

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Charleston County
Honorable Roger M. Young, Circuit Court Judge

RECEIVED

Dec 10 2020

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

MAULIQUE ALEXANDER HEYWARD,

APPELLANT.

APPELLATE CASE NO. 2019-001711

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA

COURT OF GENERAL SESSIONS

COUNTY OF CHARLESTON

2017-GS-10-02906

2017-GS-10-02910

State of South Carolina)

) TRANSCRIPT OF RECORD

-vs-

)

) August 12, 2019-Volume 1 of 4

Maulique Heyward)

) Charleston, South Carolina

B E F O R E:

The Honorable Roger M. Young, Sr., Judge

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

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Price Sigal, Esquire
Attorneys for the State

Ted Smith, Jr., Esquire
Martha Kent Runey, Esquire
Attorneys for the Defendant

Reported By:

Yvestre Torres, OCR
Circuit Court Reporter for the
First Judicial Circuit

Jury No.	Name	Race	Gender	Jury No.
76	Andrew Fluder	W	M	1
43	Naikeisha Coardes	B	F	2
29	Rodney Brockwell	W	M	3
27	Taylor Brewer	W	F	4
210	Patrice Prioleau	B	F	Plt. Strike
9	Richard Barnwell	B	M	5
32	Mark Burckhalter	W	M	Def. Strike
232	Preston Roseneau	W	M	6
242	Andrew Shook	W	M	Def. Strike
247	Henry Singleton	B	M	7
295	Nannette Williams	W	F	8
127	Jennifer Ivey	W	F	9
11	Dominick Bataller	W	M	Def. Strike
279	Danesha Vice	B	F	10
264	Christina Sullivan	W	F	11
184	Mary Moore	W	F	Def. Strike
49	Laura Cordoba	H	F	12
100	Tashia Greene	B	F	Plt. Strike

1	197	Cayce Olson	W	F	Def. Strike
2	50	Jared Corduan	W	M	Alt. No. 1
3	261	Thomas Stuntebeck	W	M	Alt. No. 2
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EXHIBITS

<u>NO</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EVIDENCE</u>

NO EXHIBITS INTRODUCED

STATE OF SOUTH CAROLINA

COURT OF GENERAL SESSIONS

COUNTY OF CHARLESTON

2017-GS-10-02906

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B E F O R E:

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Martha Kent Runey, Esquire
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First Judicial Circuit

EXHIBITS

NO	DESCRIPTION	ID	EVIDENCE
S-1	Crime Scene Photo	65	75
S-2	Crime Scene Photo	65	75
S-3	Crime Scene Photo	65	75
S-4	Crime Scene Photo	65	75
S-5	Crime Scene Photo	65	75
S-6	Crime Scene Photo	65	75
S-7	Crime Scene Photo	65	75
S-8	Crime Scene Photo	65	75
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8	S-30	Crime Scene Photo	65	75
9	S-31	Crime Scene Photo	65	75
10	S-32	Crime Scene Photo	65	75
11	S-33	Crime Scene Photo	65	75
12	S-34	Crime Scene Photo	65	75
13	S-35	Crime Scene Photo	65	75
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1 THE COURT: You know, on the one hand,
2 it's very, very frustrating, but we only have two
3 alternates, and, you know, we're on the first day.
4 On the other hand, I'm like I don't know that I want
5 somebody like that on my jury if I was in your position.
6 But I thought I would bring that out and let you -- you
7 don't have to answer right now.

8 We'll go into the Bigger's hearing, and then
9 you can let me know what your thoughts are after you
10 have had a few minutes to process. All right. So we're
11 going to do a Bigger's hearing. Do you have your
12 witnesses ready?

13 MR. WARING: Judge, a quick minute on
14 that. We do have one of our witnesses here, Detective
15 Pritchard, law enforcement in North Charleston.
16 Our other key witness is being, let's say, a little
17 bit problematic this morning. My understanding is that
18 she's located and will be here shortly. If we can just,
19 at the appropriate time, have a little leeway, Your
20 Honor.

21 THE COURT: Do you have one that we can
22 do now?

23 MR. WARING: Yes, Your Honor, we do.

24 THE COURT: And then we finish later.

25 MR. WARING: We do.

—DAVID PRITCHARD - DIRECT BY MR. WARING—

1 THE COURT: All of the jurors aren't here
2 yet. And one of them has already sent word that he
3 or she is running a little late. I don't know which
4 one that is yet, but it's just going to be one of those
5 days. We will get through it. So let's go ahead and
6 start with the one that you -- the witness that you have
7 here.

8 MR. WARING: Sounds good, Your Honor.
9 State calls Detective David Pritchard.

10 DETECTIVE DAVID PRITCHARD, was called as
11 a witness, being duly sworn, was examined and testified
12 as follows:

13 THE CLERK: Please be seated. For the
14 record, please state your full name, spell your last.

15 THE WITNESS: David Pritchard,
16 P-R-I-T-C-H-A-R-D.

17 THE COURT: Go ahead.

18 DIRECT EXAMINATION

19 BY MR. WARING:

20 Q. Good morning, Detective.

21 A. Good morning.

22 Q. Can you tell the Court where you work?

23 A. North Charleston Police Department.

24 Q. All right. And how long have you worked there?

25 A. About seven years.

1 Q. Back in December 2016, can you tell us what
2 your role was?

3 A. I was assigned to the detective bureau in the
4 property division.

5 Q. And were you involved at all in this case,
6 the Maulique Heyward case?

7 A. I was.

8 Q. All right. Now at some point were you tasked
9 with conducting a photographic lineup?

10 A. Yes, sir.

11 Q. And did you conduct that lineup with the witness
12 known as Tynetra Hamilton?

13 A. I did.

14 Q. Do you recall approximately when that date
15 and time of the procedure was?

16 A. It was earlier this year, I believe.

17 Q. Would it help refresh your memory if I showed
18 you a copy of the lineup form?

19 A. Yes, sir, it would.

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

22 THE COURT: Yes.

23 BY MR. WARING:

24 Q. I'm showing you -- it's been marked for
25 identification purposes. Do you recognize that?

DAVID PRITCHARD - DIRECT BY MR. WARING

1 A. I do.

2 Q. And can you tell us what the date of the
3 procedure was?

4 A. It was January 30th of 2019.

5 Q. All right. Now what was the location of this
6 identification procedure?

7 A. It was conducted at the solicitor's office.

8 Q. All right. Can you tell us how long after
9 the incident this lineup procedure was conducted?

10 A. After the shooting, this would have been a little
11 over three years later.

12 Q. About two years, if the incident was December
13 of 2016?

14 A. Yeah, I'm sorry, a little over two years.

15 Q. Okay. Now please tell us the manner in which
16 this procedure was conducted.

17 A. I came to the solicitor's office, met with the
18 witness, Tynetra Hamilton. We have a -- it's more
19 or less an instruction sheet. It's called a report
20 of photographic lineup where we read the witness
21 instructions of how to conduct a lineup.

22 Once I read her the instructions, I have her
23 initial each instruction indicating, yes, she
24 understands the instructions. And then I will show her
25 a lineup which consists of six photographs. I usually

1 show those in sequential order.

2 Q. All right. So you said they were shown in
3 sequential order, not all at one time?

4 A. No. She's shown one, yes or no. The picture
5 is flipped over, that way there's no comparisons of
6 the photographs.

7 Q. Now on any of these photos, is there any
8 identifying information?

9 A. Yes. She stopped at picture number two,
10 and identified him as a person named Rondo.

11 Q. But as far as your setup of the lineup procedure,
12 did you have any information already on the paper
13 identifying anybody at all?

14 A. No.

15 Q. Okay.

16 A. No, sir.

17 Q. Now you mentioned number two. She identified
18 an individual named Rondo. Was that ---

19 THE COURT: What was that name?

20 MR. WARING: Rondo, Your Honor.

21 BY MR. WARING:

22 Q. Was that photo arranged in any way that would
23 suggest to the witness that she should pick out that
24 photo?

25 A. No, sir.

DAVID PRITCHARD - DIRECT BY MR. WARING

1 Q. Did it stand out from the others in any way?

2 A. No, sir, I don't believe so.

3 Q. And are all of the six subjects in those photos
4 similar, for the most part, as far as appearance, age,
5 physical characteristics?

6 A. They were, yes, sir.

7 Q. All right. So did you or anybody else expressly
8 or implicitly suggest that she should pick out the
9 Defendant's photo?

10 A. No, sir.

11 Q. Did you otherwise comply with North Charleston
12 procedures?

13 A. Yes, sir.

14 Q. What, if anything, did you all explain or say
15 to the witness, Tynetra Hamilton, prior to conducting
16 the lineup procedure?

17 A. All I did was read her the instructions of how
18 we -- the lineup would be conducted and had her initial
19 saying that she understood, and we started with the
20 pictures.

21 Q. Okay. Prior to showing her those photos, had you
22 shown her any photos -- other photos of the Defendant?

23 A. No, sir.

24 Q. And I think you already mentioned that she did
25 select one of the photos?

1 A. Yeah, picture number two.

2 Q. How long did it take her to pick that photo out?

3 A. As soon as she saw the picture, she knew who
4 he was.

5 Q. Did she say anything at that time?

6 A. Yeah, she said his name was Rondo, and she says
7 that's the person who killed the victim.

8 Q. That's the person who killed the victim?

9 A. Yeah. She went on further to say that was the --
10 Rondo got the gun from the victim and shot him.

11 Q. And, again, how certain was she?

12 A. Yeah, she was -- no hesitation at all.

13 Q. At any point during this procedure, did she ever
14 point -- pick out any other person and then later
15 changed her mind and picked this Defendant out?

16 A. No.

17 Q. All right. So now I'm going to hand you all of
18 these documents. Do you recognize those and the exhibit
19 that I showed you earlier?

20 A. Yes, sir.

21 Q. And can you tell us what it is?

22 A. These are the six photographs that I showed
23 the witness, Tynetra.

24 Q. And do those fairly and accurately depict the
25 photographic lineup that includes the Defendant's

—DAVID PRITCHARD - CROSS BY MR. SMITH—

1 picture, the individual that the witness identified
2 as Rondo?

3 A. Yeah.

4 Q. Does that fairly and accurately depict that?

5 A. Yes, sir.

6 MR. WARING: Beg the Court's indulgence.
7 Please answer any questions the defense has.

8 CROSS-EXAMINATION

9 BY MR. SMITH:

10 Q. Good morning, Detective Pritchard. How are you?

11 A. Doing well.

12 Q. So a couple of questions. You conducted this
13 in the solicitor's office; is that correct?

14 A. I did.

15 Q. And what physical location, if you know, were you
16 in?

17 A. One of their conference rooms. I'm not exactly
18 too sure where.

19 Q. And who was present during that?

20 A. It was myself, Tynetra Hamilton, and Detective
21 Butler was also in the room.

22 MR. SMITH: I believe that's all the
23 questions I have for this witness, Your Honor.

24 THE COURT: All right. Redirect?

25 MR. WARING: Nothing further at this time,

1 Your Honor.

2 THE COURT: All right. You have another
3 witness, but he or she is running late?

4 MR. WARING: That's correct, Your Honor.

5 THE COURT: All right. Well, we will hold
6 off on the ruling on that. Obviously, you don't want
7 to mention that until we dispose of that issue.

8 MR. WARING: Right.

9 THE COURT: All right. Have we got anything
10 else that we need to deal with pre-trial?

11 MR. WARING: Your Honor, there are a couple
12 of other miscellaneous matters that can eat up a little
13 bit of time. I mean, they won't be lengthy, but they'll
14 keep us occupied for a few more minutes. We've agreed
15 to various pieces of evidence coming in, Your Honor.

16 THE COURT: Okay. What are those?

17 MR. WARING: I want to go ahead and move
18 those in, if possible. Let's see. So, for starters,
19 the jail calls, which are Exhibit 76, Your Honor.
20 The defense is stipulating to those.

21 THE COURT: Okay.

22 MR. WARING: In addition, the phone dump
23 documents, which are Exhibits 69 through 75; the
24 shooting surveillance videos, which are Exhibits 61 and
25 62; the gas station surveillance video, which is Exhibit

1 64; and then the crime scene photos, which are Exhibits
2 1 through 11 and 23 through 43, Your Honor, all being
3 stipulated to. We would ask that those be admitted.

4 THE COURT: Are there any that are being
5 offered that are contested?

6 MR. WARING: Not to my knowledge,
7 Your Honor.

8 MR. SMITH: None of them, Your Honor.

9 THE COURT: Okay. So you stipulated
10 as to authenticity and admissibility?

11 MR. SMITH: Yes, Your Honor.

12 THE COURT: You said jail calls. How many
13 are there?

14 MR. WARING: There are four total jail
15 calls, but it's one disc, Your Honor. It's one exhibit.

16 THE COURT: Okay. All right.

17 (State's Exhibits 1 through 11, 23 through 43, 61 and
18 62, 64, and 69 through 76 were admitted into evidence.)

19 THE COURT: Anything else?

20 MR. WARING: In addition to those items,
21 Your Honor?

22 THE COURT: Yes.

23 MR. WARING: It's my understanding that
24 the defense is waiving the Jackson v. Denno hearing,
25 Your Honor. And we would just ask that it be put on

1 the record that the defense is acknowledging that the
2 Defendant's statement was freely and voluntarily given.
3 And at the appropriate time during the trial we would
4 ask the Court to publish that information to the jury.

5 THE COURT: Is that your understanding?

6 MR. SMITH: It is my understanding,
7 Your Honor.

8 THE COURT: Okay. All right. Anything
9 else?

10 MR. WARING: Your Honor, I think that does
11 it as far as our stipulations of evidence are concerned.
12 I did have one matter of transcripts. There are
13 a couple audio recordings, which included jail calls
14 and the Defendant's recorded interview, which at times
15 are difficult to understand.

16 We would ask that the transcript be allowed
17 to be passed out to the jury as an aid, not necessarily
18 to be taken back for deliberations for it to be used
19 in lieu of the evidence itself, but just to be used
20 as a tool in helping them follow along, Your Honor.
21 We have provided those to the defense.

22 THE COURT: So you want them to be able
23 to hold them while they're listening to it, but not
24 to go back to the jury room?

25 MR. WARING: Yes, Your Honor.

1 THE COURT: What are your thoughts on that?
2 Do you agree with that?

3 MR. SMITH: I don't have a problem with
4 having the transcript so long as it doesn't go back.

5 THE COURT: So long as it what?

6 MR. SMITH: So long as they don't go
7 back ---

8 THE COURT: Okay.

9 MR. SMITH: --- as part of the evidence.

10 THE COURT: All right.

11 MR. WARING: I think that's it for now,
12 Your Honor.

13 THE COURT: You got any issues?

14 MR. SMITH: Judge, I would just ask that
15 the witnesses be sequestered. Obviously, if they want
16 to keep their case agent in here, I have no issue with
17 that.

18 THE COURT: I'll let you keep your lead
19 investigator here, but other than that sequester
20 the witnesses.

21 MR. WARING: No objection, Your Honor.

22 THE COURT: All right. Have we got
23 everybody here so that when the jury gets here
24 you're ready to start?

25 MR. WARING: Your Honor, if I may have

1 a moment to consult with my investigator?

2 THE COURT: Sure.

3 (Pause.)

4 MR. WARING: Your Honor, we should be good
5 to go with our witnesses as far as that are concerned.

6 THE COURT: All right. Well, if you all
7 need to use the restroom, I will go ahead and let you
8 know when all the jury is in.

9 MR. WARING: Thank you, Judge.

10 (Recess taken.)

11 (Back on the record.)

12 THE COURT: All the jurors are here.
13 Mr. Smith, what did you all decide about Number 49?
14 What are your feelings?

15 MR. SMITH: I'm okay with excusing her
16 and moving on to the first alternate.

17 THE COURT: All right. Bring Number 49 in.
18 (Juror No. 49 enters the courtroom.)

19 THE COURT: I told the parties about your
20 problem yesterday with the second job. Both parties
21 have agreed to excuse you, so you are free to go.

22 THE JUROR: Thank you.

23 THE COURT: I want you to call after six
24 o'clock. If we end up having another short trial this
25 week, maybe you'll need to be in that one, and so will

1 have to make some arrangements.

2 THE JUROR: I will. Okay. Thank you.

3 THE COURT: All right. Good luck.

4 We've got two alternates, Number 50 and Number 261.

5 Pick them randomly, shake the numbers up. Can you pull
6 one of those two pieces of paper out? Number 50.

7 So, Mr. Jared Corduan will be seated as the alternate --
8 will be seated as a regular juror. He was an alternate.
9 Okay, we've taken care of that. Is the State ready?

10 MR. WARING: Yes, Your Honor.

11 THE COURT: Is the defense ready?

12 MR. SMITH: Yes, Your Honor.

13 THE COURT: You're both ready. Okay,
14 bring the jurors in. Do you have all the witnesses
15 sequestered?

16 MR. WARING: Yes, Your Honor. Judge, so the
17 witness is here now. We can proceed with the pre-trial
18 hearing, if that's what you're ---

19 THE COURT: You're not going to call them
20 right off, are you? Why don't we just wait a little
21 bit since I've got them primed up and ready to go.

22 MR. WARING: That's fine, Your Honor.

23 (Jury enters the courtroom at 9:47 a.m.)

24 THE COURT: Okay. Welcome back, folks.

25 Before we begin, I have excused Ms. Cordoba from jury

1 service. So we have seated now Mr. Jared Corduan.
2 That's you? All right. So you are now an alternate --
3 you're now a regular juror, all right. Mr. Stuntebeck,
4 you are still an alternate, okay.

5 THE JUROR: Yes, Your Honor.

6 THE COURT: All right. So let's have the
7 clerk administer your oath because if I forget that one,
8 well, then that just causes all kind of problems down
9 the road. So, I try to remember that. Would you stand
10 and raise your right hand.

11 (Whereupon, the jury panel was sworn in.)

12 THE COURT: All right. Let the record
13 reflect all the jurors have taken the oath. Now, I want
14 to give you a few minutes, or take a few minutes just
15 to give you an overview of what we do during a trial,
16 and just, again, familiarize you with the process.
17 Hopefully, you will get some sense that we know what
18 we're doing and it all makes sense down the road, okay.

19 We've been doing this for a long time,
20 and the process gets refined every time somebody comes
21 up with a better idea. But by large, you know, this
22 is the way trials have been done for a long time.
23 It makes sense to us because we've been doing it.
24 But a lot of times your only exposure is usually just
25 the TV and movies and things like that.

1 So, I will first tell you that we're not
2 going to take a break every 8 to 12 minutes for
3 commercials, but we probably will take one about every
4 hour and 15 minutes, an hour and a half, that sort
5 of thing so you can use the restroom.

6 But if you ever need to take a break sooner
7 than it looks like we're getting ready to take one,
8 I would say just get word down to one of the bailiffs.
9 Wake them up, and they will get my attention, okay.
10 I give them a hard time about that, but they really
11 are the best.

12 Sometimes, you will hear from people
13 after the trial that will want to know what did you
14 like about it, is there something we can improve on,
15 and invariably, the thing that people enjoy the most
16 about the experience is the bailiffs. The clerk has
17 done a wonderful job on getting us good bailiffs,
18 and their job is to help you in any way that they can,
19 and they do an excellent job of doing that.

20 Now the process that we have is
21 straightforward. We are going to start out with --
22 I told you yesterday there were indictments, and
23 indictments simply charge Mr. Heyward with the crimes
24 that I told you about yesterday, murder and possession
25 of a weapon during the commission of a violent offense.

1 He pled not guilty to both of these charges,
2 and that places the burden on the State to give him
3 a jury trial, and to prove to 12 of you that he is
4 guilty of these charges beyond a reasonable doubt.
5 He does not have to prove that he is innocent of these
6 charges. He doesn't have to do anything except show up,
7 and he has done that, all right.

8 So he doesn't have to put up a defense;
9 he doesn't have to testify. And if he doesn't put up
10 a defense or he doesn't testify, you are not allowed
11 to hold that against him in any way while you are
12 considering your verdict.

13 That is the law in this state. It is the
14 law in the United States, and it is an important
15 constitutional right that you and I and he all share.
16 That whenever the government charges us with some
17 criminal offense, we are not required to prove that
18 we did not do it. They have to prove that we did it.
19 All right.

20 That is a presumption of innocence,
21 and, again, it stays with him from the time he is
22 arrested, throughout the trial, and unless and until
23 the State proves beyond a reasonable doubt that he has
24 committed this offense. And all 12 of you must agree
25 to that verdict in order to be able to convict him

1 of that.

2 Now what does beyond a reasonable doubt
3 mean because we've heard that phrase before, I'm sure.
4 We hear it all the time on T.V., in movies and things
5 like that. So unless you probably have ever
6 participated in a criminal trial, you have not really
7 heard of a definition of it, and it's not really
8 terribly complicated. It is sufficient evidence that
9 leaves you firmly convinced of his guilt.

10 Now that is one of those ambiguous kind
11 of phrases that you go, okay, well, I think I got that.
12 It helps though a lot of times that -- people are visual
13 learners, like most of us are. I am and it helps me
14 to see an example in order to fully understand it.

15 And so most of the time we use the scales
16 of justice as an example, seeing Lady Justice holding
17 the scales, or you have seen the scales out there,
18 the old-fashioned kind of scales, not the kind you step
19 on in the morning, but the scales where you have a dish
20 on one hand and a dish on the other hand, and they
21 balance those off.

22 Well, if you'll keep that kind of scale
23 in mind, and imagine on the one hand you've got the
24 State, and on the other hand you have the defense.
25 At the beginning of the trial those scales are even.

1 In order to convince the 12 of you beyond a reasonable
2 doubt, or leave you firmly convinced, those scales have
3 to tip quite a bit in the State's favor in order to
4 convince you or prove to you beyond a reasonable doubt
5 that he is guilty of these charges.

6 I give you that example to -- and I will use
7 the example that we have in a civil trial that might
8 make the distinction a little bit clearer in your mind.
9 In a civil trial, the person who brings the lawsuit
10 or sues somebody only has to prove their case by
11 a preponderance of the evidence.

