for you outside when I excuse you. We
13 will be happy to provide a work excuse to any of my jurors.
14 Now, ladies and gentlemen, I invite you if you want to, you
15 can stay in the jury box or you can leave and come and sit in
16 the public area of the courtroom if you so desire. Sentencing
17 in this case is going to take place in just a couple of
18 moments. I invite you if -- that's the province on the Court,
19 not the jury. But it's going to happen in this case in just a
20 couple of moments. I'll be happy for you to stay with me so
21 that you can witness the sentencing before you leave. If you
22 do not wish to stay for sentencing, I understand that. If you
23 want to get on your way, I'm happy for you to go, although the
24 person that needs the work excuse needs to stay out there.
25 Did we treat you okay?

1 **JUROR:** Yes, Your Honor.

2 **THE COURT:** Anybody got any complaints?

3 **JUROR:** No, sir, Your Honor.

4 **THE COURT:** I tell all of my juries this, I'm always
5 looking for a way to make it better, Mr. Foreman. Anything I
6 can do to improve it?

7 **FOREMAN:** No, sir.

8 **THE COURT:** Did everybody clearly understand all of the
9 evidence during the trial of this case? Was the audio
10 playback enough that you could clearly understand everything
11 on the tape? We worry about that sometimes because we get
12 roars and things like that. Anybody have any problem with
13 their jury service this week they need to tell me about? I
14 thank you very much. With Charleston County's thanks and
15 mine, I now return you to your homes, families, and jobs.
16 Your service now is complete for this week. You're excused
17 for the balance of the week and if you so desire you may leave
18 the courtroom at this time. Everyone else remain seated while
19 the jury's leaving, those that want to leave. Peyton's come
20 to you right out here and you can come back in if you want to.

21 **REPORTER'S NOTE:** (Jury excused at 4:51PM)

22 **THE COURT:** Come on and sit on the front row if you want
23 to. I'm happy to keep you here.

24 Solicitor, I'm going to need sentence sheets from you.

25 **MR. WARING:** Yes, Your Honor. May I approach?

1 **THE COURT:** You may and I'm going to need it on
2 indictment 2017-GS-06993 and on indictment, I believe, 2017-
3 GS-10-06994. Is that right?

4 **MR. WARING:** Yes, Your Honor.

5 **THE COURT:** Alright, counsel, are there any post-verdict
6 motions?

7 **MS. STEWART:** No, Your Honor.

8 **THE COURT:** Very well.

9 **MS. STEWART:** I'm sorry, Judge. I do renew all of our
10 earlier motions.

11 **THE COURT:** Let the record reflect that you're renewing
12 motions that you made at the close of the State's case, at the
13 close of the evidence. And for the reasons I enunciated on
14 the record at that time, your motions are respectfully denied.
15 Do you understand that? Alright. Give me a moment to show my
16 law clerk, this is his first time.

17 Alright. Defendant rise with counsel and come forward.
18 Solicitor, I'm ready to hear from you. I just want you to use
19 the microphone.

20 **MR. WARING:** Yes, Your Honor.

21 **THE COURT:** Turn that roster around so you are facing the
22 court reporter.

23 **MR. WARING:** Thank you, Your Honor. May it please the
24 Court?

25 **THE COURT:** Yes, sir.

1 **MR. WARING:** Would you like to hear his record and all of
2 that?

3 **THE COURT:** I want his prior record and if any member of
4 the family of the victim wishes to address the Court, I want
5 to hear from them.

6 **MR. WARING:** Certainly, Your Honor. Starting 1998 we've
7 got possession of cocaine. We've got 2002 unlawful carrying
8 of a weapon. 2002, looks like assault and battery with intent
9 to kill. 2005, possession of marijuana. It looks like 2007
10 failure to stop for blue lights and possession of cocaine.
11 2008, possession of crack. There's some miscellaneous driving
12 offenses, Your Honor. 2014, ---

13 **THE COURT:** Were any of the driving offenses -- I know he
14 has a prior driving under suspension. Was it alcohol related?

15 **MR. WARING:** I don't see that it was alcohol related,
16 Your Honor.

17 **THE COURT:** Alright.

18 **MR. WARING:** 2014, possession of a controlled substance.
19 2015, PWID or possession with intent to distribute cocaine 2nd.
20 Your Honor, that's what I've got for his record. I know he
21 was on probation at the time of the incident.

22 **THE COURT:** At the time of this incident in 2017?

23 **MR. WARING:** That's my understanding, Judge.

24 **THE COURT:** And that was on the possession of cocaine
25 with intent to distribute 2nd offense?

1 **MR. WARING:** Your Honor, whatever that last ---

2 **THE COURT:** That was the most recent one that I was given
3 before.

4 **MR. WARING:** Court's indulgence, Your Honor.

5 **THE COURT:** Alright.

6 **MR. WARING:** Yes, Your Honor, that's the one.