12 Now the preponderance of the evidence simply
13 means the greater weight of the evidence, or is whatever
14 that party is trying to prove more likely true than
15 not true. We think of it in terms of probability,
16 so a little more than 50 percent.

17 So in a civil trial, you start off with
18 those scales, and the Plaintiff, the person that brings
19 the lawsuit, sues the Defendant. The scales, again,
20 are even, but the Plaintiff only has to tip the scales
21 just slightly in their favor, and they've met that
22 burden of proof in a civil case.

23 But in a criminal case, again, the State
24 has a much higher burden of proof, and those scales have
25 to tip a good bit more than in a civil case in order

1 to leave you firmly convinced or proven to you beyond
2 a reasonable doubt that the Defendant is guilty of those
3 charges. So that's the preponderance of the evidence
4 that hopefully alleviates any great mystery about what
5 beyond a reasonable doubt means to you.

6 Now in a trial like this, everybody here
7 has roles. Your role as a juror, you're known as the
8 judges of the facts. My role as the trial judge is
9 I'm the judge of the law, all right. As a trial judge,
10 I have two basic functions. One is to conduct the trial
11 and make sure that we follow our rules of procedure,
12 our rules of evidence, make sure both sides get a fair
13 trial.

14 I don't have an interest in the outcome
15 of this lawsuit. The law doesn't permit me to have
16 an interest in the outcome of this case. My sole
17 interest is to make sure that the State gets a fair
18 trial, and the Defendant gets a fair trial. Beyond
19 that, whatever you decide then that's what the verdict
20 is, and we all live with it.

21 Now, I make sure that our rules of
22 procedures get followed, our rules of evidence get
23 followed. And so a lot of times some of the evidence
24 is agreed to, but sometimes it's not agreed to, and
25 often those areas where it's not agreed to is something

1 that is contested, and you have to decide.

2 Now our rules of evidence have developed
3 over the years, and one of my jobs is to make sure they
4 get followed. And so sometimes you'll have a witness
5 on the witness stand, and a lawyer will ask a question,
6 and the other side will say objection, all right.

7 Objection is simply our code word for Judge,
8 you need to pay attention here, you've got to make
9 a ruling as to whether or not the jury can hear this
10 evidence or see the photograph or see the document,
11 whatever it is, and that's where my role as the trial
12 judge comes in.

13 So sometimes I can make a ruling just based
14 on the circumstances that have just been said so far
15 at that point. Sometimes though I'll have to call the
16 lawyers up and say, all right, tell me what the problem
17 is here, and then sometimes I just have to send you back
18 to the jury room and hear what the witness might say
19 in order to be able to rule ahead of time because if
20 they say it, and then I say, well, you know, disregard
21 it, that's, you know -- the law says if I tell you
22 to disregard it, then you're supposed to disregard it.
23 But, frankly, it's a difficult thing to do.

24 So if it's something that really looks like
25 I need to hear it first, then I'll send you all back,

1 and then I can hear it, because I'll tell you this,
2 I don't know anything about this lawsuit, other than
3 the basic outline of what the charges are. I really
4 don't know that much about this case, any more than
5 you do. So it's all coming fresh to me as well.

6 So, I will send you out, I will hear what
7 the witness is going to say, or what the document is
8 or what the photograph is, and then I'll make a ruling.
9 And then we'll bring you all back in, and you'll either
10 get to hear it or not.

11 My point on saying that is don't hold it
12 against the lawyer or one side if they say objection
13 because they're just doing their job because our
14 fundamental goal is to conduct a fair trial, hopefully,
15 one time. That's my job, or at least that's my goal,
16 is to let's just do this one time, if at all possible.
17 We never want to -- we don't want to have an appeal,
18 and when they say, well, the judge made a mistake,
19 got to do it all over again, and then we have to bring
20 in another jury, and do it all over again. Nobody wants
21 that, especially me.

22 So, I'm just trying to do it correctly;
23 they're just trying to do it correctly. So don't hold
24 it against anybody. They're not trying to hide anything
25 from you. They're just doing their job, okay.

1 Now that's my role.

2 Your role as the judges of the facts is two
3 folds. One, you'll hear the testimony, you'll hear the
4 evidence, and there's going to be a discrepancy between
5 what one side alleges and what the other side alleges.
6 Otherwise, we wouldn't be here, okay. And it's up to
7 you to resolve those factual differences.

8 I'm not permitted to make any ruling on,
9 ultimately, what you believe. You make the decision
10 on what to believe, or there is a contest between
11 various forms of whatever fact is supposed to be proved
12 or not proved. So you do things like judge the
13 credibility of witnesses, their demeanor on the witness
14 stand, that sort of thing.

15 And you decide whether you think one
16 side is telling the truth or not telling the truth,
17 or a particular witness is telling the truth or not
18 telling the truth. You can believe all of what they
19 say, or you can reject part of what they say and just
20 believe half of it. It's totally up to you. I have
21 no say so in that whatsoever.

22 Your second job is to then resolve those
23 factual differences and then take the law that I tell
24 you at the end of trial applies to this kind of case,
25 and you take that law and apply it to the facts as

1 you find them, and then that's how you come up with
2 a verdict, okay. It sound kind of simple. It really
3 isn't a lot more complicated than that.

4 The whole rough part is that sometimes
5 in cases it gets really difficult to believe, you know,
6 difficult to sort out the facts and decide what
7 happened. But that's what your job is, and it's
8 a difficult job a lot of times.

9 I've conducted a lot of trials, and it's
10 been my experience that when people get on a jury,
11 they may not want to be here, but once they get here
12 they really do take the job seriously. They've invested
13 in it, and everybody takes their job and wants to do
14 a good job. And so I have no doubt that you guys will
15 do a good job in that regard.

16 Now, procedurally, this process will start
17 out when I finish talking to you, with the lawyers
18 getting up and making what we call opening statements.
19 And opening statements are simply the lawyers getting
20 up and telling you a little bit about the facts of this
21 case and what their theory is of the case, and the thing
22 that's important to remember about this is that what
23 they are saying is not to be considered by you as
24 evidence, all right.

25 It's simply them getting up and giving you

1 a little of what I like to call the Reader's Digest
2 condensed version of the trial. I've got to come up
3 with a better example for that because I realize as we
4 get a little bit older, the younger people have no idea
5 what a Reader's Digest condensed version of a book is,
6 all right. So, I have to come up with a better example
7 for that.

8 But the older people will understand what
9 I'm trying to say, and they will -- so they're just
10 giving you a brief overview in hopes that you will be
11 able to follow the evidence a little bit clearer.

12 Then once the opening statements are over
13 with, then we'll start in to the actual trial, the
14 presentation of evidence. And evidence comes to you
15 in several different ways. The most common way is we
16 put a witness on the witness stand, put them under oath,
17 and they tell you what they heard, they saw, they
18 touched, they felt, they smelled, all right. That's
19 evidence.

20 What is not evidence is the lawyers
21 speaking. Photographs that come in; that's evidence.
22 Documents that come in; that's evidence. But what the
23 lawyers say is not to be considered by you as evidence.
24 So when a lawyer asks a witness a question, that's not
25 evidence, but the answer to the question is evidence,

1 okay. So keep that in mind.

2 A lot of times during the trial, you're
3 going to hear from the lawyers probably more than you
4 hear from anybody, and that's including me, because
5 they're presenting evidence, they're asking a lot,
6 they're talking a lot. But what they say is not
7 evidence.

8 If they were witnesses, they wouldn't be
9 allowed to participate as lawyers. They would be called
10 in and put on the witness stand, and they can then tell
11 you what they heard, they saw, they touched, they felt,
12 they smelled, all right. That's evidence.

13 Now because the State has the burden of
14 proof, they put up their case first. And so when they
15 put up their case first, they get to call their
16 witnesses first, they get to ask the witness questions
17 first. So when the side calls a witness, and they
18 ask them questions, that's called direct examination.
19 But the other side, under our adversarial method of
20 conducting a trial, the other side will get to ask
21 questions as well.

22 When the other side asks questions,
23 that's known as cross-examination. So we have direct
24 exam and then cross-exam, and then I usually allow one
25 round of follow-up questions. So we'll start off with

1 direct exam, cross-exam, redirect, recross, and then
2 we move on to the next witness, okay.

3 Now once the State puts up all of their
4 evidence, then the Defendant will have the opportunity
5 to put up any evidence that he wishes to. But, again,
6 I want to stress he doesn't have to call any witnesses.
7 He doesn't have to put a document or a photograph into
8 evidence, and most importantly, he's not required to
9 testify.

10 And if he doesn't want to testify, again,
11 you're not to hold that against him in any way during
12 your deliberations. You're not even to consider that
13 while you are discussing your verdict, okay. That's
14 an important right. It's not just one of those things
15 we talk about in law school or throw around on talk
16 radio shows. That's an important constitutional right,
17 and under the oath that you took, you are to follow that
18 as well.

19 Now one of the simplest things I'm going
20 to tell you is often one of the most difficult things
21 to do in real life, and it's to keep an open mind,
22 all right. You all have been living long enough to
23 realize there's almost always two sides to every story,
24 and until you've heard all of the evidence, it's not
25 proper for you to begin to make up your mind.

1 That's why I tell you whenever we have
2 a break, either to go to the bathroom or go to lunch
3 or at the end of the day, don't begin deliberations
4 or discussions. Don't even talk about a witness after
5 that witness has finished because you haven't heard
6 all of the evidence. Until you've heard all of the
7 evidence, it's not really time for you to, again,
8 to just make up your mind because once you make up
9 your mind, it's hard to then keep an open mind.
10 And I'll tell you, you're human beings so it's only
11 natural.

12 You're very likely to hear a witness,
13 and you go, well, by golly that person sounded really
14 good, and this case is over as far as I'm concerned.
15 But then you'll hear cross-examination, and then you'll
16 hear some other witnesses, and you'll go, boy, I sure
17 see that in a different light now. You may very well
18 end up with your first impression being your last
19 impression. But I would be very surprised if somewhere
20 along the way you didn't change your mind, even for
21 a short period of time, about something. So just keep
22 an open mind during the trial. That's all we can ask.

23 So once the evidence have all been presented
24 to you, we then have closing arguments where the lawyers
25 get up and review the evidence that you've heard.

1 They will know at that point what law I'm going to
2 charge you. And so they will be attempting to persuade
3 you to render a verdict on their client's behalf.

4 The last part of the trial, I will be
5 instructing you on the law that you are to apply to
6 the facts as you find them, and then you will retire
7 and consider your verdict, okay.

8 That's what we'll be doing over the next
9 several days. We'll be moving quite along quite a bit.
10 Again, we will take a break probably every hour and
11 a half, every hour and 15 minutes. If you need to take
12 one sooner, just let me know, and we will break.
13 We'll break around lunchtime for an hour and a half,
14 probably break around the end of the day.

15 Usually, I aim for around five o'clock.
16 If we finish a little early, or if we have to go over
17 a little bit just to get a witness finished for the day,
18 we will do that. But I estimate we'll be done by the
19 end of this week. I don't think anybody is thinking
20 this will go over into next week at all, not that I am
21 aware of.

22 So just pay attention, listen carefully.
23 If you want to take notes, we have some notepads for
24 you. If you could get those and hand those out.
25 You can take your notes, but let me caution you,

OPENING STATEMENT BY MR. WARING

1 don't let your note taking distract from listening
2 to what is being said, okay.

3 I usually don't allow you to take your notes
4 back when you are deliberating your verdict because they
5 are not evidence, and sometimes somebody will say, oh,
6 well, I wrote this down, and then somebody else will
7 say, well, I wrote this down, and then you're arguing
8 over what some of these notes say, and the notes are
9 not evidence. So it might just give you some feeling
10 of comfort to write notes down during the trial, but
11 they won't be able to go back with you during the trial.
12 But we will get you some of those if anybody wants any
13 of those.

14 So we don't move along very fast if I just
15 stay here and talk all day. So, I'm going to now turn
16 it over to the lawyers. With the State having the
17 burden of proof, they get to make the first opening.
18 So, Mr. Solicitor, if you're ready you may begin.

19 MR. WARING: Thank you, Your Honor.
20 May it please the Court.

21 THE COURT: Yes, sir.

22 MR. WARING: Good morning, everybody.

23 THE JURORS: Good morning.

24 MR. WARING: A robbery setup. A subsequent
25 act of unspeakable cruelty, and a plan to cover it all

OPENING STATEMENT BY MR. WARING

1 up. That's what this case is about.

2 On December 18, 2016, at night, this
3 Defendant, Maulique Heyward, went over to a witness's
4 house. Her name is Tynetra Hamilton. You're going
5 to hear from her during the course of this trial.

6 Now, the Defendant went over to her house,
7 and his intention was that night to find somebody to
8 rob. Unfortunately, it just happened to be the victim,
9 Garrett Mitchell's, unlucky day that day because Tynetra
10 Hamilton and the Defendant decided that he was going
11 to be the prey.

12 Now, obviously, the victim, Garrett
13 Mitchell, wasn't just going to show up willingly to this
14 incident location and agree to be robbed. So they
15 cooked up a story at the Defendant's direction, and that
16 story was as follows: They were going to make it seem
17 like a marijuana drug deal, the victim was going to buy
18 some weed, and that's how it was going to go down.
19 But in reality, this was going to be a robbery, not any
20 kind of a drug deal.

21 Fast forward later that night, the victim,
22 Garrett Mitchell, goes over, picks up the witness,
23 Tynetra Hamilton, and they go to the incident location.
24 She lures him there. Now once they got on scene,
25 it would have become apparent very quickly to the

OPENING STATEMENT BY MR. WARING

1 victim, Garrett Mitchell, that things were not going
2 to go down as planned because right off the bat the
3 Defendant was there.

4 He was with a co-defendant, a guy who
5 we'll call Lil' Man; that's his nickname. That's what
6 we're going to refer to him as during this trial.
7 Those two guys were on scene. The victim approaches,
8 the Defendant takes his money, starts riffling through
9 his pockets trying to get his phone, trying to get his
10 wallet. There's some scuffling; there's some arguing.
11 Lil' Man jumps in. It's a two-on-one situation.

12 Now at some point, the victim, Garrett
13 Mitchell, had had enough. So unbeknownst to everybody,
14 he had a weapon on him. He had a gun. He took that gun
15 out. He was being robbed. He took that out to defend
16 himself. Now, I mentioned it was his unluckily day.
17 They wrestled it from him, and they took the gun away,
18 and the Defendant, Maulique Heyward, was the one who got
19 ahold of the gun.

20 Now during that time, there were some
21 comments that were made. The victim had his arms up,
22 told the Defendant not to shoot him. There was also
23 a separation and some downtime in between all the
24 scuffling and when the Defendant got ahold of the gun.
25 There's a surveillance video; you're going to see that.

OPENING STATEMENT BY MR. WARING

1 And I'm going to challenge you to focus on that as well,
2 in addition to some other evidence that comes out.

3 Now, the Defendant got ahold of the gun,
4 and he said to the victim, you just tried to kill me,
5 I'm going to kill you. Walked up to the victim.
6 Boom. Shot him three times; once in the left shoulder,
7 once in the right shoulder and once straight through
8 the head. Each bullet went straight through.
9 The victim, Garrett Mitchell, hit the deck immediately.

10 Now, the Defendant and Lil' Man, they took
11 off running instantly. The Defendant shot the gun in
12 a ditch, got rid of the evidence. Lil' Man took off.
13 Tynetra Hamilton, who was watching the whole thing,
14 she took off too. Nobody calls 911 out of that group.
15 Somebody else did call 911, though.

16 So officers from the North Charleston Police
17 Department started arriving, started investigating.
18 Meanwhile, the victim is on scene, right where he was
19 shot, right in front of 4625 Lowell Drive in North
20 Charleston, still on the ground fighting for his life,
21 completely incapacitated.

22 Now an interesting point, as they show up,
23 guess who's around the corner at the same apartment
24 building hanging out? This Defendant, Maulique Heyward.
25 He's on scene around the corner. Now you're thinking

OPENING STATEMENT BY MR. WARING

1 to yourself, surely he went up to them and begged
2 them to listen to his story that he had to do this.
3 He had to shoot the victim because the victim pulled
4 a gun on him. Surely, he mentioned that. Nope.

5 He didn't mention a single thing about
6 that, didn't mention that he had to fight for his life
7 to defend himself against the victim, didn't mention
8 anything about a robbery going down or a supposed weed
9 deal, didn't mention anything about having to kill
10 the victim, didn't mention anything about being involved
11 in a shooting whatsoever. Nothing.

12 Now some crime scene technicians from North
13 Charleston Police Department showed up, and they start
14 looking around for evidence, and they saw some key tips,
15 a key piece of evidence. The victim's wallet was on
16 the ground, in the roadway. In addition, other personal
17 miscellaneous items were strewn about; business cards,
18 keys, et cetera, credit cards, corroborating the notion
19 that this was a robbery from the get-go.

20 In addition, the gun was found. Now what
21 was never found was the victim's cell phone. Now
22 approximately 30 minutes after the shooting, after
23 the Defendant had spoken with the responding officer
24 and failed to mention anything about this incident,
25 in other words, lied about the incident, he's on

OPENING STATEMENT BY MR. WARING

1 surveillance video at a Kangaroo gas station -- you're
2 going to see that video as well -- 30 minutes after.

3 Now what's important to note is he's not
4 buying anything, and you can tell that easily.
5 You'll be able to see the video. But I challenge you to
6 look for yourself. You can't see him buying anything.
7 But what he does do at one point is he presents what
8 appeared to be a cell phone with white standard Apple
9 iPhone headphones. That's what it appears to be.

10 You'll hear testimony that the victim had
11 an iPhone and also was known to have standard white
12 Apple iPhone headphones. Again, the Defendant doesn't
13 buy anything, but presents a cell phone, and appears
14 he's asking the cashier about something.

15 Now, the Defendant -- one of his own cell
16 phones was confiscated as well at some point, and then
17 there was some key piece of evidence on that phone.
18 Again, the victim's cell phone was never found.
19 Later that day, after the Defendant killed the victim,
20 he's on Messenger contacting people asking them, hey,
21 do you know how to unlock an iPhone? I got another one
22 to be unlocked. A couple of days later, same thing,
23 do you know how to unlock an iPhone? Interesting.
24 The victim's cell phone was never found.

25 Now, the Defendant, due to his being

OPENING STATEMENT BY MR. WARING

1 on scene that day, was brought in for questioning,
2 and after lying for quite some time he did give
3 a version of events. He did not mention anything about
4 a robbery. He said, more or less, that he had to do
5 it because the victim pulled a gun out.

6 He did mention, however, a couple of things
7 that are important. He did say that the victim was
8 telling him not to do it, that they sat and talked
9 for a minute after the Defendant got ahold of the gun,
10 and he mentioned the comment I said earlier, that you
11 just tried to kill me, now I'm going to kill you.

12 Now, in addition, there's some jail calls
13 that you're going to hear. And, again, I keep bringing
14 up this cell phone that was never found. It's an
15 important point. You're going to hear about that
16 on some of these jail calls.

17 The Defendant is eager to get somebody
18 to get the phone out of his house because, by his own
19 admission, if they turn that phone on, the cops are
20 going to be all over him. Keep in mind the Defendant
21 is already in jail and has already been charged with
22 these crimes.

23 Due to his involvement, he was charged with
24 murder and possession of a weapon during the commission
25 of a violent crime. As the judge pointed out, we have

OPENING STATEMENT BY MR. WARING

1 the burden, as the State, of proving him guilty beyond
2 a reasonable doubt. We have to leave you firmly
3 convinced of his guilt for murder. That means we have
4 to prove that he unlawfully killed the victim, Garrett
5 Mitchell, with malice aforethought.

6 Now you're thinking to yourself what is
7 malice aforethought? Malice is ill will, intent to
8 injure, hatred towards the victim, and it has to be
9 aforethought, meaning it has to have occurred just prior
10 to and at the moment of the shooting.

11 Now for the gun charge, possession of a
12 weapon during the commission of a violent crime, we have
13 to prove that the Defendant possessed a deadly weapon,
14 such as a gun, during the commission of a violent crime,
15 such as murder.

16 Now throughout the course of this trial,
17 I want you to do a couple of things. I want you
18 to focus on evidence that comes out from that witness
19 stand, not from me, but from the witness stand. I want
20 you to focus on that evidence as it applies to the
21 elements of murder and possession of a weapon during
22 the commission of a violent crime because I think,
23 and I'm confident, that you're going to determine that
24 this was a robbery setup from the get-go that turned
25 into a murder, plain and simple. And at the end of this

OPENING STATEMENT BY MR. SMITH

1 trial, we're going to ask you to render a verdict of
2 guilty.

3 THE COURT: Mr. Smith.

4 MR. SMITH: May it please the Court,
5 Mr. Waring, Ms. Sigal. In December of 2016, Maulique
6 Heyward made a choice that changed a lot of lives
7 forever. It took seconds for this act to occur.
8 It was not a long drawn-out process, and you're going
9 to see that, and you're going to hear about that as
10 we go through this trial.

11 A fight broke out at the house where
12 Maulique was. That fight continued and moved locations
13 from place to place. And as that fight progressed,
14 it got very serious. A gun came out, a gun was pointed
15 at Mr. Heyward repeatedly, and the only sound that he
16 heard was the click, click, click of that gun. Luckily
17 for him, it was on safety or it misfired, but the gun
18 did not go off.

19 As the fight continued, he got possession
20 of the gun. And we're not here saying Maulique did not
21 shoot Mr. Mitchell. There's no question about that.
22 He ultimately tells police that, that he acted in the
23 only way that he could in the seconds that he had to
24 make a decision.

25 There's no doubt that this case is a tragedy

OPENING STATEMENT BY MR. SMITH

1 for the Mitchell family. We are not here to take away
2 from that or to downplay that in any manner. But we
3 are here to talk about the how and why this shooting
4 occurred. We are not here to talk about who shot
5 Mr. Mitchell. That's clearly been established.

6 Now we're going to hear from a number
7 of witnesses over the next few days, but I think there
8 are three that I ask you to pay particular attention
9 to. First is Detective Pritchard. He is going to
10 tell you that he had the opportunity to have sat down
11 with Mr. Mitchell -- I'm sorry -- with Mr. Heyward
12 and go through his statement and what exactly occurred.
13 He answered every question that he was asked.
14 He was there for the detective, and you're going to get
15 a chance to hear and see some of what was said.

16 You are also going to hear from Tynetra
17 Hamilton. As the solicitor told you, she has a great
18 conspiracy that she has come up with. She has a real
19 problem with the truth, and you're going to see that.
20 She had a real problem at the beginning of telling
21 the truth, and she had a real problem when she met
22 the solicitor of telling the truth. But when her own
23 skin is on the line, she will throw everybody else
24 to the wolves, and we think that's what her testimony
25 will show.

—OPENING STATEMENT BY MR. SMITH—

1 Finally, you're going to hear from my
2 client, Maulique Heyward. He's going to sit right
3 up there on the witness stand. He doesn't have to.
4 He doesn't have to say a word, as the judge told you.
5 But he is going to walk you through exactly what he was
6 seeing, what he was perceiving and what he was feeling
7 throughout this entire event.

8 He is also going to talk to you about those
9 jail calls and what they meant and what he was trying
10 to do. Basically, he is going to tell you that he was
11 trying to impress a young lady that he was talking to
12 on the phone.

13 What I want you to think about, and what
14 I'm going to suggest to you, is that after seeing
15 all the evidence, after hearing all the testimony,
16 after listening to all the witnesses, that you're going
17 to find Maulique acted the only way that he could have
18 in the seconds, the mere seconds, he had to react.
19 And I'm going to ask you to find Maulique Heyward not
20 guilty because he is not. Thank you.

21 THE COURT: All right. The State is ready
22 for the first witness?

23 MR. WARING: Thank you, Your Honor.
24 The State calls Officer Lynch.

25 OFFICER JONATHAN LYNCH, was called as a

JONATHAN LYNCH - DIRECT BY MR. WARING

1 witness, being duly sworn, was examined and testified as
2 follows:

3 THE CLERK: For the record, please state
4 your full name, spell your last.

5 THE WITNESS: My full name is Jonathan
6 Lynch.

7 DIRECT EXAMINATION

8 BY MR. WARING:

9 Q. Good morning, Officer Lynch.

10 A. Good morning.

11 Q. Okay. Officer Lynch, can you tell the jury where
12 you work?

13 A. I work for the North Charleston Police
14 Department.

15 Q. And what is your role there?

16 A. I am a patrol officer. I answer calls for
17 service, patrol the communities.

18 Q. And do you respond to crime scenes as well?

19 A. Yes, sir.

20 Q. All right. Now, I would like to jump right into
21 it. Were you involved with this case, the Maulique
22 Heyward case, on December 19, 2016?

23 A. Yes, sir. I was the first responding officer
24 to the scene.

25 Q. How did you get brought into this case, do you

JONATHAN LYNCH - DIRECT BY MR. WARING

1 remember?

2 A. We had a call for service in the Forest Hills
3 community for a gunshot heard in the area.

4 Q. Okay. Do you remember where you responded to?

5 A. It was Lowell Drive.

6 Q. All right. Was it 4625 Lowell?

7 A. Yes, sir.

8 Q. Okay. And is that in Charleston County?

9 A. Yes, sir.

10 Q. Do you recall approximately what time you got
11 the call?

12 A. I believe it was around midnight.

13 Q. All right. So very early in the morning of
14 December 19, 2016?

15 A. Yes, sir.

16 Q. And once you got on scene, can you tell the jury
17 what you saw?

18 A. When I arrived on scene, I saw the victim laying
19 on the ground suffering from what appeared to be some
20 gunshot wounds.

21 Q. Now did you initially talk with anybody on scene?

22 A. When I responded on scene, I talked to one
23 subject that was walking off Lowell Drive onto
24 Dorchester Road who was leaving the area where the
25 gunshots were heard. I identified him, and then another

1 officer stated that they had found the victim laying
2 on Lowell Drive. I responded to assist.

3 Q. All right. And you said you saw the victim with
4 some gunshot wounds. Was anybody assisting him at that
5 time?

6 A. Yes. Multiple officers were assisting him until
7 North Charleston Fire and EMS arrived on scene to take
8 over.

9 Q. Until EMS and the fire department got there,
10 what were you all trying to do?

11 A. We were trying to essentially stop the bleeding,
12 perform life-saving measures, keeping his heart going
13 until further medical treatment could be provided to
14 him.

15 Q. Okay. And after all that transpired, did you
16 end up encountering anybody else on the scene?

17 A. Yes, sir. Afterwards, we usually canvas the
18 area, knock on doors, see if people heard or saw things.
19 When I was doing such, I made contact with Mr. Heyward
20 in the back apartment building.

21 Q. All right. Now where you located him, was that
22 part of the same building in front of which the shooting
23 took place?

24 A. It was, yes, sir.

25 Q. But it wasn't out front, it was on the side?

JONATHAN LYNCH - DIRECT BY MR. WARING

1 A. Yes, sir. It was on the side of it.

2 Q. Okay. So you said the Defendant was on scene.

3 Can you tell us what he said, if anything?

4 A. He said he heard approximately five to six
5 gunshots, and that he saw a black male running the
6 opposite direction, further into the neighborhood.

7 Q. Did he mention to you anything about himself
8 being involved in the shooting?

9 A. No, sir.

10 Q. Did he mention to you that he was, in fact,
11 the one that shot the victim?

12 A. No, sir.

13 Q. Did he mention to you anything about being
14 in fear for his life from the victim?

15 A. No, sir.

16 Q. Now, I want to talk about his demeanor for
17 a second. Can you tell us what his demeanor was like?

18 A. He was very collected, very relaxed, nonchalant
19 when I asked him what he had seen or heard.

20 Q. Okay. Did you, at that time, suspect him of
21 anything?

22 A. No, sir.

23 Q. Now after you spoke with the Defendant, what did
24 you do?

25 A. I got his information, his ID. I was able to

1 identify the other subject that was walking away as his
2 brother. And afterwards we just canvassed more of the
3 area to find more witnesses.

4 Q. Was the victim eventually taken away to the
5 hospital, to your knowledge?

6 A. Yes, sir.

7 Q. Now while you were on scene, did you notice
8 any pieces of evidence or anything like that?

9 A. On Lowell Drive there was what looked like
10 a wallet that had been discarded in the roadway.

11 Q. And was this roadway -- was this near,
12 more or less, where the shooting location was?

13 A. Yes, sir, fairly close to it.

14 Q. All right. Now, Officer Lynch, I'm going to show
15 you what has already been identified as State's Exhibits
16 1 through 11. These have already been admitted into
17 evidence. I'm going to start off with State's Exhibit
18 1. Can you tell the jury what we're looking at here?

19 A. That is the incident location.

20 Q. All right. And can you -- I think you can
21 actually touch on that screen where the shooting
22 location was -- excuse me -- where the victim was found.

23 A. (Indicating.) He was found right about there.

24 Q. All right. Now can you tell us on that picture,
25 does that show where the Defendant was located?

JONATHAN LYNCH - DIRECT BY MR. WARING

1 A. Yes, sir. (Indicating.) He was sitting on the
2 front porch of this apartment.

3 Q. All right. Now, Officer Lynch, if you hit that
4 top right button and then hit delete, it will delete --
5 clear. It will take those away. I'm now showing you
6 State's Exhibit 2. Can you tell us what we're looking
7 at here?

8 A. Yes, sir. (Indicating.) This is the apartment
9 where I located the Defendant.

10 Q. Okay. So, I'm going to put back Exhibit 1.
11 So is that still -- where the circle is where you saw
12 the Defendant ---

13 A. Yes, sir.

14 Q. --- on the left? All right. Now, I'm going
15 to put up State's Exhibit 3. Was he sitting down?

16 A. He was sitting down in that chair on the porch.

17 Q. All right. Now, I'm going to put up State's
18 Exhibit 5. Can you tell us what we're looking at here?

19 A. It appears to be an angle from where the
20 Defendant was sitting at to over here, which is where
21 the victim was.

22 Q. Okay. So it's kind of a shot looking back --
23 headed back towards where the shooting location was?

24 A. Yes, sir.

25 Q. All right. State's Exhibit 6. And, again,

1 can you tell us what we're looking at there?

2 A. That is where the victim was laying down when
3 we arrived on the scene.

4 Q. For the jury's benefit, do you mind pointing
5 that out?

6 A. (Indicating.)

7 Q. All right. State's Exhibit 7. Can you point
8 out where the victim was?

9 A. (Indicating.) He was in this area right over
10 here.

11 Q. All right. Now you mentioned that you saw some
12 items in the roadway; his wallet, et cetera. Can you
13 kind of give us an idea where that stuff was?

14 A. (Indicating.) They were over in this area,
15 over here off kind of diagonally towards the
16 intersection.

17 Q. All right. What would you estimate the distance
18 is away from those items?

19 A. I mean, maybe 150 feet or so.

20 Q. Okay. I'm putting up a couple of others.
21 This is State's Exhibit 8. Can you tell us what
22 we're looking at there?

23 A. Where we found the victim laying on the ground.

24 Q. Okay. Lastly, State's Exhibit 11. Can you tell
25 us what we're looking at there?

JONATHAN LYNCH - DIRECT BY MR. WARING

1 A. (Indicating.) Where the victim was laying on the
2 ground. Over here is kind of where the wallet and items
3 were found.

4 Q. All right. Now during this time, Officer Lynch,
5 did you have body cam capabilities?

6 A. Yes, sir.

7 Q. And was your body cam, in fact, activated during
8 that time?

9 A. Yes, sir, it was.

10 MR. WARING: May I approach the witness,
11 Your Honor?

12 THE COURT: Yes.

13 BY MR. WARING:

14 Q. All right. Officer Lynch, I'm showing you what
15 has been marked for identification purposes as State's
16 Exhibit 12. Do you recognize that?

17 A. Yes, sir. It's a clip from my body camera.

18 Q. Okay. And have you had a chance to watch that
19 disc?

20 A. Yes, sir.

21 Q. And are your initials on that disc indicating
22 that you have watched that?

23 A. Yes, sir.

24 Q. And does Exhibit 12 fairly and accurately depict
25 your body cam ---

JONATHAN LYNCH - DIRECT BY MR. WARING

1 A. It does.

2 Q. --- from that night?

3 A. It does.

4 MR. WARING: Your Honor, at this point,
5 the State moves Exhibit 12 be admitted into evidence.

6 MR. SMITH: No objection.

7 THE COURT: Admitted. You can publish.

8 (State's Exhibit 12 was admitted into evidence.)

9 MR. WARING: Viewer discretion is advised
10 for the audience.

11 (Body cam video played for the jury.)

12 BY MR. WARING:

13 Q. Officer Lynch, who was he describing at that
14 point?

15 A. He was describing who he claimed is the suspect.

16 Q. Okay. He is describing who he claims the suspect
17 looks like?

18 A. Yes, sir.

19 (Body cam played further for the jury.)

20 BY MR. WARING:

21 Q. Officer Lynch, that information that he gave
22 you about these supposed suspects, did you use that
23 information to try to track down these individuals?

24 A. Yes, sir. I actually broadcasted it over
25 the channel that we were operating off of so people

JONATHAN LYNCH - DIRECT BY MR. WARING

1 can go and start searching the lower part of Lowell
2 into Brookdale to see if we could find anybody or any
3 evidence.

4 (Body cam video played further for the jury.)

5 BY MR. WARING:

6 Q. All right. Now, Officer Lynch, I just want
7 to show you a couple of other photos real quick.
8 I'm showing you what has been marked for identification
9 purposes as State's Exhibits 13 and 14. Do you
10 recognize these?

11 A. I do. These are stills from my body armor
12 camera.

13 Q. Okay. When you say stills, is that a snapshot?

14 A. It's a snapshot, yes, sir.

15 Q. All right. And do these photos fairly and
16 accurately depict the two snapshots from your body cam?

17 A. Yes, sir.

18 MR. WARING: Your Honor, at this point,
19 State moves to have Exhibits 13 and 14 admitted into
20 evidence.

21 MR. SMITH: No objection, Your Honor.

22 THE COURT: Okay. You may publish.

23 MR. WARING: Thank you, Your Honor.

24 (State's Exhibits 13 and 14 were admitted into
25 evidence.)

1 BY MR. WARING:

2 Q. I'm showing you State's Exhibit 13. Can you
3 tell us what we're looking at there?

4 A. The snapshot when I made contact with the
5 Defendant on his porch.

6 Q. All right. State's Exhibit 14?

7 A. The same. A snapshot where I was speaking
8 to the Defendant on his front porch.

9 Q. Okay.

10 MR. WARING: Beg the Court's indulgence.
11 Please answer any questions the defense has.

12 THE COURT: Cross-examine.

13 CROSS-EXAMINATION

14 BY MR. SMITH:

15 Q. Good morning, Officer Lynch.

16 A. Good morning.

17 Q. So when you went up to Mr. Heyward, was he
18 cooperative with you?

19 A. He was.

20 Q. And he gave you his ID; is that correct?

21 A. He did.

22 Q. Okay. He gave you his name at some point?

23 A. Yes, sir.

24 Q. And he gave you his telephone number and how
25 to get in touch with him?

1 A. Yes.

2 Q. He also identified his brother; is that correct?

3 A. Yes, sir.

4 Q. And that was the person that you encountered
5 when you came into the area?

6 A. That was the first person, yes, sir.

7 Q. Now did you -- ultimately, did you pat him down,
8 or did you search him?

9 A. I patted him down, yes, sir.

10 Q. And what did you find? Did you find anything
11 as a result of the pat down?

12 A. No, sir.

13 MR. SMITH: No further questions,
14 Your Honor.

15 THE COURT: Redirect?

16 MR. WARING: Just one or two questions,
17 Your Honor.

18 REDIRECT EXAMINATION

19 BY MR. WARING:

20 Q. Officer Lynch, you said he was cooperative,
21 right?

22 A. Yes, sir.

23 Q. But did he mention anything about being involved
24 in a shooting or killing the victim?

25 A. No, sir.

AZJAI HEYWARD - DIRECT BY MS. SIGAL

1 MR. WARING: No further questions,
2 Your Honor.

3 THE COURT: Any recross?

4 MR. SMITH: No, Your Honor.

5 THE COURT: You may step down. Thank you.
6 Next witness.

7 MS. SIGAL: State call Azjai Heyward.

8 AZJAI HEYWARD, was called as a witness,
9 being duly sworn, was examined and testified as follows:

10 THE CLERK: For the record, please state
11 your full name, spell your last.

12 THE WITNESS: Azjai Heyward, H-E-Y-W-A-R-D.

13 DIRECT EXAMINATION

14 BY MS. SIGAL:

15 Q. Good morning, Azjai.

16 A. Good morning.

17 Q. Your last name is Heyward, but are you related
18 to the Defendant, Maulique Heyward?

19 A. No, not that I know of.

20 Q. Where are you from?

21 A. North Charleston.

22 Q. And what do you do for a living?

23 A. I am a direct support professional for the
24 Disabilities Board of Charleston County.

25 Q. Did you know the victim in this case,

1 Garrett Mitchell?

2 A. Yes.

3 Q. How did you know him?

4 A. We went to school together.

5 Q. Would you classify yourselves as friends?

6 A. Yeah.

7 Q. At the time of the incident for which we're here,
8 which was early in the morning of December 19, 2016,
9 how long have you known him?

10 A. All of high school.

11 Q. Were you hanging out with him at all earlier
12 in the night before the shooting?

13 A. Yes.

14 Q. Tell us about that.

15 A. That night he picked me up from my job's
16 Christmas party. At that time, I was working at Little
17 Caesar's. He picked me up approximately around ten
18 o'clock, and I was with him for maybe about an hour
19 or so, up until 11.

20 Q. Okay. And where did you all go?

21 A. We went to Cookout in West Ashley.

22 Q. Did you all eat?

23 A. We went through the drive-thru.

24 Q. Do you remember what kind of car he had?

25 A. If I'm not mistaken, it was a gold Saturn.

1 Q. Do you recall whether or not the Defendant [sic.]
2 had a phone with him that night?

3 A. Yes.

4 Q. What kind of phone?

5 A. I believe he had a rose gold iPhone 6 Plus.

6 Q. In fact, was there ever a time when the victim
7 didn't have his phone on him that you recall?

8 A. No.

9 Q. What did you all do after you went to Cookout?

10 A. After we went to Cookout, he went to stop by
11 a house, I believe it was his grandparents' house,
12 in West Ashley. When we got there nobody was there.
13 I stayed in the car, and he got out.

14 Q. And what happened after that?

15 A. He took me home.

16 Q. And do you remember around what time it was
17 when he dropped you off at home?

18 A. No later than 11:55 that night.

19 Q. Okay. Did you ever see him again after that?

20 A. No.

21 MS. SIGAL: Beg the Court's indulgence.
22 Thank you, Azjai. Please answer any questions the
23 defense has.

24 THE COURT: Cross?

25 MR. SMITH: Thank you, Judge.

1 CROSS-EXAMINATION

2 BY MR. SMITH:

3 Q. Ms. Heyward, you all went to Cookout that night;
4 is that correct?

5 A. Yes.

6 Q. Okay. Did you all go through the drive-thru,
7 or did you go in?

8 A. Yes, we went through the drive-thru.

9 Q. Okay. And who paid for the food that night?

10 A. He did.

11 Q. And were you able to see how much money he had
12 to pay for it?

13 A. He paid with a 20-dollar bill.

14 Q. Okay. And did you see any other money that
15 he had?

16 A. No, sir.

17 MR. SMITH: I believe that's all the
18 questions I have, Your Honor.

19 THE COURT: All right. Redirect?

20 MS. SIGAL: Beg the Court's indulgence.

21 REDIRECT EXAMINATION

22 BY MS. SIGAL:

23 Q. Azjai, in regard to your answer to Mr. Smith
24 a minute ago, are you saying that you weren't sure
25 if he had any money in his wallet?

ISAIAH JACKSON - DIRECT BY MS. SIGAL

1 A. I'm not sure.

2 MS. SIGAL: Thank you. No further
3 questions. Thank you.

4 THE COURT: Recross?

5 MR. SMITH: No, Your Honor.

6 THE COURT: You may step down.

7 Next witness.

8 MS. SIGAL: State calls Isaiah Jackson.

9 ISAIAH JACKSON, was called as a witness,
10 being duly sworn, was examined and testified as follows:

11 THE CLERK: For the record, please state
12 your full name, spell your last.

13 THE WITNESS: Spell the last?

14 THE CLERK: Yes.

15 THE WITNESS: Isaiah Jackson.

16 J-A-C-K-S-O-N.

17 DIRECT EXAMINATION

18 BY MS. SIGAL:

19 Q. Good morning, Mr. Jackson.

20 A. Good morning.

21 Q. Did you know the victim in this case,
22 Garrett Mitchell?

23 A. Yes.

24 Q. How did you know him?

25 A. I met him in school.

1 Q. Were you friends?

2 A. Yes.

3 Q. By December 2016, about how long have you all
4 been friends?

5 A. About three or four years.

6 Q. Did you see him on the night of December 18,
7 2016?

8 A. Yes.

9 Q. Were you all hanging out that night?

10 A. Yes.

11 Q. What did you do?

12 A. We was talking, sitting in the house for
13 a second, having a conversation.

14 Q. Whose house were you in?

15 A. Mine.

16 THE COURT: Would you move that microphone
17 a little closer, and then will you move a little closer
18 to it. Thank you.

19 BY MS. SIGAL:

20 Q. Did the victim -- I'm sorry -- did Garrett
21 Mitchell leave your house at some point that night?

22 A. Yes.

23 Q. Do you remember around what time that was?

24 A. It was close to, like, 9:30, ten o'clock.

25 Q. And did he come back to your house that night?

1 A. Yes.

2 Q. Around what time was that?

3 A. Close to 10:30.

4 Q. And what did you all do once he came back?

5 A. He was talking to me for about 15 minutes.

6 Q. And then did he leave again?

7 A. Yes.

8 Q. Did you ever see the victim with his phone
9 that night?

10 A. Yes.

11 Q. Do you remember what kind of phone it was?

12 A. iPhone 6 Plus.

13 Q. And do you remember if it had any accessories
14 with the phone, such as headphones?

15 A. Yes.

16 Q. Did you know the victim to carry headphones
17 on his phone frequently?

18 A. Yes.

19 Q. Do you remember what type and color of headphones
20 those were?

21 A. Regular white headphones.

22 Q. And, again, do you know around what time he left
23 your house that night?

24 A. I'm not sure exactly what time, but it was
25 somewhere between 10:00 and 10:30.

ISAIAH JACKSON - DIRECT BY MS. SIGAL

1 Q. Okay. And did you ever see him again after
2 that night?

3 A. No.

4 MS. SIGAL: Beg the Court's indulgence.

5 BY MS. SIGAL:

6 Q. Mr. Jackson, when you said regular white
7 headphones, did you mean the long stringy kind,
8 or did you mean ---

9 A. The regular iPhone headphones that you use
10 with the iPhone.

11 Q. Okay. The one made by Apple?

12 A. Yeah.

13 Q. Thank you, Mr. Jackson.

14 MS. SIGAL: No further questions for you
15 at this time. .

16 THE COURT: Cross?

17 MR. SMITH: Judge, we don't have any
18 questions for this witness.

19 THE COURT: All right. You're free to go.
20 Next witness.

21 MR. WARING: Your Honor, we may have
22 a matter of law.

23 THE COURT: Okay, folks, let me send you out
24 for just a few minutes while we take up a legal issue.
25 Again, don't begin your deliberations or discussions.

TYNETRA HAMILTON - DIRECT BY MR. WARING

1 And you are welcome to use the restroom. We'll probably
2 be about 10 to 15 minutes.

3 (Jury exits the courtroom at 10:25 a.m.)