7 **THE COURT:** Alright. Now, I've heard the evidence in
8 this case. Does anyone from the family wish to address the
9 Court?

10 **MR. WARING:** Your Honor, I believe so.

11 **THE COURT:** Alright. I'm happy to hear from them.

12 Ma'am, if you'd come forward please. Come to my
13 microphone and stay your name for the court reporter. I'm
14 happy to hear from you.

15 **MS. MCNEIL:** My name is Vivian McNeil.

16 **THE COURT:** And that's McNeil? Is that right?

17 **MS. MCNEIL:** Yes.

18 **THE COURT:** Alright. Pull that down for her a little
19 bit, solicitor.

20 **MR. WARING:** Yes, sir.

21 **THE COURT:** There we go. Alright. Ms. McNeil, I'm happy
22 to hear from you. You are related to the victim in this case?

23 **MS. MCNEIL:** I am his mother.

24 **THE COURT:** Happy to hear from you. What would you like
25 to tell me?

1 **MS. MCNEIL:** I would like to thank you, thank the Court,
2 thank the -- all the jury, everybody because when my one and
3 only child was murdered, I felt like my life was over. Today
4 I still don't know how I'm going to make it but I'm going to
5 do all I can. I know God will help me. And I have justice.
6 I thank God I have justice because even though he was murdered
7 by his cousin, he loved his cousin. He loved his family and I
8 really don't think he deserved to die like he did. He was a
9 sweet child and I will miss him. I'm going to do all that I
10 can to go on with my life because my child was the only child
11 I had. He was not just my child, he was my best friend and we
12 saw each other every day, talked to each other every day. My
13 life has been so empty. And now I just have to ask God to
14 help me, help me get over how he died because it hurt my heart
15 because I know he didn't deserve to die that way.

16 **THE COURT:** Thank you for sharing your thoughts with me.

17 **MS. MCNEIL:** And I just want to thank everybody.

18 **THE COURT:** Thank you for taking the time to talk to us.
19 Anyone else, solicitor?

20 **MR. WARING:** No, Your Honor. The State would like to
21 offer a recommendation if possible.

22 **THE COURT:** Absolutely.

23 **MR. WARING:** Your Honor, you've heard the facts of this
24 case. I would consider this a particularly aggravated murder,
25 Your Honor. The victim was essentially executed. I think, I

1 think if anybody deserves life in prison, I think it's this
2 defendant.

3 **THE COURT:** Very well.

4 Counsel, I'd be happy to hear from you.

5 **MS. STEWART:** Would you like us to move up front?

6 **THE COURT:** Please, for the court reporter sake.

7 **MS. STEWART:** Thank you, Your Honor. May it please the
8 Court? Gregory is 38 years old today. It's been an honor
9 representing him through this process. Judge, we know we're
10 kind of in the awkward position, certainly we know what's
11 going to follow what happens here today. He has maintained
12 his innocence throughout this entire case. We understand the
13 jury's verdict. We respect the jury process. He has been an
14 amazing client. He has trusted me as his counselor. Judge,
15 he does have a family. His wife and sister have been here the
16 whole trial. I think his wife had to step out. His sister
17 would like to address Your Honor at the appropriate time.

18 **THE COURT:** I'd be happy to hear from her.

19 **MS. STEWART:** We obviously know what he's facing. We ask
20 that you give him some hope of release in the future, some
21 incentive to behave in prison. The minimum sentence he would
22 be 68 years old. That's a huge, huge time difference from
23 where we are today. I don't believe he's a danger, but if he
24 is 68 is much different than 38.

25 **THE COURT:** Counsel, do you wish to be heard?

1 **MS. NORRIS:** I don't have anything to add, Your Honor.

2 **THE COURT:** I'll be happy to hear from his or his sister.

3 **MS. STEWART:** Ms. McCoy, would you stand, please.

4 **THE COURT:** If you'll come forward, ma'am, if you would,
5 please. I need your name and I need you speak into my
6 microphone for the court reporter. Tell me your relationship
7 to the defendant.

8 **MS. MCCOY:** My name is Stacy McCoy.

9 **THE COURT:** Alright. Take it easy now. Take yourself a
10 moment. I need your name first.

11 **MS. MCCOY:** My name is Stacy McCoy.

12 **THE COURT:** Spell your last name for the court reporter.

13 **MS. MCCOY:** M-C-C-O-Y.

14 **THE COURT:** Alright.

15 **MS. MCCOY:** And I stand before you ---

16 **THE COURT:** You are his sister?

17 **MS. MCCOY:** Sister of Gregory and the cousin of Angelo.

18 And I stand before you asking for leniency. I know the
19 relationship that my brother had with his cousin. His cousin
20 stayed with us for years as we were growing up. So, he stayed
21 in my household for years and we were all close. Now, like
22 any other person the do things and say things, but I know his
23 heart. I believe (inaudible). Yes, you've seen his record,
24 but none of that was against his family. He has a huge heart
25 and he loves his family just like Angelo loved his family.