4 THE COURT: Okay.

5 MR. WARING: Judge, we've got the next
6 witness who was the second part of the Bigger's hearing.

7 THE COURT: Who's this?

8 MR. WARING: This is Tynetra Hamilton.

9 TYNETRA HAMILTON, was called as a witness,
10 being duly sworn, was examined and testified as follows:

11 THE CLERK: For the record, please state
12 your full name, spell your last name.

13 THE WITNESS: Tynetra Hamilton,
14 T-Y-N-E-T-R-A H-A-M-I-L-T-O-N.

15 DIRECT EXAMINATION

16 BY MR. WARING:

17 Q. Good morning, Tynetra.

18 A. Good morning.

19 Q. All right, Tynetra, can you tell the Court
20 what your education level is?

21 A. Ninth.

22 Q. So you got through ninth grade?

23 A. Still in school.

24 Q. You are still in school, okay. Now do you
25 know the Defendant, Maulique Heyward?

—TYPNETRA HAMILTON - DIRECT BY MR. WARING—

1 A. Yes.

2 Q. All right. Have you seen him before?

3 A. No.

4 Q. You've never seen him before?

5 A. No.

6 Q. Tynetra, do you not recall being in our office
7 before on numerous occasions, even recently, where you
8 told us, including myself, Investigator Jen Hall and
9 other various members from the solicitor's office,
10 that you knew the Defendant as Rondo?

11 A. No.

12 MR. WARING: Beg the Court's indulgence,
13 Your Honor.

14 (Pause.)

15 BY MR. WARING:

16 Q. You had seen his picture on Facebook because you
17 had communicated with him, that's what you said earlier,
18 right?

19 A. Yeah.

20 Q. You don't remember saying that about the
21 Defendant?

22 A. Yeah, I said that.

23 Q. Okay. So now you're saying that you did say
24 that?

25 A. I did say that. I don't say that now.

TYNETRA HAMILTON - DIRECT BY MR. WARING

1 Q. You're saying that you said it then, but you're
2 saying you're not saying it now?

3 A. Yes.

4 Q. Okay.

5 (Audio of Ms. Hamilton played in the courtroom.)

6 BY MR. WARING:

7 Q. All right. So that's you talking, correct?

8 A. Yes.

9 Q. All right. And you said on there that you knew
10 Rondo well enough, you've seen him in person, enough to
11 pick him out, correct?

12 A. Yes.

13 Q. All right, Ms. Hamilton. I'm putting up State's
14 Exhibit 16. Do you not remember initialing next to all
15 of these items on here on this North Charleston Police
16 Department photographic lineup form?

17 A. No.

18 Q. Okay. And you're saying that you don't remember
19 that signature?

20 A. No.

21 Q. And you're saying that you don't remember
22 identifying the Defendant? That's your signature?

23 A. No.

24 MR. WARING: Your Honor, at this point,
25 the State would seek to introduce State's Exhibits 16

—TYPNETRA HAMILTON - DIRECT BY MR. WARING—

1 through 22 as evidence of prior inconsistent statement.

2 MR. SMITH: No objection.

3 THE COURT: All right. They're admitted.

4 (State's Exhibits 16 through 22 were admitted into
5 evidence.)

6 THE COURT: You need to put the times
7 and dates and where those statements were taken.

8 MR. WARING: Yes, Your Honor.

9 BY MR. WARING:

10 Q. Now, Ms. Hamilton, you don't remember this lineup
11 procedure in which you picked out the Defendant who you
12 knew as Rondo that took place at 11:00 a.m., at North
13 Charleston Police Department with Detective Pritchard
14 and Detective Butler -- excuse me -- took place at the
15 solicitor's office with these detectives from the North
16 Charleston Police Department?

17 A. No.

18 MR. WARING: Beg the Court's indulgence.

19 (Pause.)

20 BY MR. WARING:

21 Q. All right, Ms. Hamilton, now you don't remember
22 telling myself, Investigator Jeff Fort and Solicitor
23 Burns Wetmore on June 11, 2018 that you had hung out
24 with the victim prior to the incident?

25 A. I don't remember anything.

TYNETRA HAMILTON - DIRECT BY MR. WARING

1 THE COURT: Were those statements -- is that
2 the audio that you played?

3 MR. WARING: Yes, Your Honor.

4 THE COURT: Okay. And where was that?

5 MR. WARING: This took place at our office,
6 Your Honor.

7 THE COURT: Okay.

8 (Audio of Ms. Hamilton played in the courtroom.)

9 BY MR. WARING:

10 Q. You admit that was you, right, that you said
11 all that?

12 A. No.

13 Q. So now you're saying that's not even you on
14 there?

15 A. No.

16 Q. Tynetra, you know, we can do this all day long.
17 I have nothing better to do.

18 A. Yes, sir.

19 Q. Do you want to continue down this path?

20 A. You can go ahead.

21 Q. All right. Now when you guys got over to Lowell
22 Drive that night with the victim, who was over there?

23 A. I don't know.

24 Q. Okay. You don't remember telling us; myself,
25 Assistant Solicitor Burns Wetmore and Investigator

—TYPNETRA HAMILTON - DIRECT BY MR. WARING—

1 Jeff Fort on June 11, 2018 at our office that it was
2 you, the victim, Rondo and Lil' Man?

3 A. No.

4 Q. You don't remember anything?

5 (Audio of Ms. Hamilton played in the courtroom.)

6 BY MR. WARING:

7 Q. You don't remember saying any of that?

8 A. No.

9 Q. All right. Now how about earlier in the night
10 speaking with Rondo, did you speak with him earlier
11 in the night prior to the shooting?

12 A. No.

13 Q. Okay. You don't remember telling myself,
14 Burns Wetmore and Investigator Jeff Fort on June 11,
15 2018 that Rondo talked with you about bringing the
16 victim over to rob him, that it was his idea? You don't
17 remember any of that?

18 A. No.

19 THE COURT: All right. Ms. Hamilton,
20 how far did you get in school did you say?

21 THE WITNESS: Yes, sir.

22 THE COURT: Tenth grade?

23 THE WITNESS: Ninth.

24 THE COURT: All right. And how old are you
25 now?

1 THE WITNESS: Seventeen.

2 THE COURT: All right. Well, you're in
3 a court of law. You got put under oath. That means
4 you are sworn to tell the truth.

5 THE WITNESS: Yes, sir.

6 THE COURT: You have made what sounds like
7 some prior inconsistent statements from what you said
8 previously and what you said today. Now, I will caution
9 you that what you say today is under oath, and if you
10 are not telling the truth and are deliberately not
11 telling the truth, you can be prosecuted for perjury.
12 Do you understand that?

13 THE WITNESS: Yes, sir.

14 THE COURT: Perjury means you're lying
15 under oath.

16 THE WITNESS: Yes, sir.

17 THE COURT: So you have given prior
18 inconsistent statements between what you're saying today
19 and what you said on what sounds like a number of
20 different occasions before. That means you can be
21 prosecuted if you're found not to be telling the truth,
22 and you could go to jail for that. Do you understand
23 that?

24 THE WITNESS: Yes, sir.

25 THE COURT: Well, do you want to talk to

1 a lawyer before you go any further ---

2 THE WITNESS: Yes, sir.

3 THE COURT: --- because you might find
4 yourself to be going to jail if you are not telling
5 the truth.

6 THE WITNESS: Yes, sir.

7 THE COURT: Do you have a lawyer?

8 THE WITNESS: No, sir. I don't need one.

9 THE COURT: Well, I'm going to recess her
10 testimony, and, obviously, the public defender's office
11 will have a conflict doing that. I'm going to get
12 somebody to talk with her. Let me think about that
13 for a few minutes. I want you to come down from the
14 witness stand and you go back out. You're not to talk
15 to anybody about your testimony at this point. Do you
16 understand that?

17 THE WITNESS: Yes, sir.

18 THE COURT: If anybody does talk with you,
19 I want you to come and report back to me immediately.

20 THE WITNESS: Yes, sir.

21 THE COURT: All right. You can step down.
22 All right, let's take a few minutes to recess here.

23 MR. SMITH: Judge, just for your knowledge,
24 Ms. Hurley [ph.] is handling case assignments in our
25 office, and she has the list of people who are conflict

1 attorneys from our office.

2 THE COURT: Oh, good.

3 MR. SMITH: And so you could probably call
4 her and she could ---

5 THE COURT: What's her extension?

6 MR. SMITH: Let me see if I have it. 5129.

7 THE COURT: 5129. Okay. Thank you.

8 (Recess taken at 11:04 a.m.)

9 (Back on the record at 11:24 a.m.)

10 THE COURT: Okay. Back on the record then.
11 I called over, and I got a list of several different
12 names on the conflict list and called off that list.
13 Grant Smaldone, who is on his way over to talk to
14 Ms. Hamilton. So, I assume she's sitting out there
15 by herself. Well, make sure she's not with somebody,
16 and I want Mr. Smaldone, when he comes over, he can talk
17 to her, but I don't want her talking to anybody else.
18 All right. So in the meantime, do you have another
19 witness you can call?

20 MR. WARING: Yes, Your Honor. Beg the
21 Court's indulgence. Let me poke my head out here
22 and make sure he is out there.

23 THE COURT: Okay.

24 (Pause.)

25 MR. WARING: Your Honor, we have a slight

1 complication. Due to this unfortunate situation,
2 our next witness is about 20 minutes away.

3 THE COURT: Okay. Well, why don't we do
4 this. Why don't I send the jury out for an early lunch.
5 Well, let's see, it's 11:30. Tell them to be back at
6 one o'clock. Does that work for everybody time wise?

7 MR. WARING: Okay.

8 THE COURT: All right. Bring the jury back
9 in.

10 (Jury enters the courtroom at 11:29 a.m.)

11 THE COURT: Okay. Welcome back, folks.
12 A lot of moving parts going on in a trial, and sometimes
13 when one of them gets broken down, it gets us off track
14 a little bit. So due to a scheduling issue, we've got
15 another witness who will probably be here in about 20
16 to 30 minutes, the next witness.

17 And so what I'm going to do is just go ahead
18 and send you to an early lunch, and then we will resume.
19 Hopefully, we will be back on track this afternoon.
20 So let me send you out. You can go to lunch anywhere
21 you want to. You can go to lunch with anyone you want
22 to, including other members of the jury panel.

23 But, again, do not talk to anybody about
24 the case, including other members of the jury panel.
25 Don't discuss the case in any way, and please don't post

1 anything on social media, and if anybody does approach
2 you to talk to you about the case, please report that
3 to me when you get back.

4 So right now it's 11:30. Be in the jury
5 room a little bit before one o'clock. Hopefully,
6 we can be back on track and start shortly thereafter.
7 Okay. So they'll take you out and show you how to get
8 in and out. Hopefully, it will all work out. We'll see
9 you at one o'clock.

10 (Jury exits the courtroom at 11:31 a.m.)

11 THE COURT: All right. When Mr. Smaldone
12 gets here to talk to Ms. Hamilton, please make one of
13 the rooms back there available to him. They can do
14 that. And I will be in my office so if he needs to see
15 me you can do that. Otherwise, you all will be in your
16 offices, and I will let you know if anything comes up
17 that we will deal with before, hopefully, one o'clock.
18 If not, I'll see you back here a little bit before one
19 o'clock. All right.

20 MR. WARING: Thank you, Judge.

21 (Recess taken at 11:31 a.m.)

22 (Back on the record at 12:55 p.m.)

23 THE COURT: Let the record reflect the
24 Defendant is in the courtroom. It's 12:55, and we're
25 resumed now. I had Ms. Hamilton appointed a lawyer,

TYNETRA HAMILTON - DIRECT BY MR. WARING

1 Mr. Grant Smaldone, with the Charleston County Bar,
2 who talked with her. And, Mr. Smaldone -- all right.
3 Why don't you come in and tell us what you can tell
4 us about your client and her position to go forward
5 and testifying.

6 MR. SMALDONE: Good afternoon, Your Honor.
7 I have spoken with my client. I was appointed probably
8 about an hour and a half ago. I had a knowing and
9 intelligent conversation with her. I explained to her
10 various legal concepts about subpoenas, perjury,
11 proffer, things of that nature. My client has thought
12 about it and wishes to continue to testify.

13 THE COURT: Does she intend to testify
14 truthfully?

15 MR. SMALDONE: She does. I have had
16 conversations with her about that, and she has thought
17 about things, and she's remembering things, and she now
18 wishes to testify truthfully.

19 THE COURT: Okay. Well, thank you. I want
20 to thank you for being able to be available on such
21 short notice and come over and assist the Court and be
22 appointed her attorney, and I appreciate you talking
23 to her. So why don't you hang around. What I propose
24 we'll do is we'll just resume with the Bigger's hearing
25 and go from there, okay.

TYNETRA HAMILTON - DIRECT BY MR. WARING

1 MR. SMALDONE: Sounds good, Judge.

2 THE COURT: All right. You may resume.

3 MR. WARING: Thank you, Judge.

4 DIRECT EXAMINATION

5 BY MR. WARING:

6 Q. All right, Ms. Hamilton, so what explanation
7 do you have for the Court for your recent behavior?

8 A. I was just a little scared, but I'm ready
9 to participate.

10 Q. Okay. So all that before, all that lying,
11 was just you being scared?

12 A. Yes, sir.

13 Q. But you're committed to telling the truth,
14 correct?

15 A. Yes, sir.

16 Q. All right. So, I want to go through all this
17 again just so we get it right. Do you know the
18 Defendant?

19 A. Yes, sir.

20 Q. All right. Have you seen him before?

21 A. Yes, sir.

22 Q. How many times?

23 A. Once.

24 Q. All right. And just so we're clear, did you see
25 him the night of the incident?

—TYPNETRA HAMILTON - DIRECT BY MR. WARING—

1 A. Yes, sir.

2 Q. Okay. But you also saw him earlier in the night,
3 the same night of the incident, right?

4 A. Yes, sir.

5 Q. So, technically, was that two different times
6 but on the same day?

7 A. Yes, sir.

8 Q. All right. Had you also seen his picture
9 on Facebook before all that as well?

10 A. Yes, sir.

11 Q. And had you seen it multiple times on Facebook?

12 A. No, sir.

13 Q. You're saying you saw his face one time
14 on Facebook?

15 A. Yes, sir.

16 Q. Okay. But prior to the lineup procedure,
17 were you familiar with his face?

18 A. Yes, sir.

19 Q. Had you communicated with him before over
20 Facebook Messenger?

21 A. Yes, sir.

22 Q. All right. And do you remember whether he had
23 a picture on that Facebook Messenger?

24 A. I'm not too sure, sir.

25 Q. Okay. Now let's fast forward to December 18,

—TINETRA HAMILTON - DIRECT BY MR. WARING—

1 2016 leading into December 19, 2016. Had you seen
2 the Defendant that night?

3 A. Yes, sir.

4 Q. All right. Where did you see him?

5 A. Dorchester Road.

6 Q. Okay. Was it your house?

7 A. No, sir.

8 Q. Where was it?

9 A. Well, yes, sir, it was my house.

10 Q. And this was prior to the incident, correct?

11 A. Yes, sir.

12 Q. What did you all talk about? Ms. Hamilton,
13 it's okay. Just tell us the truth.

14 (Pause.)

15 BY MR. WARING:

16 Q. Are you going to answer the question?

17 A. Yes, sir. Give me a moment, please.

18 THE COURT: I couldn't hear what her
19 response to the question was.

20 THE COURT REPORTER: She said, yes, sir,
21 give me a moment, please.

22 BY MR. WARING:

23 A. Put something together to set someone up.

24 Q. Can you say that a little louder?

25 A. Put something together to set someone up.

—TYPNETRA HAMILTON - DIRECT BY MR. WARING—

1 Q. Put something together to set somebody up?

2 A. Yes, sir.

3 Q. Now can you explain what that means, and what
4 specifically he was telling you that you needed to do?

5 A. Call someone up and tell them to come.

6 Q. All right. But, Ms. Hamilton, I want to know
7 what you mean by set somebody up. That's what I'm
8 asking you. Set who up and what was the setup going
9 to be?

10 A. Robbery.

11 Q. All right. And just so we're clear, is the
12 Defendant telling you to set this robbery up?

13 A. Yes, sir.

14 Q. All right. Who were you supposed to set up to
15 be robbed?

16 A. Gabe.

17 Q. Is that the victim, Gabe or Garrett Mitchell?

18 A. Yes, sir.

19 Q. All right. Now how were you going to convince
20 the victim, Garrett Mitchell, to go to the scene to
21 be robbed?

22 A. A weed deal.

23 Q. Okay. And just so we're clear, so the Court
24 is clear, you all were going to make it seem like a weed
25 deal, and then it was really going to be a robbery when

1 you got there, and the Defendant was going to rob him;
2 is that right?

3 A. Yes, sir.

4 Q. Okay. Were you successful in convincing
5 the victim to go to the scene later that night?

6 A. Yes, sir.

7 Q. All right. Now when the Defendant came over
8 to your house that first time that night, did you get
9 a good look at his face?

10 A. Yes, sir.

11 Q. All right. And, again, we have already talked
12 about how you had seen his face on Facebook before,
13 right?

14 A. Yes, sir.

15 Q. So at that time when he came over, did you
16 recognize him as the person you were meeting with?

17 A. Yes, sir.

18 Q. What do you know the Defendant to go by as far
19 as names?

20 (Pause.)

21 BY MR. WARING:

22 Q. Ms. Hamilton, can you answer the question,
23 please.

24 A. I'm not too sure.

25 Q. Are you sure?

1 A. I don't remember the name.

2 Q. Are you sure you don't remember his name?

3 A. No, sir. Can you repeat -- can you, like,
4 tell me -- can you repeat it or something?

5 Q. Sure. I'm asking you a very simple question.
6 I'm asking you -- you didn't just refer to the Defendant
7 as nothing. He had a name of some sort that you in your
8 mind could label him as, right, and I want to know what
9 that name was.

10 A. Rondo.

11 Q. Rondo? Yes?

12 A. Yes, sir.

13 Q. Later that night, did you all, in fact, go to
14 the scene, you and the victim?

15 A. Yes, sir.

16 Q. Was the Defendant on scene?

17 A. Yes, sir.

18 Q. Okay. At that time, did you get a good look
19 at his face?

20 A. Yes, sir.

21 Q. At that time, were you paying attention enough
22 to your surroundings to recognize his face?

23 A. Yes, sir.

24 Q. At that time, did the Defendant, in fact,
25 proceed to rob the victim?

1 A. Yes, sir.

2 Q. All right. Now can you tell us what he was
3 taking of the victim's?

4 A. The phone, wallet, and the gun.

5 Q. Okay. What about cash?

6 A. The wallet.

7 Q. Okay. But do you remember seeing the Defendant
8 take some cash from the victim?

9 A. Yes, sir.

10 Q. All right. Where were you standing when all
11 this was taking place?

12 A. By the road.

13 Q. All right. And was that close enough to where
14 this robbery was taking place to see the Defendant
15 and see the victim?

16 A. Yes, sir.

17 Q. Could you clearly see enough what was going on?

18 A. Yes, sir.

19 Q. Did the Defendant have somebody else who was
20 with him?

21 A. Yes, sir.

22 Q. And do you know what that individual's name is,
23 or what you refer to him as?

24 A. Lil' Man.

25 Q. Lil' Man?

1 A. Yes, sir.

2 Q. Okay. So they're going through his pockets,
3 the Defendant is going through his pockets. Is there
4 some tussling and arguing going on?

5 A. Yes, sir.

6 Q. At some point, did the victim get fed up with
7 being robbed?

8 A. Yes, sir.

9 Q. And what did he do?

10 A. He pulled out his gun.

11 Q. Okay. What did the Defendant do in response?

12 A. Pulled the trigger.

13 Q. Prior to the Defendant pulling the trigger,
14 did he get ahold of the victim's gun?

15 A. Yes, sir.

16 Q. All right. Now prior to the Defendant shooting
17 the victim, but after the Defendant got ahold of the
18 gun, were the victim's arms up or down?

19 A. Up.

20 Q. At that time, was the victim saying anything
21 to the Defendant?

22 A. Please don't do it. I won't kill no one.

23 Q. Please don't do it. I won't kill no one?

24 A. I won't hurt no one.

25 Q. I won't hurt no one. Did this individual

1 that you know as Rondo end up shooting the victim?

2 A. Yes, sir.

3 Q. Okay. Do you remember about how many gunshots?

4 A. Three.

5 Q. All right. Right after the shooting took place,
6 paint the picture, what did the Defendant do right after
7 he shot the victim? He didn't stick around on scene,
8 right?

9 A. Ran.

10 Q. He ran. Okay. Now was it about two years before
11 you were shown this photographic lineup that we've been
12 talking about?

13 A. Yes, sir.

14 Q. But at the time you were shown the lineup,
15 did you still know what the Defendant looked like?

16 A. Yes, sir.

17 Q. All right. Have you ever lost the image in
18 your mind of what this individual looked like?

19 A. No, sir.

20 Q. All right.

21 MR. WARING: Your Honor, I think this
22 may have already been admitted, the lineup.

23 THE COURT: All right.

24 BY MR. WARING:

25 Q. I'm showing you what's already been admitted

—TYPNETRA HAMILTON - DIRECT BY MR. WARING—

1 as State's Exhibit 16. Now earlier during the first
2 act of this hearing, I asked you some questions about
3 this document, including whether or not that was your
4 signature, and you denied any knowledge of that.

5 Do you remember that?

6 A. Yes, sir.

7 Q. But was that, in fact, correct?

8 A. Yes, sir.

9 Q. What I'm asking you is, is this your signature?

10 A. Yes, sir.

11 Q. Okay. And the identification statement, number
12 two, name is Rondo, killed the victim. He got the gun
13 from the victim and shot him. Is that what you said?

14 A. Yes, sir.

15 Q. And are these your initials indicating each
16 one of these advisements, acknowledging them?

17 A. Yes, sir.

18 Q. All right. And do you recall being shown this
19 lineup with the North Charleston Police Department
20 detectives at our office on January 30, 2019?

21 A. Yes, sir.

22 Q. All right. Now you said number two on that,
23 is this the number two that you picked out?

24 A. Yes, sir.

25 Q. All right. Who is that individual?

—TYPNETRA HAMILTON - DIRECT BY MR. WARING—

1 A. Rondo.

2 Q. Now do you remember how many different photos
3 you were shown?

4 A. Seven.

5 Q. Do you recall if it was six? I can show it
6 to you if it would help refresh your memory.

7 A. It was six.

8 Q. Six. Now you said Rondo was number two. At any
9 point -- well, are you saying that he's the one that did
10 the shooting?

11 A. Yes, sir.

12 Q. Okay. Now at any point during this lineup
13 procedure, did anybody ever say, hey, Tynetra,
14 this is the picture you need to pick?

15 A. No, sir.

16 Q. Okay. So, in other words, did anybody ever
17 suggest to you that that picture is the one that you
18 should pick out?

19 A. No, sir.

20 Q. All right. Do you see the individual in the
21 courtroom today who you picked out as being number two,
22 who you labelled as Rondo?

23 A. Yes, sir.

24 Q. Okay. And can you point him out for the Court,
25 please?

—TINETRA HAMILTON - CROSS BY MR. SMITH—

1 A. (Indicating.) He's over there.

2 Q. All right. Is he the individual in the middle
3 that you just pointed at?

4 A. Yes, sir.

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

7 THE COURT: It is.

8 MR. WARING: Please answer any questions
9 the defense has.

10 THE COURT: Cross?

11 CROSS-EXAMINATION

12 BY MR. SMITH:

13 Q. So, initially, you told the solicitor you only
14 knew Maulique from the internet; is that right?

15 A. Yes, sir.

16 Q. And you had never met him in person?

17 A. I met him that night ---

18 Q. But prior to that ---

19 A. --- for the first time.

20 Q. But prior to that, you never met him in person?

21 A. No, sir.

22 Q. Have you talked to him on Facebook before?

23 A. Yes, sir.

24 Q. How many times?

25 A. Once that night.

1 Q. Just that night?

2 A. Yes, sir.

3 Q. And you indicated Maulique came to your house?

4 A. Yes, sir.

5 Q. And after chatting with him on Facebook the
6 one time, y'all set all this up?

7 A. Yes, sir.

8 Q. And how long was he at your house?

9 A. For probably, like, an hour.

10 Q. And was that the first time he had ever been
11 there?

12 A. Yes, sir.

13 Q. And how did you all start talking, initially?

14 A. From someone that I knew.

15 Q. Who was that person?

16 A. Lil' Man.

17 Q. So is it fair to say the night that the shooting
18 happened you were scared?

19 A. Yes, sir.

20 Q. And there was a lot going on out there that
21 night?

22 A. Yes, sir.

23 Q. And were you sure he was involved in the fighting
24 at first?

25 A. Yes, sir.

1 Q. And how many people were involved?

2 A. Two.

3 Q. So there were only two people in the fight?

4 A. Yes, sir.

5 Q. Lil' Man was never involved in the fighting?

6 A. He was.

7 Q. Okay. So who all was fighting?

8 A. Rondo, Lil' Man and Gabe.

9 Q. And would you say it was a pretty high-stressed
10 situation out there?

11 A. Yes, sir.

12 Q. And it was a situation you had helped to create?

13 A. No, sir.

14 Q. And were you -- you weren't sure what was going
15 to happen?

16 A. No, sir.

17 Q. Would you say it was chaotic out there?

18 A. Yes, sir.

19 Q. Were you guessing at some of the things that
20 happened?

21 A. Can you repeat that for me, please?

22 Q. Were you guessing at some of the things that
23 happened?

24 A. What do you mean by that?

25 Q. Meaning did you see everything?

1 A. Yes, sir.

2 Q. You saw everything? And how far away were you?

3 A. In the roadway.

4 Q. So if we're talking the roadway to where
5 the fighting was going on, tell us in this courtroom
6 where that is.

7 A. From where you're standing on the carpet
8 to where I'm at.

9 Q. So from me to you, basically. Now after this
10 occurred, did you see anything about this case on TV?

11 A. No, sir.

12 Q. Did you see anything about it online?

13 A. No, sir.

14 Q. Were people talking about it on Facebook?

15 A. Yes, sir.

16 Q. Did you write about it on Facebook?

17 A. Yes, sir.

18 Q. How many times did you write about it on
19 Facebook?

20 A. Once.

21 Q. And did you see other people talking about
22 it on Facebook?

23 A. Yes, sir.

24 Q. And did you hear people in the neighborhood
25 talking about it?

1 A. No, sir.

2 Q. The people on Facebook were they saying that
3 it was Maulique that had done it?

4 A. No, sir.

5 Q. Who were they saying had done it?

6 A. No one. They wasn't saying no name.

7 Q. But they were talking about what had happened?

8 A. Yes, sir.

9 MR. SMITH: Beg the Court's indulgence,
10 Your Honor. I believe that's all the questions I have
11 for this witness.

12 THE COURT: Redirect?

13 MR. WARING: No further questions,
14 Your Honor.

15 THE COURT: You can step down. Just have
16 a seat back there in the audience there. Don't leave.
17 All right. Any other witnesses on this issue?

18 MR. WARING: No, Your Honor.

19 MR. SMITH: No, Your Honor.

20 THE COURT: All right. Argument?

21 MR. WARING: Your Honor, it's a two-part
22 test. The first part is the Court must determine
23 whether the ID procedure was unduly suggestive, and only
24 if that is not satisfied do we get to the second part,
25 which is to determine whether the ID was nevertheless

1 so reliable that no substantial likelihood of
2 misidentification existed.

3 Your Honor, in this case, Detective
4 Pritchard testified and Ms. Hamilton testified there
5 was no suggestiveness. She was shown six different
6 photos. The photos were not arranged in any way to
7 otherwise cast suspicion that she should pick this
8 Defendant out, Your Honor.

9 It was not labelled in any way to suggest
10 that she should pick him out. So we think that it
11 was not unduly suggestive. There were no suggestions
12 whatsoever. So, I don't think we can get to the second
13 part. We think it is admissible, and we ask that it
14 comes in, Your Honor.

15 THE COURT: Mr. Smith.

16 MR. SMITH: Thank you, Judge. We don't
17 have any argument at this time on this issue.

18 THE COURT: All right. Well, I've listened
19 to the testimony of the two witnesses. And the officer
20 testified that his procedure -- and, you know, he was
21 following the instructions that they had set forth
22 and used a six-pack lineup, showed her the pictures
23 one at a time.

24 He didn't seem to indicate that there was
25 any particular or preferred one that she was to pick.

1 The witness while she at first was very reluctant and
2 seemed to change her story, it appears that she was
3 scared of the proceeding and scared of the position that
4 she found herself in, but ultimately after speaking with
5 counsel came forward to tell what she says is the truth.

6 And it looks to me like while there were
7 two years between the time of the incident and the time
8 of the photo lineup, that she had a lot of opportunities
9 to see the Defendant. At the time, she had actually
10 seen him one time earlier that evening, and she was
11 sure of her identification of him.

12 She was right there. Obviously, her
13 attention was drawn to what was going on, and, in fact,
14 seemed to indicate there was premeditation in what
15 had happened earlier that evening as far as discussions
16 she had with him. So there was really no question as
17 to -- she knew what was getting ready to happen, and
18 that he was planning it. And so she certainly was able
19 to be certain of who it was that she was identifying.

20 So, I find there was nothing unnecessarily
21 or unduly suggestive of the lineup procedure, and so
22 that will end the inquiry. Ultimately, it will be up
23 to the jury to determine whether or not they believe
24 her. But as far as this proceeding goes, I make the
25 finding that there was nothing unduly or unnecessarily

1 suggestive of the lineup procedure. All right.

2 So back on track now. Are you planning on bringing
3 her in and going into her testimony at this point?

4 MR. WARING: Yes, Your Honor.

5 THE COURT: All right. We scheduled a real,
6 hopefully, brief motion to reconsider a sentence
7 scheduled for 1:30. Let's go -- let me get that one
8 done, and then that will get us back on track. So you
9 can get witnesses lined up and ready to go, okay.

10 Would you tell the jury we'll be about 20
11 more minutes, and that I would like for them to pick
12 whoever they would like to have as the foreperson of
13 the jury. It can be anybody except the one alternate,
14 all right.

15 MR. WARING: Your Honor, are we at ease
16 for the moment?

17 THE COURT: Yeah, let's plan on resuming
18 at a quarter till.

19 MR. WARING: Okay.

20 (Recess taken.)

21 (Back on the record.)

22 THE COURT: All right. We are back with
23 State v. Heyward. Let the record reflect the Defendant
24 is back in the courtroom. Do we have Ms. Hamilton ready
25 to go?

—TIFFANY ADAMS - DIRECT BY MR. WARING—

1 MR. WARING: Your Honor, we do have
2 a witness who recently just had surgery. She's a quick
3 crime scene witness. She's very uncomfortable,
4 and I would like to get her out of here real quick,
5 and then Ms. Hamilton would testify.

6 THE COURT: Okay. Bring the jury in.

7 (Jury enters the courtroom at 1:51 p.m.)

8 THE COURT: Okay. Welcome back, folks.
9 Thank you for your patience with us. I think we have
10 everything ready to go now. So, I understand Mr. Fluder
11 you have been elected as foreperson of the jury.
12 So congratulations. You don't get any extra pay.
13 You just handle the verdict at the end, and you conduct
14 the deliberations.

15 If the jury needs to communicate anything
16 with me, we just prefer that they do it through you,
17 and write the question down, give it to the bailiff,
18 and they give it to me, okay. We will resume now with
19 the State calling their next witness.

20 MR. WARING: Thank you, Judge. State calls
21 Tiffany Adams.

22 TIFFANY ADAMS, was called as a witness,
23 being duly sworn, was examined and testified as follows:

24 THE CLERK: For the record, please state
25 your full name, spell your last.

TIFFANY ADAMS - DIRECT BY MR. WARING

1 THE WITNESS: Tiffany Renee Adams,
2 A-D-A-M-S.

3 DIRECT EXAMINATION

4 BY MR. WARING:

5 Q. Good afternoon, Tiffany.

6 A. Hey.

7 Q. Can you please tell the jury where you work?

8 A. Currently, I work for We Are Sharing Hope.
9 It's a procurement organization.

10 Q. All right. Now previously where did you work?

11 A. Previously, I was a crime scene investigator
12 with North Charleston Police Department.

13 Q. All right. And were you a crime scene
14 investigator around the time of December of 2016?

15 A. I was.

16 Q. Can you tell the jury a little bit about what
17 some of the duties and responsibilities of a crime scene
18 investigator are?

19 A. The duties of a crime scene investigator,
20 anything that's deemed a crime you get called out
21 to process the scene by taking fingerprints, if there
22 are any on scene, collect evidence, and anything that
23 the detectives need for a crime scene to process,
24 collect or help secure a scene.

25 Q. All right.

TIFFANY ADAMS - DIRECT BY MR. WARING

1 A. And also taking documentation through photography
2 and written documentation.

3 Q. Okay. So now on December 19, 2016, were you
4 asked to assist in that regard?

5 A. Yes, I was called out via call out.

6 Q. Okay. Where did you respond to?

7 A. I responded to Lowell Drive, Trident ER,
8 and then back to Lowell Drive.

9 Q. Now when you got on scene on Lowell Drive,
10 was the victim still there?

11 A. No, he was not. He was already transported
12 to the Trident Medical Center.

13 Q. Can you give the jury an idea of what you saw
14 when you got on scene to the incident location?

15 A. When I got on scene -- usually when we're
16 on scene, we're first responders, but the officers
17 get there first. So if there's anything pertaining
18 to the scene, they would mark it with business cards.
19 So we come out, and we see the markings of the evidence,
20 the area where the victim was found, whatever was left
21 and other evidence that was marked on the scene.

22 Q. All right. So after looking around, did you
23 do anything in particular?

24 A. Yes. After speaking with the officer that
25 responded to the scene, we do a walkthrough, and then

TIFFANY ADAMS - DIRECT BY MR. WARING

1 I go and collect my gloves and camera. And I go ahead
2 and take pictures of the scene from various angles;
3 far, medium, and close up.

4 Q. For this particular case, did you see anything
5 of note worth photographing or collecting?

6 A. Can you repeat the question?

7 Q. Did you see any evidence at the scene?

8 A. Oh, yes, the cards that were marked by the police
9 officer. So once we get on scene, we take the
10 photographs of the scene as is, and then we remove the
11 marks, the markings by the police officer and placed
12 them with a yellow placard with numbers on it.

13 Q. Do you recall what any of these particular items
14 would have been?

15 A. There was a Wells Fargo credit ATM card,
16 shell casings, various business cards from the wallet,
17 wallet, keys.

18 Q. And did you collect those items?

19 A. Yes. Marked, photographed and collected them
20 and placed in a brown paper bag.

21 Q. Do you remember if the wallet contained any
22 identifying information as to whose wallet it was?

23 A. Yes. Close to the wallet, an ID, victim's name
24 on the Wells Fargo card, driver's license, and other
25 cards in the wallet that had his name on it.

TIFFANY ADAMS - DIRECT BY MR. WARING

1 Q. All right. What about shell casings.
2 Were anything like that found?

3 A. Yeah, there were shell casings found on the
4 scene. At one point, I was called to go down to Trident
5 to photograph the victim and then got called back to the
6 scene because more shell casings were found.

7 Q. All right. Do you remember how many shell
8 casings total?

9 A. I would have to refer to my report, if that's
10 okay.

11 MR. WARING: Beg the Court's indulgence,
12 Your Honor.

13 (Pause.)

14 BY MR. WARING:

15 A. If I'm counting right, I had four.

16 Q. Would it help refresh your memory if I showed
17 you a copy of your report?

18 A. Yes.

19 Q. Okay.

20 (Pause.)

21 BY MR. WARING:

22 A. Five.

23 Q. What about spent shell casings? Do you remember
24 how many those were? Would three sound about right?

25 A. For the spent, yeah. Sorry.

TIFFANY ADAMS - DIRECT BY MR. WARING

1 Q. Okay. Now what did you do with all these items?

2 A. After collecting the items and securing them
3 in our departmental vehicle trunk, after responding
4 to Trident Medical Center and back to Lowell and then
5 back to headquarters, we packaged and logged the
6 evidence into the evidence locker.

7 So we mark them with a case number, the number
8 that was identified on scene with the yellow-colored
9 markers, and then we seal them and place them in the
10 evidence locker.

11 Q. All right. Regarding those evidence lockers,
12 can just anybody go in there and take it out and tamper
13 with the evidence?

14 A. No. Once we -- once you place it in the evidence
15 locker, then the evidence tech goes and come and collect
16 it and put it in a bin with that case number on it.

17 Q. All right. Now what about forensic evidence?
18 Was there anything that you collected on the Defendant's
19 [sic.] wallet?

20 A. So after when we get back to headquarters,
21 we go through all the evidence. So we are looking
22 for anything that may possibly have a blood stain on
23 it, and on the wallet there were stains on the wallet.

24 Q. Okay. And for the jury's benefit, can you tell
25 them about that test that you all do to determine

—TIFFANY ADAMS - DIRECT BY MR. WARING—

1 whether or not there's blood on there?

2 A. So there's a test where to make sure before
3 actually saying that it is a blood stain, we take
4 a sample of the stain with a sterile cotton tip
5 applicator, moisten with distilled water, and we take
6 a sample of the stain, and they're three ranges that
7 we use.

8 And we just drop a small drop onto it.

9 And if that sample turns pink, then it's presumptive
10 to be blood. And it does not just stop there.
11 We package it, and we send it to SLED for confirmation
12 that it is blood.

13 Q. All right. To your recollection in this case,
14 were there swabs that turned out to be pink that were
15 presumptive for blood?

16 A. On the first testing that I did, yes, it turned
17 pink on the presumptive testing.

18 Q. All right. Now once you got those swabs --
19 I think you mentioned SLED -- is that where you ended
20 up sending them?

21 A. Yes, yes, for confirmation.

22 Q. All right. I'm now going to put on the overhead,
23 and it's already been admitted as State's Exhibits 23
24 through 43, and I just want to ask you a couple of
25 questions about what you see. This is State's Exhibit

TIFFANY ADAMS - DIRECT BY MR. WARING

1 23. Can you tell the jury what we're looking at here?

2 A. Okay. We are looking at the crime scene where
3 the incident took place, so this is just the --
4 I'm starting my photography documentation.

5 Q. All right. State's Exhibit 25.

6 A. The address, 4625 Lowell.

7 Q. State's Exhibit 26. What are we looking at here?

8 A. This is the area where the victim was located.

9 Q. All right. Would that have been -- I'm going
10 back to State's Exhibit 25. Would that have been
11 in front of this location?

12 A. That's correct.

13 Q. Here's another shot, State's Exhibit 27.

14 Is that also from the same location?

15 A. Yes.

16 Q. All right. Here's State's Exhibit 29. Can you
17 tell the jury what we're looking at here, please?

18 A. As I stated earlier, the crime scene marking
19 with the yellow taping and then the white business
20 cards that are marking evidence.

21 Q. All right. When you say evidence, are these
22 items that were associated with the victim?

23 A. Yes.

24 Q. How about on Exhibit 30, what can you tell
25 us about that photo?

TIFFANY ADAMS - DIRECT BY MR. WARING

1 A. Here right before the yellow crime scene tape,
2 that is the bank card and the wallet.

3 Q. All right. State's Exhibit 31. Is that
4 a close-up of the same wallet?

5 A. Closer view of the wallet, yes.

6 Q. All right. State's Exhibit 32. Can you tell
7 us what we're looking at there?

8 A. This is an identifier in the wallet,
9 Social Security card of the victim.

10 Q. All right. State's Exhibit 33?

11 A. They marked a pair of car keys.

12 Q. And are those the victim's car keys, to your
13 knowledge?

14 A. Yes, to my knowledge, yes.

15 Q. State's Exhibit 34. What do you see there?

16 A. The different angle of the bank card.

17 Q. Okay. State's Exhibit 35. Can you tell us what
18 that is?

19 A. It's the bank card, now marked with a placard,
20 a yellow-colored placard with the victim's name on it.

21 Q. Now, I'm showing you State's Exhibit 36.
22 Can you tell us what these placards are for?

23 A. So these placards are markings of the spent
24 shell casing.

25 Q. Okay. State's Exhibit 37?

TIFFANY ADAMS - DIRECT BY MR. WARING

1 A. It's just a closer view of the yellow-colored
2 marker one with the spent shell casing.

3 Q. All right. State's Exhibit 38?

4 A. The same here, the yellow-colored placard number
5 two with the spent shell casing.

6 Q. State's Exhibit 39. Do you recall what that is?

7 A. I think -- I believe those are more contents
8 from the wallet, the various business cards.

9 Q. All right. Now is that in a different location
10 than the roadway? In other words, were these items
11 spread out?

12 A. Yeah, a lot of the evidence that were marked
13 were spread out. Some were in the road and some were
14 near the walkway, near the -- not too far from where
15 the victim was located.

16 Q. Okay. I'm going to show you a couple of other
17 photos, State's Exhibit 41. I think you said you had
18 to go back to the crime scene at some point. Is that
19 what we're looking at here?

20 A. After I went to Trident, I was dispatched back
21 to the scene because there were other findings of some
22 items, and here is an item that's marked with a business
23 card.

24 Q. Okay. And now State's Exhibit 43, is that
25 the item that was indicated by that business card?

TIFFANY ADAMS - DIRECT BY MR. WARING

1 A. Yes. So the business card was removed and placed
2 with a yellow-colored marker, number 15, for the spent
3 shell casing.

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

6 THE COURT: Yes.

7 BY MR. WARING:

8 Q. I would like to show you what has been marked for
9 identification purposes as State's Exhibits 44 and 45.
10 Do you recognize those?

11 A. Yes.

12 Q. And can you tell the jury what they are?

13 A. Okay. Here I have what was -- this is how the
14 items are packaged in a white envelope. This is the
15 swab from the inside of the wallet, labelled as a blood
16 stain and the same for the second envelope.

17 Q. And can you tell us what the second envelope
18 is for?

19 A. And that's the swab of the back of the middle
20 part of the wallet blood stain.

21 Q. And when we're talking about the wallet, are you
22 referring to the victim's wallet?

23 A. Yes.

24 Q. Now do those exhibits fairly and accurately
25 depict, Exhibit 44, the swab of back of the middle

TIFFANY ADAMS - DIRECT BY MR. WARING

1 part of the wallet, blood?

2 A. Yes.

3 Q. And does Exhibit 45 fairly and accurately
4 depict the swab of inside of wallet blood swab?

5 A. Yes.

6 Q. Now do you recall off the top of your head
7 who else handled these pieces of evidence at North
8 Charleston?

9 A. So we have what's called the chain of custody.
10 Once it's labelled with white envelopes, sealed with
11 evidence tape and initialed and dated on the back,
12 submitted into the evidence locker for the evidence
13 tech to remove it from the locker, and then they will
14 sign the chain of custody.

15 Q. Do you recall off the top of your head who
16 these individuals would have been?

17 A. I would have to look at the chain of custody.

18 Q. Would it help refresh your memory if I showed
19 you a copy of the chain report?

20 A. Yes. So in the first box released by myself,
21 Tiffany Adams, the organization, North Charleston Police
22 Department, I signed the number of items and the date,
23 and then it was received by Shante [ph.] Middleton
24 and then Sergeant Leonard [ph.].

25 Q. And would Sergeant Leonard have been the last

TIFFANY ADAMS - DIRECT BY MR. WARING

1 individual at North Charleston to handle that evidence
2 prior to it going to SLED?

3 A. From North Charleston to SLED, yes. He was
4 transporting it. And then this chain of custody
5 is taken with the evidence for the SLED tech to sign
6 it by receiving it.

7 Q. To your knowledge, did any of those individuals
8 tamper with or otherwise mess with this evidence?

9 A. Not to my knowledge.

10 Q. I would like to show you what has been marked
11 for identification purposes only State's Exhibits 46
12 through 48. Can you tell us what those are?

13 A. Spent shell casings that were marked with the
14 yellow-colored placards, number one, number two and
15 marked number five spent shell casings. All three of
16 them were a .380 auto with a head stamp, .380 auto PPU.

17 Q. Now is that the caliber, .380?

18 A. Yes.

19 Q. And do those fairly and accurately depict
20 the three spent shell casings that you collected
21 from the crime scene?

22 A. Yes.

23 Q. Are they substantially in the same condition
24 as when you last saw them?

25 A. Except for we would place it inside the envelope,

TIFFANY ADAMS - CROSS BY MR. SMITH

1 but if it went to -- for testing, then that's why it
2 is packaged like that.