1 They both had issues, but they loved their family. I'm sorry.

2 **THE COURT:** I understand. Thank you for taking the time
3 to speak to me.

4 **MS. MCCOY:** I'm sorry.

5 **THE COURT:** Mr. Green, is there anything you'd like to
6 tell the Court prior to sentencing?

7 **DEFENDANT:** Yes, sir, Your Honor.

8 **THE COURT:** Speak up for me so I can hear you.

9 **DEFENDANT:** I'd like for you to sentence (inaudible) but
10 the jury done what the jury came to do. This whole situation
11 I could have better myself, better my position if I wanted to
12 say something about somebody else. I'm not that type of
13 person.

14 **THE COURT:** Mr. Green, your lawyer will tell you, the
15 jury has spoken now. The evidence is in. We're not here to
16 criticize anybody that testified.

17 **DEFENDANT:** I'm not disputing anything that happened
18 except for the guilty verdict because I hope Vivian one day
19 actually find justice because justice has not been served
20 today. I know I take care of my family. I might not do the
21 right thing in other words, but I do take care of my family.
22 I always look out for my family. My family has always been
23 first. I -- the whole 60 dollars -- he owed me 60 dollars. I
24 was paid as it was told. I was already paid so I don't
25 understand bringing harm to my family over a little bit of

1 money. I've never brought harm to anybody besides the person
2 who came at me. That's an old record from my conviction in
3 2002 in front of Judge Rawl and he said he would have done the
4 same thing if he was in my shoes because (inaudible) I got
5 kidnaped. That's the only violent charge I ever have on my
6 record. That's the only thing I ever did violently on my
7 record was protect myself. I can't change the verdict but all
8 I can ask for is leniency. I'll never see my daughter
9 graduate; I won't see that. The nine other kids I have; I
10 won't be able to see them graduate. I'm a very family-
11 oriented man. I base everything to do around my family, even
12 if I do wrong, which when I say do wrong, illegal stuff. But
13 far as -- I get money, man. I always want to hustle, that's
14 just me. I just hate the fact that I let (inaudible). I can't
15 change it. But I hope one day justice actually is served.

16 **THE COURT:** Alright. Counsel, I'm happy to hear from
17 you. Anything further?

18 **MS. STEWART:** Judge, the only other thing, obviously as
19 Mr. Green told you, he does have children that he cares very
20 much about. He supports them. And I did want to let you know
21 that he did serve 242 days in the Charleston County Detention
22 Center.

23 **THE COURT:** He is required to be given credit for the
24 time that he has served, counsel, and I will see that he gets
25 it.

1 **MS. STEWART:** Thank you.

2 **THE COURT:** Anything else?

3 **MS. STEWART:** No, sir.

4 **THE COURT:** Now, ladies and gentlemen of the jury, I want
5 you to understand some things that you heard -- the lawyers
6 know this, they've advised their client. The offense of
7 murder carries a minimum sentence of 30 years and you serve
8 day for day in South Carolina for murder. It carries up to
9 life in prison. The offense of possession of a weapon during
10 the commission of a violent crime carries up to five years.
11 It can be concurrent or consecutive. Concurrent means to
12 serve concurrently with any other charge, consecutive means in
13 addition to the other charge. I take into consideration
14 everything that you heard in this case. That is that I
15 listened to the evidence exactly the same time that you did.
16 I take into consideration that Mr. Green has a prior record.
17 The solicitor asked me to give him the maximum sentence which
18 is life in prison. He has a prior record for unlawful
19 carrying of a weapon. He has a conviction in 2002, he says
20 this is his only prior conviction of violence for assault and
21 battery of a high and aggravated nature but there are several
22 convictions for drugs on his record. Drugs were, as you might
23 imagine, in the trial and evidence in this case. I want you
24 to have some idea of what the Court is faced with in
25 determining the sentence. I've listened carefully to Mr.

1 Green. I've listened to his sister and I've listened to a
2 mother who has lost her child. There is no way to bring back
3 life. The other side of that fence, counsel for defendant
4 wants me to give him the minimum sentence because he'll be 68
5 years old if he serves day for day and serves 30 years. But I
6 have to take everything into account. Circumstances of this
7 case were such, the solicitor calls this an execution. Four
8 shots to the head of the victim. And although you found the
9 defendant not guilty of arson, I don't take that into
10 consideration in my sentence because you have spoken on that
11 and I understand your verdict completely. But I have to
12 consider the facts and circumstances of this murder in
13 imposing a sentence.

14 On indictment 2017-GS-10-06993 the State versus Gregory
15 Kyle Green, indictment for murder, the sentence of the Court
16 is the defendant is committed to the State Department of
17 Corrections for a term of 40 years. On indictment 2017-GS-10-
18 06994, possession of a weapon during the commission of a
19 violent crime, the State versus Gregory Kyle Green, sentence
20 of the Court is the defendant is committed to the State
21 Department of Corrections for a term of 5 years. The
22 sentences will run concurrent to each other. Thank you very
23 much. The defendant's in custody. Hold him right there for a
24 second. Bring him back out here. Five minutes right here in
25 the courtroom. They're going to have to come to the railing.

1 They don't cross the bar. They can speak to him right there
2 for 5 minutes.

3 So you know, ladies and gentlemen of the jury, they've
4 requested that he be allowed to speak to the members of his
5 family for 5 minutes before he's taken into custody. Now, I
6 want to thank each of you for your service this week. I
7 watched you. I know how you listened. I realize it isn't
8 always easy to serve on a jury. You found that out today,
9 each of you. But without you, ladies and gentlemen, we can't
10 accomplish justice in a courtroom. So I want you to know how
11 much I appreciate that service. Now, I want to send you to
12 your homes now. Your job is done. Thank you so much for your
13 service. I hope this has been an educational experience for
14 you. You may leave the courtroom at this time. Thank you
15 very much.

16 **(COURT ADJOURNED)**
17
18
19

C E R T I F I C A T E

I, the undersigned, Sallie Beth Todd, Official Court Reporter for the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the hearing held in the interest of State versus Gregory Kyle Green, held in the Court of General Sessions for Charleston County, Charleston County Courthouse, Charleston, South Carolina, on November 7, 2019.

I do hereby certify that I am neither of kin, counsel, nor interest to any party hereto.



Sallie Beth Todd, CVR
Official Reporter

February 28, 2020.

(1) Video Visit Video # 356721 – 7/14/17

D = Defendant

G = Guy the Defendant speaks with

W = Wife

G: Yeah, I had see that on the paper.

D: This is what I need for you to do though. When you get that, how you, on that phone, the phone, my phone.

G: Yeah.

D: You know what I talking about? The flat phone. Go in that fucking um, clear out my drive.

G: Alright.

D: Clear the whole drive, man. The, the, the, the the, you know the drive I talking about, right?

G: Yeah.

D: Look like a triangle. Clear that shit out.

G: Alright.

D: Um. Tell Chris, don't forget to do that shit soon as he get home, brah.

W: He said don't forget to do it as soon as you get home. Don't forget to do it soon as you get home.

D: Ask him. He know what I talking about.

W: You know what he talking about?

D: The, huh? What he say? What he say?

W: The phone?

D: Yeah.

G: Yeah.

D: Cause you ain't even know. Them shit still in my phone.

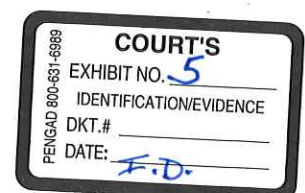
W: Oh. Ok.

D: Cause I had already done saved them. Just tell him, delete G shit. Tell him, delete G shit.

W: Delete G shit.

D: The file G shit. Delete that.

W: Alright.



(2) Video Visit Video # 355998 – 7/15/17

D = Defendant

L = Lady he is speaking with

G = Guy he is speaking with

D: Stand off. Man, listen, them boy roll up. You know what I'm saying? I guess them boy been trapping the phone. I roll up. I looking out the window, I say, the fuck.

G: Yeah, yeah.

D: I walk out the house. I ain't about to take. What the fuck? I ain't even really know what going on, but I got an inkling, an idea what going on. You know what I'm saying?

G: Yeah.

D: Cause of the bullshit ass phone call from the detective.

G: Yeah, yeah.

L: Mmm hmm.

D: It can't, it couldn't have been about nothing else.

L: Mmm hmm.

(3) Video Visit Video # 360658 – 7/23/17

D = Defendant

L = Lady he is speaking with

D: Ain't no way. Motherfuckers say, 4 something in the morning, man. 4 something in the morning a third party witness heard the name Kone.

L: Man, I done make notes about all of that stuff. If somebody, man it just, it don't make sense.

D: They could have hear Bone.

L: It don't make sense.

D: Even if, even if, they could have hear Bone, Tone.

L: First of all.

D: Rone.

L: Who.

Jail Call 1: 7/13/17 @ 14:00:55

D: Defendant

G: Guy he's speaking with

D: It all talk, nigga [unintelligible].

G: Cause, cause them boy, goddamn. Cause them boy get to the bottom of that shit there. But, I personally believe everything will be alright [unintelligible].

D: I know everything gonna be alright cause, shit, ain't none of that shit mean. I know I ain't got shit to do with that shit, and I know damn well dog ain't involved in no shit like that. So, that's a bunch of bullshit, man.

G: Bunch of he say. Yeah, bunch of he say she say shit [unintelligible].

D: Them boy talking about [unintelligible] and the third party will be revealed at court. Nigga, I want my. I ain't. That's some you say

G: [Unintelligible].