3 Q. But you're otherwise able to recognize those
4 are the same ones that you collected and labelled,
5 et cetera?

6 A. Yes.

7 MR. WARING: Your Honor, at this point,
8 the State would move for Exhibits 46 through 48 to
9 be admitted into evidence.

10 MR. SMITH: No objection, Your Honor.

11 THE COURT: Admitted.

12 (State's Exhibits 46 through 48 were admitted into
13 evidence.)

14 BY MR. WARING:

15 Q. Now for each one, do you mind holding it up
16 for the jury just so they can see.

17 A. (Indicating.)

18 MR. WARING: Beg the Court's indulgence.
19 Please answer any questions the defense has.

20 THE WITNESS: Okay.

21 THE COURT: Cross?

22 CROSS-EXAMINATION

23 BY MR. SMITH:

24 Q. Ms. Adams, you all collected as part of this
25 a wallet; is that correct?

TIFFANY ADAMS - CROSS BY MR. SMITH

1 A. Yes.

2 Q. And you also collected a Wells Fargo debit card?

3 A. Yes.

4 Q. And some various other cards?

5 A. Yes.

6 Q. Any idea what those cards were exactly?

7 A. One that stuck out I think was a recruiter's card
8 for the military. Like I said, they were miscellaneous.

9 Q. Do you remember a Bi-Lo card as well?

10 A. It was a miscellaneous card.

11 Q. Now as far as crime scene goes, you collect
12 those items, correct?

13 A. Yes, collect and process if there's anything
14 to be processed.

15 Q. And you process those items for fingerprints,
16 for example?

17 A. Fingerprints and possible stains, like blood
18 stains.

19 Q. And do you do that process on scene, or is that
20 done at a later time?

21 A. For items like that, we take it back to
22 headquarters because we have more materials at the
23 office.

24 Q. Okay. And did you perform anything further
25 on any of these items that you remember?

—TIFFANY ADAMS - REDIRECT BY MR. WARING—

1 A. The wallet, the presumptive blood stain testing.

2 Q. Did you do fingerprint on the wallet that you're
3 aware of?

4 A. Because of the material -- not all materials are
5 able to be processed with the black fingerprint powder.
6 So if there's a stain, the black fingerprint powder
7 would interrupt the testing of the person with the blood
8 stain.

9 Q. And do you remember if you did in processing
10 the debit card?

11 A. Yeah, anything that's able because of the
12 material to process, it was processed. But if there's
13 no fingerprint, then there's nothing to collect.

14 MR. SMITH: That's all I have, Your Honor.
15 Thank you.

16 THE COURT: Redirect?

17 MR. WARING: Thank you, Your Honor.

18 REDIRECT EXAMINATION

19 BY MR. WARING:

20 Q. I just have one question, Tiffany. Does the
21 absence of fingerprints necessarily mean that a certain
22 individual could not have possibly touched that item?

23 A. Not at all.

24 MR. WARING: No further questions,
25 Your Honor.

TYNETRA HAMILTON - DIRECT BY MR. WARING

1 THE COURT: Recross?

2 MR. SMITH: Nothing else, Your Honor.

3 THE COURT: You're free to go. Thank you.

4 Next witness.

5 MR. WARING: Thank you, Your Honor.

6 The State calls Tynetra Hamilton.

7 TYNETRA HAMILTON, was called as a witness,
8 being duly sworn, was examined and testified as follows:

9 THE CLERK: For the record, please state
10 your full name, spell your last.

11 THE WITNESS: Tynetra Hamilton,
12 T-Y-N-E-T-R-A H-A-M-I-L-T-O-N.

13 DIRECT EXAMINATION

14 BY MR. WARING:

15 Q. Tynetra, did you know the victim,
16 Garrett Mitchell?

17 A. Yes, sir.

18 Q. All right. Please tell the jury how you knew
19 him.

20 A. I knew him from Facebook. He was a friend.

21 Q. Now did you refer to him as Garrett or Gabe
22 or both?

23 A. Gabe.

24 Q. All right. At the time of the incident,
25 which was on December 19, 2016, about how long had

1 you known the victim?

2 A. For three months.

3 Q. Three months?

4 A. Yes, sir.

5 Q. Now you mentioned Facebook. Is that how you
6 met him?

7 A. Yes, sir.

8 Q. Prior to the day of the actual shooting, had you
9 hung out with him in person?

10 A. Yes, sir.

11 Q. Would you say that you all were friends?

12 A. Yes, sir.

13 Q. Okay. Now were you and the victim hanging out
14 earlier in the night, the same night he got killed?

15 A. Yes, sir.

16 Q. And just so that the jury understands, how old
17 were you around this time?

18 A. Fifteen.

19 Q. That night -- earlier that night, where did
20 you all hang out?

21 A. My house.

22 Q. Can you tell the jury where your house is,
23 or where it was at that time?

24 A. Corley [ph.] Drive.

25 Q. Was that in North Charleston?

TYNETRA HAMILTON - DIRECT BY MR. WARING

1 A. Yes, sir.

2 Q. What did you all do when you were at your house?

3 A. Nothing, we were just talking.

4 Q. Now, at some point, did you and the victim end
5 up meeting up with some other guys near the incident
6 location on Lowell Drive?

7 A. Yes, sir.

8 Q. About what time was that, do you remember?

9 A. Around about ten something. I'm not too sure.
10 It was, like, 10:30.

11 Q. Okay. Would it have been late at night on
12 December 18th leading into the next day, December 19th?

13 A. Yes, sir.

14 Q. Now who was over at the incident location
15 at that apartment when you and the victim got there?

16 A. Lil' Man and Rondo.

17 Q. All right, so Lil' Man and Rondo. Who is
18 Lil' Man?

19 A. I just know his name as Lil' Man.

20 Q. But what is he -- what's his relationship
21 to Rondo?

22 A. I'm guessing a friend.

23 Q. Now, I want to talk about Rondo for a minute.
24 Did you know him?

25 A. Not very well.

1 Q. So, I'll ask again. Did you know him?

2 A. Yes, sir.

3 Q. But you didn't know him that well, but you knew
4 him enough to know him; is that right?

5 A. Yes, sir.

6 Q. Earlier that night, that same night, had you
7 and Rondo spoken?

8 A. Yes, sir.

9 Q. Can you tell the jury what you all talked about?

10 A. We talked about putting something together
11 to rob someone.

12 Q. Putting something together to rob someone.
13 Now can you tell us a little bit more about what
14 that means?

15 A. To call someone up to see that they would come
16 to rob them.

17 Q. Okay. Now who was that somebody, that
18 unfortunate victim going to be?

19 A. Gabe.

20 Q. And is Gabe the victim, Garret Mitchell,
21 that we are talking about?

22 A. Yes, sir.

23 Q. Whose idea was all this?

24 A. Rondo.

25 Q. Rondo's idea. Had he come up with some idea

1 or some avenue for how you're going to accomplish this?
2 I mean, the victim wasn't going to go there willingly,
3 right?

4 A. Yes, sir.

5 Q. So how did you convince him to go there?

6 A. They told him it was a weed deal.

7 Q. So can you explain that to the jury how that
8 was going to go down? It was supposed to look like
9 a weed deal, but you all were really going to rob him?

10 A. Yes, sir.

11 Q. Now just so we're clear, was this going to be
12 a robbery from the get-go?

13 A. Yes, sir.

14 Q. And you're the one that helped set up the victim,
15 right?

16 A. Yes, sir.

17 Q. Once you all got to the scene where Lil' Man
18 and Rondo were, what happened at that time?

19 A. He got out of the car and handed him the money,
20 and they started -- and then he went in his pockets,
21 and then he asked him what he was doing, and then
22 he started tussling and fighting.

23 Q. I want to slow you down a second. You said,
24 he handed him the money. Who handed who the money?

25 A. Gabe.

1 Q. All right. Did Rondo take the money from Gabe,
2 from the victim?

3 A. Yes, sir.

4 Q. And you were talking about he went in his
5 pockets. Who's he? Who went in whose pockets?

6 A. Rondo went in Gabe's pockets.

7 Q. Now what was he trying to get from his pockets?

8 A. His wallet.

9 Q. So Rondo was trying to get the victim's wallet.
10 Was he trying to get anything else?

11 A. That's it, his wallet.

12 Q. All right. He wasn't trying to get his phone?

13 A. Yes, sir. His phone and his wallet.

14 Q. All right. So he was trying to get his phone
15 and his wallet?

16 A. Yes, sir.

17 Q. During this time is Gabe -- is the victim just
18 taking this? Is he lying down, or is he fighting back?

19 A. He's fighting back.

20 Q. Did the Defendant -- did Rondo try to do anything
21 else with the victim as far as cash or money?

22 A. He was just fighting him. They were just
23 fighting.

24 Q. Did Rondo try to do anything else with him
25 such as escort him to go get more cash?

1 A. Yes, sir.

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

3 A. He wanted him to go to the bank.

4 Q. All right. Was he trying to accomplish this
5 in a peaceful manner, or was he trying to force him
6 to go to the bank to get more money for him?

7 A. Force.

8 Q. During all of this was the victim having
9 to defend himself from just Rondo or from both
10 Lil' Man and Rondo?

11 A. Both.

12 Q. At some point, did the victim at any point
13 have -- did he have enough of the situation?

14 A. Yes, sir.

15 Q. All right. What did he do at that point?

16 A. He pulled his gun out, and he pointed it at them,
17 but it did not work because it was on safety.

18 Q. All right. Do you remember what the gun looked
19 like?

20 A. It was silver.

21 Q. After that, what did Rondo do?

22 A. He got it.

23 Q. How did he get it?

24 A. He fought him for it.

25 Q. Okay. After Rondo got the gun away from Gabe,

1 what happened?

2 A. He pointed it at him, and Gabe put his hands
3 up and said don't do it. I won't do anything.

4 Q. Did Rondo assault him in any way with the gun?

5 A. Yes, sir.

6 Q. How so?

7 A. He shot him.

8 Q. Prior to shooting him, did he do anything
9 with the gun to assault Gabe?

10 A. He hit him with it.

11 Q. So Rondo hit Gabe with the gun?

12 A. Yes, sir.

13 Q. During all this time, were the victim's arms up,
14 or were they down by his side?

15 A. They were up.

16 Q. Now you mentioned earlier, did Rondo end up
17 shooting the victim?

18 A. Yes, sir.

19 Q. And you're certain it was Rondo and not somebody
20 else, right?

21 A. Yes, sir.

22 Q. How many gunshots do you remember?

23 A. Three.

24 Q. Right after Rondo shot the victim, can you tell
25 me what they did?

TYNETRA HAMILTON - DIRECT BY MR. WARING

1 A. He ran.

2 Q. All right. Now did either one of them, to your
3 knowledge, call 911?

4 A. No, sir.

5 Q. Now on the flip side, did you call 911?

6 A. No, sir.

7 Q. What did you do?

8 A. Ran.

9 Q. You ran too. So did you all just leave the
10 victim out there?

11 A. Yes, sir.

12 Q. And, again, was this a friend of yours?

13 A. Yes, sir.

14 Q. At some time after the incident, were you
15 questioned by the North Charleston Police Department?

16 A. Yes, sir.

17 Q. During that process, were you upfront with them
18 about what happened?

19 A. No, sir, and that's because I was scared.

20 Q.. Now at some point during the life of this case,
21 were you shown a photographic lineup by North Charleston
22 Police Department detectives?

23 A. Yes, sir.

24 Q. Did they suggest to you, in any way, who you
25 should pick out?

TYNETRA HAMILTON - DIRECT BY MR. WARING

1 A. No, sir.

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

4 THE COURT: Yes.

5 BY MR. WARING:

6 Q. I'm showing you what has been marked for
7 identification purposes as State's Exhibits 16 through
8 22. Would you mind taking a look at that, please.
9 Do you recognize that?

10 A. Yes, sir.

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

12 A. A North Charleston Police Department report
13 for photographic lineup.

14 Q. And is that the photographic lineup and
15 advisement form that you were shown by the detectives
16 from North Charleston Police Department?

17 A. Yes, sir.

18 Q. Did you, in fact, pick out one of those photos
19 as the shooter?

20 A. Yes, sir.

21 Q. And who do you know that person as?

22 A. Rondo.

23 MR. WARING: Your Honor, at this point,
24 State moves that Exhibits 16 through 22 be admitted
25 into evidence.

TYNETRA HAMILTON - DIRECT BY MR. WARING

1 MR. SMITH: Without objection, Your Honor.

2 THE COURT: It's admitted.

3 (State's Exhibits 16 through 22 were admitted into
4 evidence.)

5 BY MR. WARING:

6 Q. Tynetra, I'm now going to put on a couple
7 of these exhibits, starting with Exhibit 16. Is this
8 the photo identification form you were talking about?

9 A. Yes, sir.

10 Q. All right. And are these your initials over
11 here acknowledging what you've been read?

12 A. Yes, sir.

13 Q. And is this what you told the detective,
14 number two, the name is Rondo, killed the victim.
15 He got the gun from the victim and shot him?

16 A. Yes, sir.

17 Q. And is that your signature down at the bottom?

18 A. Yes, sir.

19 Q. All right. Now, I'm going to put up picture
20 number two, which is Exhibit 18. Is this the photo
21 that you recall selecting as the shooter, as the person
22 who set the robbery up?

23 A. Yes, sir.

24 Q. And, again, for the jury's benefit, who do you
25 know that person as?

1 A. Rondo.

2 Q. Do you see that person in the courtroom today?

3 A. Yes, sir.

4 Q. Can you point him out for the jury?

5 A. (Indicating.)

6 Q. Are you motioning towards who over here?

7 A. The left.

8 Q. Okay. Can you help me out here to who you're
9 pointing to?

10 THE COURT: Describe him.

11 BY MR. WARING:

12 A. In the middle.

13 Q. So the person in the middle of the table?

14 A. Yes, sir.

15 MR. WARING: Your Honor, please let the
16 record reflect the witness has identified the Defendant.

17 THE COURT: So ordered.

18 BY MR. WARING:

19 Q. Now, Tynetra, we've got to get something straight
20 here. Prior to today, have you lied here and there
21 about your involvement in this case?

22 A. No, sir.

23 Q. You have not lied at all?

24 A. No, sir.

25 Q. Are you sure about that?

—TYPNETRA HAMILTON - DIRECT BY MR. WARING—

1 A. Yes, sir.

2 Q. Didn't you say earlier that you weren't exactly
3 upfront with North Charleston Police Department shortly
4 after the incident?

5 A. That was a question, so I answered it. I did
6 tell the truth.

7 Q. What I'm getting at is have you told the truth
8 from day one?

9 A. No, sir.

10 Q. Okay. So, in other words, you've lied, correct?

11 A. Yes, sir.

12 Q. Now, at first, when you came to speak with us you
13 only mentioned that you had been present at the scene,
14 that a robbery had taken place prior to the shooting.
15 You never mentioned your own involvement initially,
16 correct?

17 A. Yes, sir.

18 Q. Do you remember signing a proffer agreement?

19 A. Yes, sir.

20 Q. All right. And after signing that, did you again
21 initially leave out your involvement initially before
22 telling us later on that the Defendant came to you
23 to get you to set this thing up as a robbery?

24 A. Yes, sir.

25 Q. Ultimately, did you tell us the full story?

1 A. Yes, sir.

2 Q. Prior to talking with us, have you or had you
3 ever been charged with any crimes related to this
4 incident?

5 A. No, sir.

6 Q. All right. And prior to you -- when you came
7 in and spoke with us, with our office, it had been about
8 a year and a half, right?

9 A. Yes, sir.

10 Q. And you had never been charged during that time,
11 had you?

12 A. No, sir.

13 Q. Now by coming in and speaking with us and
14 essentially telling on yourself, have you exposed
15 yourself to possible future criminal prosecution?

16 A. Can you say that again, please?

17 Q. By coming in when there were no charges
18 on you and telling on yourself, talking about your
19 own involvement in that robbery shooting situation,
20 have you possibly exposed yourself to charges?

21 A. No, sir.

22 Q. You don't think you have?

23 A. I don't know.

24 MR. WARING: Please answer any questions
25 the defense has.

1 THE COURT: Cross?

2 CROSS-EXAMINATION

3 BY MR. SMITH:

4 Q. So the basis of your testimony today is you
5 were part of setting up the robbery of Mr. Mitchell;
6 is that correct?

7 A. Yes, sir.

8 Q. And you were the one who knew Mr. Mitchell;
9 is that correct?

10 A. Yes, sir.

11 Q. And Mr. Heyward did not know Mr. Mitchell?

12 A. No, sir.

13 Q. So when you were coming up with someone to rob,
14 it was you that came up with the person; is that
15 correct?

16 A. Yes, sir.

17 Q. Now how many times have you met Mr. Heyward?

18 A. Once.

19 Q. And had you talked to him on Facebook?

20 A. Yes, sir.

21 Q. And how many times have you talked to him
22 on Facebook?

23 A. Once.

24 Q. And both of those times that you spoke with
25 him were the day this happened; is that correct?

1 A. Yes, sir.

2 Q. So you set this up with somebody that you
3 really didn't know?

4 A. Yes, sir.

5 Q. And you decided that you would do this with
6 somebody that you had met a few times on the internet
7 or one time on the internet?

8 A. Yes, sir.

9 Q. Okay. And you decided that you would set
10 up a friend who had taken you out to things?

11 A. Yes, sir.

12 Q. You all been out to dinner before?

13 A. No, sir.

14 Q. You all been out to the water parks before?

15 A. Yes, sir.

16 Q. He had even taken you out to get candy; is that
17 correct?

18 A. Yes, sir.

19 Q. And so you decided that you would set him
20 up with somebody that you really didn't know?

21 A. Well, it was actually -- yes, sir.

22 Q. An so Mr. Heyward didn't know Mr. Mitchell;
23 is that correct?

24 A. Yes, sir.

25 Q. So it was you that was the point of contact

—TYNETRA HAMILTON - CROSS BY MR. SMITH—

1 for Mr. Mitchell?

2 A. Yes, sir.

3 Q. Now the solicitor asked you this just a few
4 minutes ago, but you ultimately -- you haven't been
5 charged with anything; is that correct?

6 A. Yes, sir.

7 Q. You hope to keep it that way; is that right?

8 A. Yes, sir.

9 Q. You aren't charged with armed robbery, right?

10 A. No, sir.

11 Q. You know you could have been as a result of this,
12 right?

13 A. Yes, sir.

14 Q. Did they ever tell you how much time that
15 carries?

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

18 (Off-the-record conversation held at sidebar.)

19 (Back on the record.)

20 THE COURT: Folks, let me send you out
21 for a few minutes while we discuss a matter of law.
22 Don't begin your deliberations about this case.

23 (Jury exits the courtroom at 2:35 p.m.)

24 THE COURT: Okay. Well, I don't think
25 the court reporter got any of the sidebar on the record,

1 so why don't you just go ahead and state your objection
2 in full.

3 MR. WARING: Your Honor, my objection was
4 that -- to any mention of sentence exposure that the
5 defense is inquiring about pertaining to Ms. Hamilton.
6 The inference is that it appears that they're trying --
7 that she's got a reason to lie today on the Defendant.

8 But the reality is that she signed a proffer
9 agreement, and if anything, she's got -- the only reason
10 to tell the truth is so that she doesn't face exposure,
11 and so she's got a reason to tell the truth, not to lie.

12 So, I think it's a little bit backwards as
13 far as delving into sentence exposure, especially when
14 the Defendant is possibly charged with the same thing,
15 that he may delve into future possible charges on her.

16 THE COURT: So she signed a proffer
17 agreement, and in return for that, she got what?

18 MR. WARING: She's got nothing yet,
19 Your Honor, assuming she tells the truth and cooperates.

20 THE COURT: So is she -- if she promises
21 she's telling the truth, then she won't be prosecuted?

22 MR. WARING: She hasn't promised anything
23 at this point. There have been no promises. But if
24 she comes up here and lies like she was doing earlier,
25 then she's facing charges.

1 THE COURT: Okay. And if she tells the
2 truth, then she won't be prosecuted, is that what
3 you're -- if she tells you what you want to hear,
4 the implication is she will be prosecuted -- she will
5 not be prosecuted.

6 MR. WARING: Right. That is right.

7 THE COURT: Okay. That would certainly
8 go to his argument to impeach her testimony as, like,
9 well, if you tell the State what they want to hear,
10 you won't be facing a murder charge where you can get
11 30 to life. And if you don't tell them what they want
12 to hear, you can get prosecuted for perjury, but if you
13 tell them what they want to hear, you can skip on
14 a murder charge.

15 MR. WARING: Well, Judge, I think ---

16 THE COURT: I think that certainly goes
17 towards bias.

18 MR. WARING: I think the prejudicial
19 aspect is that the Defendant here is on trial for
20 murder, and if the jury hears that carries 30 years
21 to life, even if it is through this avenue, I think
22 that's highly prejudicial to the State in that they're
23 going to know what he's facing.

24 THE COURT: Well, I think it's the one way
25 they can get it in.

TYNETRA HAMILTON - CROSS BY MR. SMITH

1 MR. SMITH: Judge, I think it's fair game.
2 I mean, it is -- from what I can tell it's certainly
3 going to bias on her part. She either tells them what
4 they want to hear or, you know, she ends up being
5 prosecuted.

6 THE COURT: It can happen. All right.
7 I will allow him to follow that. Do you have your
8 next witness ready after her?

9 MR. WARING: Yes, Your Honor, we do.

10 THE COURT: All right. So we'll finish with
11 her -- we'll take a short bathroom break, and then we'll
12 finish with her, and that way we'll go right into that
13 without taking a break.

14 MR. WARING: Thank you, Judge.

15 THE COURT: Okay. So get your next witness
16 ready and be back in ten minutes.

17 (Recess taken.)

18 (Back on the record.)

19 THE COURT: All right. The Defendant
20 is in the courtroom. Are you ready to proceed?

21 MR. WARING: Yes, Your Honor.

22 MR. SMITH: Yes, Your Honor.

23 THE COURT: Bring the jury back in.

24 (Jury enters the courtroom at 3:02 p.m.)

25 THE COURT: All right. You may resume.

TYNETRA HAMILTON - CROSS BY MR. SMITH

1 MR. SMITH: Thank you, Your Honor.

2 CROSS-EXAMINATION

3 BY MR. SMITH:

4 Q. Ms. Hamilton, when we were last talking, I had
5 asked you about the fact that you could have been
6 charged with armed robbery, do you understand that?