D: I say shit, man.

G: Yeah.

D: And, this the whole crazy shit. Everybody who knows me, knows me. This motherfucking saying they hear my name get called. My nickname. Who the fuck 'round there call me Kone, brah? Ain't none of y'all boy call me Kone. Everybody call me fucking Unk. Everybody call me Unk, brah. Everybody call me, everybody in our little circle call me Unk, man. You know what I'm saying? That, that, when I see that shit.

G: [Unintelligible].

D: I been like, man, come the fuck on, man. Word, B. That shit stupid.

G: [Unintelligible].

G: I think them boy trying to throw off their little motors. [Unintelligible].

D: Ain't even no motors for this shit. How the fuck you get.

G: I know.

D: I kill my cousin, man. That's dumb. That's real fucking stupid. I don't understand that shit, man. You know.

G: It'll be alright, man.

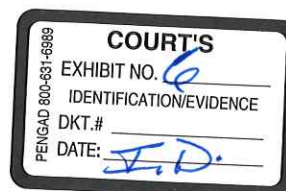
D: That man come.

G: [Unintelligible].

D: [Unintelligible]. Damn near every other day. Do all my electrical work and shit. He don't owe me shit but 60 dollars. I'm a kill the man behind 60 dollars? And, I can't even get the 60 dollars. Cause, I get paid on the 1st and the 3rd. The man

G: [Unintelligible].

D: Pay me every 1st and the third, my nigga. Since we get back up together, every 1st and the 3rd, I guess all my 60, 70 dollars I give to my wife. Come the fuck on, man.



Jail Call 2: 7/13/17 @ 19:31:32 from 6:35-8:10

D: Defendant

G: Guy he's speaking with

D: [Unintelligible] your sister show you that shit. Man, that shit fuck up and all, brah. I don't, I ain't even understanding that shit.

G: You think

D: Word.

G: Meeka got it?

D: Yeah, Meeka got the paperwork, man. Tell her, let you see that shit.

G: Alright, no cause, hey, I been talking to, I been talking to, uh uh uh. My bad. A motherfucker tell me [unintelligible] no. The nigga, you know what I saying. Bam, he he got some other shit going on. So, I been like, alright. I said no, I don't even, I don't know about that part. I don't know nothing about that shit. You know, I trying to make sure you get out. [unintelligible].

D: Man, listen. It ain't got nothing to do with that nigga there, dog. That's the whole crazy shit. It ain't got nothing to do with that nigga right there.

G: Yeah, well how he get in there then? How you get in that shit?

D: Man, listen, man. I don't even fucking know how he get involved in this crazy shit.

G: Alright.

D: I wanna know how the fuck I I get mix up in this dumbass shit, and I know damn well I ain't been with that nigga, dog. I, man, to be honest and truthful with you, I don't even think he had nothing to do with that shit, man, cause dog be on East Surrey.

G: [Unintelligible].

D: Dog don't even be on that end. Dog be on East Surrey, man. Dog be on East Surrey. Dog be on South Allen. East Surrey. And Soren true. You know what I'm saying?

G: Yeah, man. Yeah.

Jail Call 3: 7/14/17 @ 21:37:40

D = Defendant

W = Wife

D: She gonna be calling you too. Like I tell her that fucking night. Shit after, when after I leave the club that night, that the same night that I been talking with Neesha, right?

W: [unintelligible] Yeah

D: That same.

W: Yeah. On the video, yeah.

D: Ok, so. On the video in the club, right? I, I tell her, I come straight home after that shit.

W: Yeah.

D: Yeah she. [unintelligible] I tell her that shit. I tell her I ain't leave until. Like, what time I call that cab? Like 5 something?

W: Yeah.

D: Yeah, I been like, man, listen even with the case with them boy talking about the the the the whatever in the car. Motherfucker. That's two whole days motherfucker could have do anything with that goddamn car.

W: Ok.

D: Even if that's my car. That leaves a lot of fucking loopholes. And motherfuckers these days watch CSI Miami.

D: I know I watch the shit.

W: Alright.

D: So, if I was to do some dumbass shit, I know what the fuck not to do.

W: Ok.

D: See. And that shit right there, that shit been dumb, man.

Jail Call 4: 7/29/17 @ 14:52:56

D = Defendant

D: Want talk to you. She need to talk to you or whatever. I tell her, shit, when I, cause I told her, shit, I came home from the club, when I left the club, I came home and I get in the house it been like almost 2 o'clock. You been the only person been up.

Jail Call 5: 8/16/17 @ 14:11:24 (using Jerry Washington's pin #)

D = Defendant

W = Wife

W: Oh, lordy.

D: Hey, yeah, man. But this the whole angle from the situation, right. Like, that bitch been trying to throw me under the bus. But.

W: Yeah.