7 A. Yes, sir.

8 Q. And that you could have faced up to 10 to 30
9 years in jail?

10 A. Yes, sir.

11 Q. And you also could have been charged,
12 potentially, with the murder of Mr. Mitchell, right?

13 A. Yes, sir.

14 Q. And you could have faced 30 years to life
15 for that; is that correct?

16 A. Yes, sir.

17 Q. But you haven't been charged with anything today,
18 right?

19 A. Yes, sir.

20 Q. And you are hoping that things remain that way
21 from today forward, correct?

22 A. Yes, sir.

23 Q. You want to please the solicitor with your
24 answers today, right?

25 A. Yes, sir.

1 Q. And you know that they're the ones that have
2 the ability to charge you or not?

3 A. Yes, sir.

4 Q. So you met with the solicitor multiple times,
5 right?

6 A. Yes, sir.

7 Q. And you told him everything that -- your version
8 of events; is that correct?

9 A. Yes, sir.

10 Q. Okay. And even after that, you were never
11 charged with anything?

12 A. Yes, sir.

13 Q. Now, I want to go back in time a little bit
14 because you did meet with the police back in January
15 of 2017. Do you remember that?

16 A. No, sir.

17 Q. You don't remember that?

18 A. No.

19 Q. Do you remember sitting down with the detective
20 and filling out a form saying that you would agree
21 to talk to them?

22 A. Yes, sir.

23 Q. Okay. And you -- and they read your rights
24 to you during that. Do you remember that?

25 A. Yes, sir.

1 Q. Okay. And they told you that you have a right
2 to remain silent at that point; is that correct?

3 A. Yes, sir, but they still pressured me to talk.

4 Q. And after you spoke, you didn't tell them
5 anything at that meeting; is that correct?

6 A. Yes, sir.

7 Q. You talked to two detectives at that time;
8 is that right?

9 A. Yes, sir.

10 Q. And to their questions at that time,
11 you responded I don't know; is that right?

12 A. Yes, sir.

13 Q. Or you just didn't answer the question?

14 A. I just think I didn't answer their questions.

15 Q. You just think you did not answer the questions?

16 A. Yes, sir.

17 Q. Now at some point they brought in another
18 detective, Detective Butler. Do you remember her?

19 A. I'm not too sure.

20 Q. Okay. Do you remember a second person coming
21 in and talking to you?

22 A. Yes, sir.

23 Q. Okay. Did you answer questions for them?

24 A. Yes, sir.

25 Q. Okay. And you told them you weren't involved

1 and that you didn't know anything about it; is that
2 correct?

3 A. Yes, sir.

4 Q. Now at any point you didn't tell police that
5 you had contacted Rondo; is that correct?

6 A. Yes, sir.

7 Q. You never told them anything about knowing
8 Lil' Man?

9 A. Yes, sir.

10 Q. You did tell them something about that?

11 A. No, sir.

12 Q. Okay. On that very first meeting, you never
13 told them anything about a robbery, correct?

14 A. No, sir.

15 Q. And you didn't tell them anything about a fight
16 for a gun?

17 A. No, sir.

18 Q. So you were basically lying to police that
19 first night you talked to them, correct?

20 A. Yes, sir.

21 Q. So let's forward -- fast forward a little bit
22 to when you did go in and you met with the solicitor,
23 okay. So that's, would you agree, around mid summer
24 of 2018?

25 A. Yes, sir.

—TINETRA HAMILTON - CROSS BY MR. SMITH—

1 Q. Okay. And you met with Mr. Waring; is that
2 correct?

3 A. Yes, sir.

4 Q. And there were some other people in the office
5 at that point?

6 A. Yes, sir.

7 Q. You had an investigator there?

8 A. Yes, sir.

9 Q. And at that meeting you did tell them you had
10 been hanging out with Mr. Mitchell; is that correct?

11 A. Yes, sir.

12 Q. And you signed an agreement with them at that
13 point, is that correct, the proffer agreement?

14 A. Yes, sir.

15 Q. And your hope in signing that was that no charges
16 would ever be brought against you; is that correct?

17 A. Yes, sir.

18 Q. Is that what you understood when you signed
19 that document?

20 A. Yes, sir.

21 Q. Did they make you initial some things on that
22 document?

23 A. Yes, sir.

24 Q. And they told you that you have to tell
25 the truth; is that correct?

1 A. Yes, sir.

2 Q. And you have to agree to cooperate with the
3 solicitor's office in addition; is that correct?

4 A. Yes, sir.

5 Q. And you would ultimately have to come into court
6 and testify; is that correct?

7 A. Yes, sir.

8 Q. Now when you were at the solicitor's office,
9 your mother was with you; is that correct?

10 A. Yes, sir.

11 Q. And -- so let's talk a little bit about what you
12 told them at the very beginning, okay, and I'm talking
13 about the solicitor. You told them that you had been
14 hanging out with Mr. Mitchell or Gabe; is that correct?

15 A. Yes, sir.

16 Q. And that he had been over to your house; is that
17 right?

18 A. Yes, sir.

19 Q. That you all went to the Family Dollar where
20 you got some candy?

21 A. Yes, sir.

22 Q. That you all eventually hung out for about
23 an hour ---

24 A. Yes, sir.

25 Q. --- is that right? And that you had known Gabe

TYNETRA HAMILTON - CROSS BY MR. SMITH

1 somewhere in the neighborhood of about two to three
2 months?

3 A. Yes, sir.

4 Q. And that you all were just good friends ---

5 A. Yes, sir.

6 Q. --- is that correct? And then you told them that
7 you all went to the next neighborhood because you wanted
8 to get some weed; is that correct?

9 A. Yes, sir.

10 Q. Okay. And you drove over there in Mr. Mitchell's
11 car; is that correct?

12 A. I did not drive his car.

13 Q. No, I'm not saying you did. But you all drove
14 together in Mr. Mitchell's car?

15 A. Yes, sir.

16 Q. And you had told them earlier -- you told the
17 solicitor at a prior meeting that you stayed in the
18 car the whole time; is that right?

19 A. No, sir.

20 Q. You never told him that?

21 A. I never stayed in the car.

22 Q. Did you tell the solicitor that at some point?

23 A. No, sir.

24 Q. Okay. Now eventually when you signed the
25 proffer, you gave a story that you got out of the car;

1 is that correct?

2 A. Yes, sir.

3 Q. Okay. And you told the solicitor at that point
4 you really didn't know Rondo too well; is that correct?

5 A. Yes, sir.

6 Q. That you knew him from Facebook, right?

7 A. Yes, sir.

8 Q. Now you testified earlier that Mr. Heyward
9 came to your house; is that correct?

10 A. Yes, sir.

11 Q. And what time did he come to your house that
12 evening?

13 A. Around, like, before ten, before Gabe came.

14 Q. So he came before ten. And how long did he stay?

15 A. I'm not too sure of the time.

16 Q. Was it a few minutes?

17 A. Yes, sir.

18 Q. Was it more than 30 minutes?

19 A. Yes, sir.

20 Q. Now when you -- you indicated to the solicitor
21 that when you went over to where Mr. Heyward was that
22 you knew Mr. Mitchell had a gun; is that correct?

23 A. No, sir.

24 Q. So you didn't have any idea that he had a gun
25 when he went over?

TYNETRA HAMILTON - CROSS BY MR. SMITH

1 A. No, sir.

2 Q. You didn't tell the solicitor that you had seen
3 the gun before?

4 A. I had seen it when everything was going on,
5 but before I did not see no gun.

6 Q. So you had not seen it in advance?

7 A. No, sir.

8 Q. Now you said that you communicated with
9 Mr. Heyward on this particular night. Did you send
10 him a text?

11 A. Yes, sir.

12 Q. And the guy that you just met; is that correct?

13 A. Yes, sir.

14 Q. And the guy that you just talked to one time?

15 A. I didn't text him. I texted the person that
16 he was with that I knew.

17 Q. And who was that person, Lil' Man?

18 A. Yes, sir.

19 Q. You said you texted Lil' Man?

20 A. Yes, sir.

21 Q. And you were looking -- trying to figure out
22 if there was weed available?

23 A. No, sir.

24 Q. So what were you texting him?

25 A. I wasn't texting Rondo.

1 Q. What were you texting Lil' Man about?

2 A. He was just coming to see me.

3 Q. Lil' ---

4 A. And Rondo was with.

5 Q. Lil' Man was coming to see you as well?

6 A. He came to see me, and he was with him.

7 Q. And so when was that, on the night that this
8 occurred?

9 A. Yes, sir.

10 Q. And so this is shortly before 10:00 p.m.?

11 A. Yes, sir.

12 Q. Now didn't you tell the solicitor at one point
13 that you didn't even think that Rondo or Lil' Man knew
14 Gabe had a gun?

15 A. Can you say that again, please?

16 Q. Didn't you tell the solicitor at one point that
17 you didn't think Rondo or Lil' Man knew Gabe even had
18 a gun?

19 A. Yes, sir.

20 Q. Now when you initially talked to the solicitor,
21 you told them nothing about the robbery; is that
22 correct?

23 A. When I first came in, yes, sir.

24 Q. And you told them that Gabe was the person
25 who had thrown the first punch; is that correct?

1 A. Yes, sir.

2 Q. And that there was a tussle about things that
3 went on after that; is that correct?

4 A. Yes, sir.

5 Q. And at some point during that tussle that's
6 when the gun comes out?

7 A. Yes, sir.

8 Q. Now at some point when you met with the
9 solicitor's office, your story kind of changed, correct?

10 A. Yes, sir.

11 Q. Okay. And during that time, the solicitor's
12 investigator kind of talked to you about some phone
13 records that might exist. Do you remember that?

14 A. Yes, sir.

15 Q. Okay. Now what you are saying today is that
16 during the first part of the meeting with them and after
17 you had signed the proffer, you lied to the solicitor
18 from the beginning; is that correct?

19 A. After I signed, I did not lie.

20 Q. You didn't ---

21 A. Before he gave me the paper and stuff, I didn't
22 speak. I didn't say anything.

23 Q. So you lied to them prior to signing the paper,
24 is that what you're indicating?

25 A. Yes, sir.

1 Q. And you lied to Mr. Waring; is that correct?

2 A. Lied to him when?

3 Q. Before you signed the proffer agreement?

4 A. Yes, sir.

5 Q. Now you -- would you agree that you're desperate
6 to save yourself from this situation?

7 A. Yes, sir.

8 Q. That you want to please the solicitor with your
9 testimony, correct?

10 A. Can you say that again?

11 Q. That you would like to please the solicitor
12 with your testimony; is that correct?

13 A. Yes, sir.

14 Q. That he's the person that controls whether
15 you're going to face more charges?

16 A. Yes, sir.

17 Q. Now at some point during your conversation
18 with them, you talked about this being all Maulique's
19 idea to set this up; is that correct?

20 A. Yes, sir.

21 Q. And Maulique set all this up not knowing
22 Mr. Mitchell; is that correct?

23 A. Yes, sir.

24 Q. And so it was his idea to rob somebody he barely
25 knew?

TYNETRA HAMILTON - CROSS BY MR. SMITH

1 A. Yes, sir.

2 Q. And you kind of managed all this together with
3 a guy that you only talked to twice?

4 A. Yes, sir.

5 Q. Now did anybody ever force you to bring
6 Mr. Mitchell over?

7 A. No, sir.

8 Q. So it was your decision to do that?

9 A. Yes, sir.

10 Q. Now let's talk for a second about the scene out
11 there, okay. The night this all happened, it was pretty
12 chaotic, correct?

13 A. Yes, sir.

14 Q. And it was -- everybody was kind of hyped up.
15 Do you agree with that?

16 A. Yes, sir.

17 Q. And it was a stressful situation?

18 A. Yes, sir.

19 Q. So after this occurred, after the shooting
20 occurred, you ran; is that correct?

21 A. Yes, sir.

22 Q. And your house was fairly close by; is that
23 correct?

24 A. Yes, sir.

25 Q. And you never called the police ---

1 A. No, sir.

2 Q. --- is that correct? You never call 911 ---

3 A. No, sir.

4 Q. --- is that correct? Now just to kind of bring
5 this to a close, you're telling us -- just so I have
6 this clear, you're telling us today that Mr. Maulique
7 Heyward, a guy that didn't know Mr. Mitchell, set all
8 this up? Is that what you are saying today?

9 A. Yes, sir.

10 Q. That it was his idea, and he didn't know
11 Mr. Mitchell; is that correct?

12 A. Yes, sir.

13 Q. And it was his idea to be able to get in contact
14 with Mr. Mitchell, who he did not know?

15 A. No, sir.

16 Q. That was you?

17 A. Yes, sir.

18 Q. That was your part in this?

19 A. Yes, sir.

20 Q. And you did that with a person, this man that
21 you say that you talked to for some 30 minutes, is that
22 what you're saying?

23 A. Yes, sir.

24 Q. Now, you haven't been charged with anything,
25 right?

TYNETRA HAMILTON - CROSS BY MR. SMITH

1 A. Yes, sir.

2 Q. And you're hoping to keep it that way?

3 A. Yes, sir.

4 Q. And your performance in court really is your
5 ticket to freedom today; is that correct?

6 A. Yes, sir.

7 MR. SMITH: Beg the Court's indulgence,
8 Your Honor.

9 (Pause.)

10 MR. SMITH: Just a couple more questions.

11 BY MR. SMITH:

12 Q. Can you tell me on this night when you were
13 with Mr. Mitchell? Do you remember the time?

14 A. No, sir.

15 Q. Do you remember about how long you were with him?

16 A. No, sir.

17 Q. You all had time to go to Family Dollar; is that
18 correct?

19 A. Yes, sir.

20 Q. That's the one over on Dorchester Road; is that
21 right?

22 A. Yes, sir.

23 Q. And then he had time to hang out at your house
24 for some period of time?

25 A. Yes, sir.

1 Q. I think you said he may have been there an hour
2 or so?

3 A. Yes, sir.

4 Q. Okay. And you're then saying Mr. Heyward --
5 you met with Mr. Heyward at some point. Do you remember
6 the timing on that?

7 A. No, sir.

8 Q. And had you met with Mr. Mitchell first?
9 Do you remember?

10 A. No, sir.

11 Q. So you met with Mr. Heyward first?

12 A. Yes, sir.

13 Q. And then you met with Mr. Mitchell?

14 A. Yes, sir.

15 MR. SMITH: That's all the questions I have,
16 Your Honor.

17 THE COURT: Redirect?

18 MR. WARING: Thank you, Your Honor.

19 REDIRECT EXAMINATION

20 BY MR. WARING:

21 Q. Tynetra, whose idea was it to do this robbery?

22 A. Rondo.

23 Q. All right. Now let's talk about who came over
24 whose house that night. Did you go over to Rondo's
25 house, or did he come over your house?

1 A. He came over to my house.

2 Q. All right. Now the defense is trying to suggest
3 that you set this up, but did Rondo really set it up?

4 A. Yes, sir.

5 Q. All right. Now when you first came in and spoke
6 with us, did you have any charges at that time?

7 A. No, sir.

8 Q. And I think we talked before -- before you came
9 and spoke with us it was about what, a year and a half?

10 A. Yes, sir.

11 Q. And throughout that entire year and a half,
12 you never got any charges, right?

13 A. No, sir.

14 Q. Now did you really have to speak with us?

15 A. Yes, sir.

16 Q. You did?

17 A. Yes, sir.

18 Q. But you had never been charged, right?

19 A. Yes, sir.

20 Q. So what did we have on you?

21 A. Nothing.

22 Q. Now the proffer -- there was some talk about
23 the proffer, but it only really protects you if you
24 tell the truth, right?

25 A. Yes, sir.

1 Q. So if you lied today or this week, could you
2 be charged?

3 A. Yes, sir.

4 Q. Now there was some mention about the first punch,
5 and the defense got you to say that Gabe threw the first
6 punch. Now we're talking about after Rondo had robbed
7 him that he threw that punch, right?

8 A. Yes, sir.

9 Q. Okay. So this wasn't an out of the blue punch,
10 was it?

11 A. No, sir.

12 Q. In other words, was Gabe defending himself?

13 A. Yes, he was defending himself.

14 Q. There's also been some talk about how you
15 all set up the victim, who the defense is getting
16 you to say the Defendant did not know this victim.
17 Can you tell the jury how you all settled on a victim
18 to be the victim in this robbery?

19 A. Lil' Man and Rondo came over, and Rondo was
20 trying to just talk to me, and then he brought up
21 setting up a robbery. Then he told me to call up
22 someone, and to hit someone who looked like they had
23 money or something, so that's what I did.

24 Q. Okay. So did the Defendant knowing the victim
25 or not knowing him very long, did that really have

—TINETRA HAMILTON - RECROSS BY MR. SMITH—

1 anything to do with the robbery?

2 A. Can you say that again, please?

3 Q. If the Defendant did not know the victim very
4 long, did that really matter in you all's determination
5 of selecting the victim as the victim?

6 A. I'm not understanding.

7 Q. Let's me see if I can rephrase this. The defense
8 got you to say that Rondo did not know the victim very
9 well, right?

10 A. Yes, sir.

11 Q. Did that really matter as far as you all picking
12 him for the robbery?

13 A. No, sir.

14 MR. WARING: No further questions,
15 Your Honor.

16 THE COURT: Recross?

17 MR. SMITH: Yes, Your Honor. One quick
18 question, Your Honor.

19 RECROSS-EXAMINATION

20 BY MR. SMITH:

21 Q. Ms. Hamilton, you're the one who picked the
22 victim; is that correct?

23 A. Yes, sir.

24 MR. SMITH: No other questions, Your Honor.

25 THE COURT: All right. You may step down.

MICHAEL COOK - DIRECT BY MS. SIGAL

1 MS. SIGAL: The State calls Officer Michael
2 Cook.

3 OFFICER MICHAEL COOK, was called as a
4 witness, being duly sworn, was examined and testified as
5 follows:

6 THE CLERK: For the record, please state
7 your full name, spell your last.

8 THE WITNESS: Michael Cook, C-O-O-K.

9 DIRECT EXAMINATION

10 BY MS. SIGAL:

11 Q. Good afternoon, Officer Cook. Where do you work?

12 A. North Charleston Police Department.

13 Q. How long have you worked there?

14 A. Going on about 18 years.

15 Q. And what is your position there now?

16 A. I'm a patrol officer.

17 Q. What was your position back in December of 2016?

18 A. I was assigned to the crime scene unit.

19 Q. Briefly, what kind of things did you do as
20 a crime scene officer when you arrived on scene?

21 A. Photographs, document the scene, collect
22 and preserve evidence, process items of evidence
23 and packaging them.

24 Q. And in December of 2016 how long had you worked
25 in crime scene?

MICHAEL COOK - DIRECT BY MS. SIGAL

1 A. Roughly three years.

2 Q. Are you involved in the investigation of
3 Maulique Heyward?

4 A. I am.

5 Q. And how did you get brought into this case?

6 A. I was contacted by the duty detective sergeant
7 asking me to meet them at the Food Lions on Dorchester
8 Road.

9 Q. And then did you respond to the crime scene?

10 A. I did.

11 Q. What date was that?

12 A. I don't recall.

13 Q. If I show you a copy of your report will that
14 help refresh your memory?

15 A. Yes, ma'am.

16 MS. SIGAL: Permission to approach the
17 witness, Your Honor? Permission to approach the
18 witness, Your Honor?

19 THE COURT: Go ahead.

20 BY MS. SIGAL:

21 Q. Can you just look at that and tell us what date
22 you responded?

23 A. December 20, 2016.

24 Q. And do you remember what location you responded
25 to?

MICHAEL COOK - DIRECT BY MS. SIGAL

1 A. 4625 Lowell Drive.

2 Q. And what did you do when you got there?

3 A. I was advised that we would be searching the
4 ditch line, so I grabbed -- we have a portable --
5 basically, it's a big old spotlight that you can carry.
6 I took that, and we searched the ditch line.

7 Q. And what were you looking for?

8 A. We were looking for a handgun.

9 Q. And was a handgun found?

10 A. Yes, it was.

11 Q. Where was it found?

12 A. It was found somewhere in the water, along the
13 ditch line.

14 Q. What did you do when you first saw the gun?

15 A. I told the people that were there to stay where
16 they were. I was going to photograph the scene.

17 Q. And after photographing it, what did you do?

18 A. I collected it from the water and placed it
19 in a gun box.

20 Q. And did you package it and turn it in to
21 evidence, per North Charleston Police Department policy?

22 A. I did.

23 Q. Did you assign the gun a case number and label
24 it, per policy?

25 A. I did.

MICHAEL COOK - DIRECT BY MS. SIGAL

1 Q. Okay. I'm going to show you what's been already
2 admitted as State's Exhibit 1. And can you please point
3 out what direction the ditch was that you've been
4 referring to in relation to where the shooting happened?

5 A. (Indicating.) The ditch line runs back this
6 ways. It runs parallel to this.

7 Q. Sort of on the other side where the shooting
8 happened?

9 A. Right. Where the tree is, the ditch is right
10 there.

11 Q. Thank you. I'm now showing you what has been
12 marked for identification purposes as State's Exhibits
13 50 and 51. If you can please take a look at those,
14 and tell us if you recognize those photos?

15 A. I do.

16 Q. And what are those photos of?

17 A. The first one, 50, is of the gun under the water.
18 And 51 is the gun after it was collected from the water
19 and put into the gun box.

20 Q. And do these photos fairly and accurately depict
21 the photos that you took that night of the gun in the
22 water and then in the gun box after it was packaged?

23 A. Yes, ma'am.

24 MS. SIGAL: Your Honor, at this time
25 the State moves to admit 50 and 51 into evidence.

MICHAEL COOK - DIRECT BY MS. SIGAL

1 MR. SMITH: No objection.

2 THE COURT: Admitted.

3 (State's Exhibits 50 and 51 were admitted into
4 evidence.)

5 MS. SIGAL: Permission to publish?
6 Publishing State's 50. If you reach up to that top
7 corner where the area is, you can clear your previous
8 mark.