D: The dude. He he he he doing that shit. He ain't. I mean he ain't trying to throw me under the bus, you dig what I'm saying? He just on some hope he don't know shit type shit, right? So, I'm on need him. Somebody to go seem him. I need that shit, man. And and be like straight up, like, yo, um, brah, brah's attorney wanna know if she can get a statement from you saying that that ain't been him, that you been calling dude cause the detective been trying to say that been him that you been calling dude. You dig what I saying? Straight like that and see what he say.

W: Alright.

D: On the, on yeah. I need somebody to come up here and do that shit, so put in a visit for both us. You dig?

W: Alright?

D: Yeah, I damn. I need that. So, he, if he say, and then if he say, you know what I'm saying, if he get, if he can just sign the statement saying that shit, then all the shit is a bunch of bullshit. Like, I know it's shit I can't be dude, nigga, just cause me and you still been mingling. He talking about he ain't.

Jail Call 6: 9/4/17 @ 23:04:42 (using Deontra Murphy's pin #)

D = Defendant

W = Wife

G = Guy Defendant speaks with

D: What the fuck is the matter with y'all, man?

W: What are you talking about with y'all? Listen. Don't call back with that, man. Cause you wouldn't even let me finish telling you all the man been saying before you hang up.

D: Yeah, what he been saying?

W: He been saying well that old boy been trying to kick at him cause he say he had walked in there. He had see him and actually knew who it was. And then roll over there and start kicking the shit out him. Saying [unintelligible] this and that. I said that I would call him back, man. Because you had hang up and I [unintelligible].

D: Man, because I ain't had nothing but thirty seconds left and y'all telling me.

W: I ain't even here [unintelligible].

D: What motherfuckers telling y'all.

W: I ain't telling me nothing.

D: I good, how the fuck I good? If he, uh, if he motherfucking tell on me, brah.

W: That's what I told him. Listen. [unintelligible].

D: Them niggas ain't about that life no more. They say that shit. I'll do the fucking time. Fuck 'em, man. This shit stupid, man. Word. I ain't want be [unintelligible] my fucking hopes and wishes up if niggas ain't gonna motherfucking do what the fuck they say they do or be what the fuck they supposed to be about. Come on, man. Fuck 'em, nigga, I'll take the L. Tell my fucking lawyer that shit. Give a fuck, man. The shit is stupid, man. Y'all can have fucking free world, free fucking life. Y'all good, nigga. I know it ain't, it ain't y'all. Not them. You know what I'm saying? So, fuck 'em. Come on, man. Telling me this. Instead of telling me cool out, cool out. No, man, cause if the shoe been on

W: I ain't telling you to cool out.

D: The other fucking foot.

W: [Unintelligible].

D: If the shoe been on the other motherfucking foot, motherfucker would have been fucking head first, man. The fuck y'all. That shit dumb, man. I tell ya, man. I, I, I, this shit been meant to fucking happen. Word. I good, I good. How the fuck I good? Please tell me, man. That shit is not understandable, my nigga. Man, call that nigga on this phone.

W: Hold on, hold on.

G: Yeah.

D: Yeah, what's up, bubba?

G: Shit. [unintelligible].

D: Yeah, man. Listen, that nigga tell, man. How the fuck, he ain't. This, that's why I'm here. He got locked up at 1 o'clock on the 7th, my nigga. And 6:45 on the 7th they had a warrant out for me.

G: Yeah, you need the book, man.

D: Huh?

G: You, we need the book

D: What book?

G: With everything.

D: I got the shit, man.

G: I done tell, I done tell Meeka what to do, man. Can always go down there and get that shit. You know on Broad Street on the 5th floor and get that shit.

D: Man, I, I tell you, I, you know what I need? I need this nigga gone, man, so I can have a change in circumstances. You dig what I saying? This here.

G: Yeah.

D: I don't do the dumb nigga shit. You know I know how to think. That's what the fuck I need, my nigga. I need him out of here. Nothing else.

G: I know. I already know. I know. I got his ass [unintelligible] and you know I need that fucking book, man.

D: Man, if I can get a motherfucker to goddamn. This shit crazy, man.

G: Bruh, that shit on Broad street.

D: I understand that. She going, the the lawyer gonna have to give her that shit, man. But that's what the fuck I'm telling you, man. This nigga told. He even tell the bitch to go the police, man. All that shit [unintelligible].

G: [Unintelligible].

D: He tell the bitch to go to the police cause he ain't wanna get mixed up in the shit. The nigga doing that shit to cover his ass on them trafficking charges, my nigga. He ain't wanna do no time.

G: He already been to court on them shit. He, he on done with the trafficking charge.

D: He ain't done with them shit, nigga. Them shit open. If you, if you had look up his arrest warrant when he had get lock up for that shit, them shit had still been right there.

G: The nigga, no, what I'm saying is the nigga say he been to court for them shit.

D: He ain't.

G: He done with them shit.

D: He ain't been, when he been to court for them shit? The only reason

G: Unintelligible.

D: The only reason we're on the 8th then. The only reason he could have been. The only reason he get off on them shit is because he signed that fucking shit on me, man. Only thing that gonna change this shit is a change in fucking circumstances. You know what a change in circumstances is, man.

G: Yeah, I know, I know. Yeah, cause he tell [unintelligible]. He say, he said the goddamn, gone and say all type of shit, he should have goddamn shit discredited.

D: How.

G: He said you, man. He said you say goddamn, that damn he ain't had nothing to do with the shit. Like you trying to clear him of this shit.

D: All I tell, no, listen, my nigga. I tell them I don't even know what the fuck they talking about, brah. You dig what I saying? My, I don't know what the fuck they talking about. I don't know what the fuck they talking about, man. I ain't trying to say he ain't had nothing to do with shit. Come on, man. They got, they find his car. With the shit in his car, my nigga.

G: [Unintelligible].

D: That nigga lying, man.

G: Case weak as a bitch. [Unintelligible].

D: My nigga, my nigga, my nigga. On my mama grave, my nigga. Come on, man. I, if if the case been weak and he hadn't a sign that shit, he wouldn't have got no \$25,000 bond, dog. He signed

a statement on me. That's why my ass still in here with no fucking bond. If the case been weak, if the case been weak. Come on, man. [Unintelligible]. My fucking God, man.

G: I got you, man. Calm down, man. I just bumped into the nigga, man. We bumped into the nigga the other night. Oh, no no no, Saturday night.

D: I, I, I.

G: I ain't expected to see this nigga.

D: I heard all that shit, man, but I telling you what the fuck I need done. That's the only thing I need done, my nigga. That's what I need done. That that, I I owe you one. Whatever the fuck, man. That, I need that shit done.

G: [Unintelligible].

D: That's the only, that's the, that's the only person can put me at the fucking scene. That's the only person can mix me up with any fucking thing, brah. Him. It ain't the bitch. The bitch, the bitch like my lawyer say, that's hearsay. It's him, man.

G: Yeah, we got you. We on the job, man.

D: Damn, man. If, man, if that the case, man if I, if this shit can't be done, I'll just go ahead and plead and take.

G: Man, calm down. Man, this shit just now going on, brah.

D: I, it just now going on. It only 360 days now for the court case, for them shit to go up to the court, brah. That shit got to get done. I can't even um

G: Hell no, man. Cause my. Hell no, that nigga. Them boy, them boy still in there now on that other shit. Them boy ain't, they ain't did no time yet.

D: That shit just change June 22nd. She can get the paperwork for that shit too from down there on Broad Street. When Markley Dennis goddamn became the head judge June 22nd, all that shit changed, my nigga. My lawyer just tell me all this shit. They got a 180 days on regular charges and any violent charges got 360 days to produce all evidence, brah.

G: Ok.

D: You know what I'm saying? I ain't, I, this this shit. I sitting there looking, reading the paperwork back and forth. All this shit. I know the paperwork inside and out. Myself right now. It's him. Even the, the so-called witnesses or whatever. That shit is nothing. They talking about a nigga from New York. 200 pounds, black. Dark skinned nigga. You know what I'm saying? It's him, brah. July the 7th, he got lock up and he turn himself in at 1 o'clock. 6:45, they had a warrant out for me July the fucking 7th, brah. Come on, man. It don't take a, it don't a rocket scientist to figure out what the fuck happened. And just like. We, we get him sitting in the preliminary hearing. [unintelligible] what them nigga say. He was scared for his life, that's why he didn't come to police, this, that, and the third. Come on, brah.

G: Damn.

D: Yeah, man. And she, if she going to [unintelligible] everything. She, she been there. Her aunt Kettle and Sam. That nigga say all that shit, brah.

G: Mmh, mmh, mmh.

D: That's why I ain't get no fucking bond at preliminary hearing. That's why my shit get bound over. To motherfucking thing. What his lawyer did for him, they ain't even take his ass for no fucking preliminary hearing. They take his ass straight up for a fucking bond hearing, brah. I can't even get a fucking bond. Unless I get a change of fucking circumstances, man.

G: Yeah. Well, I know I on the job now. I [unintelligible] he had know my face, man. That nigga spot me too and he still ain't know who the fuck I been. Then he start talking damn

D: Man.

G: [Unintelligible]. Shit. That nigga there. He had been start talking about that shit. Like y'all just get out, man. The lockup, man. Like nigga, we already know that shit.

D: Man, but that nigga's a snake, man. Word, my nigga.

G: He, he's been talking about. He's been trying to help you get out.

D: Hell, nigga ain't did shit. He ain't doing shit. He got me in here my nigga.

G: Well, he say, man, he already done, he say he had holler at you. The nigga been like, man, something about, damn.

D: That nigga ain't never talk to me.

G: Y'all was at the house playing cards. He picked you up for a ride. Some girl in the car too. The girl can verify that. You know what I'm saying. He said y'all done talk.

D: No, my nigga. That's a lie, brah. I ain't never talk to this nigga, man. The nigga feeding this shit to y'all to stay off, so y'all will stay off him, man. Come on, man. This, this, come on, man. That's, that's that's like crazy, my nigga. I ain't never not, when I been looking at the nigga through the fucking window, the nigga got damn turn his motherfucking head. That been the day he gone to get the fucking bond, brah. He act like he ain't even fucking see me, my nigga. Come on, man.

G: Damn.

D: Man, I'll lay down, man. Cause that's what niggas want.

G: That nigga there.

D: Yeah, that nigga there, man. I'll lay the fuck down, man. I mean I only, there only two options, my nigga. Either lay down or get that shit situated. You dig what I saying? If that shit don't get situated, I'll see y'all niggas in the next life, man.

G: Man, I tell you, we on the shit, man. You keep saying that shit over and over again. We on the shit, man.

D: Alright, man, be on it. Off that nigga. Fuck all the rest of the other shit. That's what I need to be done. I owe you one, I owe you one, nigga. If I owe you one, I owe you five. I don't give a fuck. Still ain't nothing wrong with bond. Cause this nigga goddamn, he trying to feed y'all some bullshit, man. Straight like that, that's a bunch of bullshit, my nigga.

G: The nigga's lying. [Unintelligible].

D: Talk to. He ain't talk to me about shit. He ain't.

G: [Unintelligible].

D: Huh?

G: [Unintelligible]. He talking like it been said before. Like, everything gonna hit the fan, like.

D: No, my nigga.

G: [Unintelligible].

D: None that shit, nigga. None of that shit. None of that shit. None of that shit, man. None of that. I ain't never talked to that nigga, man. None of that shit. So all that slam shit he selling y'all. Why he selling that shit to y'all? Think about that. If I ain't ever need nothing in my life, my nigga, I need that shit, man.

G: Man, I got you, man. Chill out.

D: Alright.

Jail Call 7: 9/5/17 @ 14:29:15 (using Jerry Washington's pin #)

D = Defendant

D: Everybody good. Kone gonna lay down or Kone gonna do what Kone gotta do, brah. I done. I ain't reaching out no fucking more.

Jail Call 8: 9/5/17 @ 15:11:43 (using Jerry Washington's pin #)

D = Defendant

D: I guess I gotta figure out a storyline now to how to run and and and switch this shit around on this fucking clown ass nigga.

Jail Call 9: 9/5/17 @ 20:12:56 (using Jerry Washington's pin #)

D = Defendant

W: Wife

W: [Unintelligible]. They want. What the fuck we want. Can we, can we get that shit?

D: If they do what the fuck they need to do. And the only way they gonna do what the fuck they need to do if they get what the fuck they want. So, hey, gotta play their game, right? Huh?

W: I ain't about [unintelligible]. I understand what you saying but, how I feel, I ain't about [unintelligible], man.

D: We ain't about playing no games

W: I'm not.

D: Either, man. All these motherfuckas gotta do is dome this bitch ass nigga, brah. Nothing else. That's the only thing got to fucking happen, man.

816

TRW/0332339
WITNESSES

North Charleston Police Department

AGENCY CASE NUMBER

2017-016967

ARREST WARRANT NUMBER

2017A1010203946

DATE OF ARREST

07/12/2017

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury DEC 05 2017 Date:

VERDICT

GUILTY

Foreperson of Petit Jury

11/7/19
Date:

DOCKET NO. 2017-GS-10-06993

The State of South Carolina
County of Charleston

COURT OF GENERAL SESSIONS

DECEMBER TERM 2017

THE STATE

VS.

GREGORY KYLE GREEN

Indictment for

MURDER

SC Code: § 16-03-0010
CDR Code: 0116

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

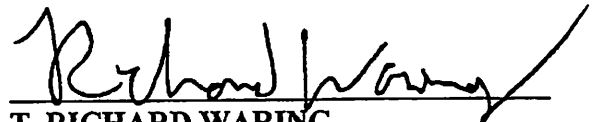
INDICTMENT

At a Court of General Sessions, convened December 2017, the Grand Jurors of Charleston County present upon their oath:

MURDER

That in Charleston County, South Carolina on or about June 8, 2017, the defendant, Gregory Kyle Green, feloniously, willfully and with malice aforethought, did kill and murder Freeman Rivers by means of inflicting gunshot wounds to the head, and Freeman Rivers did die in Charleston County as a proximate result thereof on or about June 8, 2017; 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.


T. RICHARD WARING
ASSISTANT 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,

RECEIVED

Sep 18 2020

SC Court of Appeals

s/ Wanda H. Carter

Wanda H. Carter

Deputy 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 18th day of September, 2020.