9 BY MS. SIGAL:

10 Q. Can you please describe this photo a little
11 bit for us?

12 A. So on either side of the ditch, it's pretty
13 steep in the water. I couldn't tell you how deep
14 it was, but it was, basically, deep enough to go in
15 and grab it. The gun is right here. (Indicating.)

16 Q. And is that the way it looked upon arriving
17 at the ditch?

18 A. Yes, ma'am.

19 Q. Now, I'm showing you State's 51. And can you
20 briefly describe that picture for us?

21 A. So this was after I had taken it from the water,
22 and I put it straight into a gun box. It hadn't been
23 cleared. None of the rounds had been removed from
24 the magazine or the chamber, so it was placed in the box
25 as it was found.

MICHAEL COOK - DIRECT BY MS. SIGAL

1 Q. After it was found in the ditch?

2 A. Yes, ma'am.

3 Q. Thank you. All right. I'm now showing you what
4 has been marked for identification as State's 49.
5 You can put your gloves on. If you can please open
6 that box, and tell us if you recognize the items inside?

7 A. I do.

8 Q. And what is inside that box?

9 A. Jimenez -- JA .380 handgun.

10 Q. And what else is in the box with the gun?

11 A. The magazine.

12 Q. And is that the gun that you recovered
13 from the crime scene that we just discussed?

14 A. Yes, ma'am.

15 Q. And how do you know that it's the same gun
16 from the crime scene that you recovered?

17 A. My initials and the date that it was recovered
18 is on the back and also the serial number from the gun.

19 Q. And what are the make, model and serial number
20 of this gun?

21 A. The make is a Jiminez Arms, JA .380 caliber,
22 and the serial number is 287785.

23 Q. And is that the same make, model and serial
24 number of the gun collected?

25 A. Yes.

MICHAEL COOK - DIRECT BY MS. SIGAL

1 Q. And is the gun essentially in the same condition
2 as it was when you collected it?

3 A. Yes, ma'am.

4 MS. SIGAL: Your Honor, at this time the
5 State moves to have Exhibit 49 admitted into evidence.

6 MR. SMITH: No objection, Your Honor.

7 THE COURT: Admitted.

8 (State's Exhibit 49 was admitted into evidence.)

9 MS. SIGAL: Permission to publish?

10 BY MS. SIGAL:

11 Q. Mr. Cook, if you could please pull the gun
12 out and just show the jury the gun and the magazine.

13 A. (Indicating.)

14 Q. Thank you. Did you have any other involvement
15 in this case?

16 A. I did.

17 Q. And what was that?

18 A. I responded to MUSC forensic pathology
19 and collected items from the autopsy.

20 Q. And did you -- when you collected items from
21 the autopsy, what exactly were the items you collected?

22 A. I would have to see my report to refresh my
23 memory.

24 Q. Is it potentially the victim's bloodspot from
25 the autopsy?

MICHAEL COOK - DIRECT BY MS. SIGAL

1 A. Yes, ma'am, yes, ma'am.

2 Q. And upon retrieving that from the autopsy,
3 did you package it and seal it per North Charleston
4 Police Department policy?

5 A. Yes, ma'am.

6 Q. How does North Charleston Police Department keep
7 track of who handles an item once it's been collected
8 into evidence?

9 A. It goes onto a chain of custody that I would
10 sign, turn the evidence over to our evidence custodian.
11 They would sign as receiving, and then if somebody else
12 was to take that item from evidence, they would have
13 to sign as receiving.

14 Q. I am now showing you what has been marked for
15 identification as State's Exhibit 52. Can you please
16 identify that item?

17 A. It's the bloodspot.

18 Q. When you say that's the bloodspot, is that the
19 one that you retrieved in regards to this case?

20 A. Yes, ma'am.

21 Q. Is that the bloodspot that was retrieved from
22 the victim's autopsy?

23 A. Yes, ma'am.

24 Q. And how do you know that is the actual bloodspot
25 you did retrieve from the victim's autopsy?

1 A. So when I package it -- before I package it,
2 it comes in a manila envelope. It has the autopsy
3 number and the victim's name on it, and then I put
4 it in the evidence envelope and seal it.

5 Q. While the item was in your custody and control,
6 did you maintain the integrity of that item?

7 A. I did.

8 Q. While it was in your custody and control,
9 did you change or alter the content?

10 A. No, ma'am.

11 Q. To whom did you transfer the item?

12 A. I would have to see the chain of custody.

13 Q. The chain of custody would refresh your memory?

14 A. Yes, ma'am.

15 Q. Okay. If you can just take a look at the chain
16 of custody for this item, and tell us what date you
17 transferred it and to whom.

18 A. On December 27, 2016, I transferred it to G.
19 Mazza [ph.], who is one of the evidence custodians.

20 Q. Is that the proper procedure and the secure
21 procedure of North Charleston in regards to turning
22 in collected evidence?

23 A. Yes, ma'am.

24 Q. From the time you collected it to the time
25 it was submitted, was it tampered with at all?

MICHAEL COOK - DIRECT BY MS. SIGAL

1 A. Not to my knowledge.

2 Q. And can you tell us who handed it after G. Mazza
3 from North Charleston?

4 A. Jonathan Madrid.

5 Q. And are you able to tell us that from the chain
6 of custody?

7 A. Yes, ma'am.

8 Q. And what date was Jonathan Madrid -- what date
9 did he have custody of that item?

10 A. February 10, 2017.

11 Q. And are you able to tell us to whom he
12 transferred the item?

13 A. On the side it just says SLED.

14 Q. So he took it to SLED?

15 A. Yes, ma'am.

16 MS. SIGAL: Your Honor, at this time the
17 State moves to have Exhibit 52 admitted into evidence.

18 MR. SMITH: No objection.

19 THE COURT: Admitted.

20 (State's Exhibit 52 was admitted into evidence.)

21 MS. SIGAL: Beg the Court's indulgence.

22 Thank you, Officer Cook. I have no further questions
23 for you at this time. Please answer any questions
24 the defense has.

25 MR. SMITH: Your Honor, we don't have

DONNA MONEY - DIRECT BY MR. WARING

1 any questions for this witness.

2 THE COURT: You may step down. You're free
3 to go. Next witness.

4 MR. WARING: Thank you, Your Honor.
5 State calls Donna Money.

6 DONNA MONEY, was called as a witness, being
7 duly sworn, was examined and testified as follows:

8 THE CLERK: For the record, can you state
9 your full name, spell your last.

10 THE WITNESS: Donna Money, M-O-N-E-Y.

11 DIRECT EXAMINATION

12 BY MR. WARING:

13 Q. Good afternoon, Donna.

14 A. Good afternoon.

15 Q. How are you doing today?

16 A. I am good.

17 Q. All right, Donna. Please tell the jury where
18 you work.

19 A. I am currently employed at the South Carolina
20 Law Enforcement Division, commonly known as SLED.

21 Q. How long have you worked at SLED?

22 A. Approximately six and a half years.

23 Q. All right. And what's your role there?

24 A. I am a DNA analyst in our DNA casework
25 department.

1 Q. As a DNA analyst, can you describe some of your
2 duties and responsibilities?

3 A. I perform forensic DNA analysis on submitted
4 evidence items and known standards, conduct comparisons,
5 calculate statistics, write up reports and testify in
6 court.

7 Q. Can you give the jury an idea of what the process
8 is for DNA analysis?

9 A. DNA analysis is a four-step process. The first
10 step is we would extract DNA from, for instance,
11 a cotton swab or a piece of clothing. After that,
12 we will determine exactly how much DNA is present
13 in that extract.

14 From there, we will amplify or make copies of
15 the DNA to have more to work with. And then, finally,
16 it is run through an instrument that will separate DNA
17 based on size, and that information gets translated
18 into what is known as a DNA profile.

19 Q. All right. Can you tell the jury what a known
20 standard is?

21 A. A known standard is collected from the
22 individual, say for instance, a buccal swab, which is
23 on the inside of a person's cheek, or blood.

24 Q. And so a buccal swab is just what you said,
25 a swab that goes inside the cheek?

1 A. Yes.

2 Q. All right. Can it be a bloodspot?

3 A. Yes.

4 Q. Now at SLED is there a procedure for making
5 sure items don't get contaminated?

6 A. Yes.

7 Q. And can you tell the jury what that is?

8 A. When we perform analysis, we will do analysis
9 on evidence first, keep it completely separate from
10 the standards. After that, if our standard is submitted
11 for a case, it will be processed second.

12 Q. What about packaging? Is there any particular
13 manner in which you all package stuff?

14 A. Items are typically submitted and packaged
15 at SLED in what is called a heat-sealed pouch.
16 It's a plastic pouch that is sealed on all four sides.
17 In addition to that, we also wear protective equipment;
18 gloves, goggles.

19 Q. And is this packaging labelled?

20 A. Yes.

21 Q. How so?

22 A. When an item is submitted it will be assigned
23 a case number that is specific to SLED and an item
24 number specific to that item. And that information
25 will be found on a yellow marker.

—DONNA MONEY - DIRECT BY MR. WARING—

1 Q. Would you all test something if the heat-sealed
2 pouch had been tampered with?

3 A. If tampering was noted, we would -- analysis
4 would stop, and we would notify the agency to discuss
5 the conditions of the item and see if analysis may
6 or may not proceed.

7 Q. Did you ever testify before?

8 A. Yes.

9 Q. About how many times?

10 A. Twenty-eight.

11 Q. Okay. Have you ever been declared an expert?

12 A. Yes.

13 Q. And approximately how many times was that?

14 A. Twenty-eight.

15 Q. Have you had participated in any type of special
16 training while at SLED to do what you do?

17 A. Prior to being signed off for casework,
18 I underwent a year-and-a-half-long training program
19 under a qualified analyst. This program included
20 conducting analysis, a written exam, an oral exam,
21 annual exam, mock court. In addition to the training,
22 I'm required by the FBI to have a minimum of eight hours
23 of continuing education each year.

24 MR. WARING: Your Honor, at this point,
25 the State moves to have the witness declared as an

DONNA MONEY - DIRECT BY MR. WARING

1 expert in the field of forensic DNA analysis.

2 THE COURT: Do you wish to voir dire
3 the witness?

4 MR. SMITH: No, Your Honor. We don't have
5 any objection.

6 THE COURT: Okay. All right. Folks,
7 remember earlier when we were talking I told you that
8 witnesses normally get up, and they tell you what they
9 saw, they heard, they touched, they felt, they smelled.
10 We don't normally let witnesses come in and testify
11 and then give you their opinion about whatever the facts
12 were they just testified about.

13 The law says, however, for certain
14 witnesses, if they have reached a level of expertise,
15 either because of education or experience or some
16 specialized training in the field, if they have reached
17 a level of expertise, they are allowed to come into
18 court. And then if they are qualified as an expert,
19 as I'm now qualifying this witness as an expert,
20 she will be allowed to testify, not only about certain
21 facts, but she will then be able to give you her fact --
22 her opinion about those facts.

23 Now the fact that she is qualified as an
24 expert, and I'm qualifying her as an expert in the field
25 of forensic DNA analysis, the fact that she is qualified

—DONNA MONEY - DIRECT BY MR. WARING—

1 as an expert does not obligate you to accept her opinion
2 blindly. You can decide how much weight to give her
3 testimony based on all of the evidence in the case.

4 If you don't find that she holds sufficient
5 education or qualifications, then you can disregard it,
6 or you may think her testimony just, well, doesn't make
7 any sense based on all of the other evidence that you
8 have heard throughout the trial, and you're not required
9 to blindly accept her testimony.

10 You alone are the fact finders of this case,
11 and you alone decide how much weight to give this
12 witness's testimony based upon all of the evidence
13 that you hear throughout the trial, all right.
14 You may resume.

15 MR. WARING: Thank you, Your Honor.

16 BY MR. WARING:

17 Q. Now were you involved in this case, the Maulique
18 Heyward case?

19 A. Yes.

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

21 A. I performed DNA analysis on several items,
22 three known standards.

23 Q. All right. And what kind of items did you
24 receive, do you recall?

25 A. Swabs from various items.

1 Q. For this particular case, is the victim's
2 bloodspot the known standard?

3 A. It was one of the three known standards
4 submitted.

5 Q. And is that one of the pieces of evidence
6 you used to compare the other items to?

7 A. Yes.

8 Q. Now do you remember on which date you received
9 these items?

10 A. May I consult the chain?

11 Q. Yes.

12 A. And which items do you want me to start with?

13 Q. Items, specifically, 10 and 11.

14 A. SLED Items 10 and 11 were in Container C,
15 and I received these in person from forensic technician
16 Jackie Davis in our evidence control department on
17 June 1, 2017.

18 Q. All right. And so SLED Item 10, is that the
19 swab of back of middle part of the wallet?

20 A. Yes.

21 Q. And is SLED Item 11 the swab of the inside
22 of the wallet?

23 A. Yes.

24 Q. For each of those items, can you identify each
25 employee of SLED who touched these items before they

DONNA MONEY - DIRECT BY MR. WARING

1 got to you, what each of those witnesses would have
2 done with the evidence?

3 A. Starting with SLED Item 10, which were the swabs
4 from back of the middle part of the wallet, the item
5 was submitted to SLED on February 10, 2017, and SLED
6 forensic technician, Amy Black, in our evidence control
7 department received that item from the individual from
8 the North Charleston Police Department who submitted it.

9 She then placed it on a DNA intake shelf for
10 storage in an evidence storage room that only the
11 employees of our evidence control department and upper
12 management has access to. I do not have access to this
13 room.

14 On June 1, 2017 forensic technician Jackie Davis
15 retrieved the item from DNA intake shelf 52, and then
16 brought it to me personally for me to transfer it into
17 my custody the same day.

18 MR. WARING: Your Honor, may I approach
19 the witness?

20 THE COURT: Sure.

21 BY MR. WARING:

22 Q. Now, I'm showing you what's been labelled for
23 identification purposes as State's Exhibits 44 and 45.
24 Do you recognize those items?

25 A. Yes.

1 Q. Can you tell the jury what they are?

2 A. State's Exhibits 44 and 45 are SLED Items 10
3 and 11.

4 Q. And 10, can you tell the jury what the label
5 is for that?

6 A. Label on 10 is swab back of middle part of
7 wallet.

8 Q. And for the other one?

9 A. For SLED Item 11, swab inside of wallet.

10 Q. Have those been opened or otherwise tampered
11 with that you can tell?

12 A. No.

13 Q. Do those items fairly and accurately depict
14 the SLED items labelled as swab back of middle part
15 of wallet, which is Exhibit 44, and swab inside of
16 wallet, which is Exhibit 45?

17 A. Yes.

18 Q. I'm going to show you another SLED item up there.
19 This has already been admitted as State's Exhibit 52.
20 Is that the victim's, or one of his known standards
21 bloodspot?

22 A. Yes, description is bloodspot.

23 Q. Now did you do DNA testing on those items?

24 A. Yes.

25 Q. SLED Items 10 and 11, the ones that we discussed,

1 did you do a report for this case?

2 A. Yes.

3 Q. And were you able to make any conclusion about
4 those items?

5 A. Yes.

6 Q. What did you conclude?

7 A. My I read my report?

8 Q. Yes.

9 A. For SLED Item 10, swab from the back of middle
10 part of wallet, I performed serology testing, and
11 that was presumptive testing for blood, and that was
12 a positive result. From there, I then proceeded to
13 perform DNA analysis, and the DNA profile developed
14 from SLED Item 10 matched that of the DNA profile
15 of Garrett Mitchell.

16 Q. All right. And for SLED Item 11?

17 A. SLED Item 11, which was swab from inside
18 of wallet, I also performed serological testing,
19 and this was presumptive testing for blood, and the
20 result was positive. For this item, a DNA profile
21 suitable for comparison was developed, and because
22 a DNA mixture was developed, the reporting is slightly
23 different than the previous item, so bare with me.

24 The propositions that won for this item was that
25 the DNA profile was interpreted as a mixture originating

1 from two individuals. Garrett Mitchell and an
2 unidentified, unrelated individual contributed to the
3 mixture, or two unidentified, unrelated individuals
4 contributed to the mixture.

5 The DNA profile is approximately 280 septillion
6 times more likely if Garrett Mitchell and an
7 unidentified, unrelated individual contributed to the
8 mixture than if two unidentified, unrelated individuals
9 contributed to the mixture.

10 Q. All right. Now, I'm going to ask you a couple
11 of questions. So for Item 10, swab back middle part
12 of wallet, you testified that this was presumptive test
13 for blood, which was positive; is that right?

14 A. Yes.

15 Q. Now your conclusion was a lot simpler for that
16 item and that you said DNA profile matches the DNA
17 profile of Garrett Mitchell, who is the victim in this
18 case; is that right?

19 A. Yes.

20 Q. Now that conclusion was a lot simpler.
21 What explanation is there for why the second one,
22 Item 11, swab inside of wallet, that presumptive blood
23 test -- DNA test is a lot more complicated than the
24 first one?

25 A. The actual laboratory analysis for this case

1 was done a couple of years ago. Then last fall,
2 so fall of 2018, SLED has a computer program known
3 as STRMix, which aids in the interpretation of mixtures.
4 Our previous methods were restricted in what we could
5 do, but STRMix allows us to look at more information.

6 Per instructions from the solicitor's office
7 of Charleston, I was asked to go back and relook at
8 mixtures in this case, including Item 11. And because
9 of this request, I was able to go back and reevaluate
10 the profile and report out associations for that item.

11 Q. All right. So for SLED Item 10, swab of middle
12 part of victim's wallet, that is a match for the
13 victim's blood DNA; is that correct?

14 A. Yes, that's the interpretation.

15 Q. Okay. Now, I've noticed for swab inside
16 of wallet, Item 11, that was presumptively positive
17 for blood. But there's this statistic that you said
18 280 septillion times more likely that the victim and
19 an unidentified individual contributed to the mixture
20 than if two unidentified, unrelated individuals
21 contributed to the mixture; is that right?

22 A. That is stating that it's 280 septillion times
23 more likely that the profile developed from that item
24 is because it's Garrett Mitchell and an unidentified,
25 unrelated individual verses two unidentified, unrelated

1 individuals.

2 Q. Okay. So now you're unable -- or is it SLED's
3 policy that you all no longer use the word "match?"

4 A. Currently, that's not part of our reporting
5 anymore.

6 Q. All right. But 280 septillion, is that
7 considered very strong support?

8 A. Yes.

9 Q. And asked in a different manner, are there even
10 that many people on this planet?

11 A. No, there's just over seven billion people.

12 Q. Okay. So would you consider that a very strong
13 statistic that this is the victim's blood DNA?

14 A. Yes.

15 Q. Now after you were done with all this -- excuse
16 me.

17 MR. WARING: Your Honor, at this point,
18 State moves to have those exhibits, 44 and 45,
19 admitted into evidence.

20 MR. SMITH: No objection.

21 THE COURT: Admitted.

22 (State's Exhibits 44 and 45 were admitted into
23 evidence.)

24 BY MR. WARING:

25 Q. As you were done doing all this testing and wrote

—DONNA MONEY - CROSS BY MR. SMITH—

1 your report, what did you end up doing with this
2 evidence?

3 A. May I go back to the chain?

4 Q. Sure.

5 A. When analysis is completed for a case, I will
6 package everything up and prepare it for return.
7 From there, I will contact our evidence control
8 department and let them know that there's evidence
9 for return. I will place it in a DNA return area
10 in our laboratory, and then one of our technicians
11 in the DNA casework department, in this case Sheree
12 Brown, would go and take that evidence into her custody.
13 She doesn't open the evidence at any point, and she will
14 then personally return it back down to evidence control
15 where a forensic technician in that department will
16 retrieve it and place it on a return shelf.

17 MR. WARING: Court's indulgence, Your Honor.
18 Please answer any questions the defense has.

19 THE COURT: Cross?

20 CROSS-EXAMINATION

21 BY MR. SMITH:

22 Q. Good afternoon.

23 A. Good afternoon.

24 Q. Just very briefly, in this case, were you also
25 given a buccal swab from Maulique Heyward?

—DONNA MONEY - REDIRECT BY MR. WARING—

1 A. Yes.

2 Q. And could you tell the jury what a buccal swab
3 is?

4 A. A buccal swab is a cotton swab or a Q-tip that's
5 rubbed on the inside of a person's cheek to collect the
6 skin cells.

7 Q. And you developed a DNA profile based on that
8 swab; is that correct?

9 A. Yes.

10 Q. And you had that to make any identifications
11 in this case; is that correct?

12 A. Yes.

13 MR. SMITH: That's all the questions I have,
14 Your Honor.

15 THE COURT: Any redirect?

16 REDIRECT EXAMINATION

17 BY MR. WARING:

18 Q. Ms. Money, does the absence of -- any absence
19 of the Defendant's DNA on these swabs from the victim's
20 wallet negate the possibility that he did, in fact,
21 touch that wallet?

22 A. It is possible there may have been contact.

23 MR. WARING: No further questions,
24 Your Honor.

25 THE COURT: Anything on recross?

1 MR. SMITH: Nothing else, Your Honor.

2 THE COURT: You may step down. Thank you.
3 You are free to go. Next witness.

4 MR. WARING: Court's indulgence, Your Honor.
5 May we approach, Your Honor?

6 THE COURT: Sure.

7 (Off-the-record conversation held at sidebar.)

8 (Back on the record.)

9 THE COURT: All right. Folks, we have --
10 our next witness has got a scheduling problem.

11 He's a pathologist, and he won't be able to get here
12 today. So we will just adjourn for today, and we will
13 recess for the day and resume tomorrow morning at 9:30.

14 So, I'm going to send you home. Don't begin
15 deliberations or discussions about the case. Don't try
16 to find out anything on the internet, don't post
17 anything on social media, and if anybody attempts
18 to talk with you about the case, please report that
19 in the morning. Thanks for your patience today,
20 and we'll see you tomorrow morning at 9:30.

21 (Jury exits the courtroom at 4:00 p.m.)

22 THE COURT: Okay. Before we adjourn,
23 Mr. Heyward it sounds like the State will probably
24 be resting tomorrow morning, and so you will need
25 to consult with your lawyers, decide if you're going

1 to present any defense, and if you do present a defense
2 will that include you testifying or not testifying.

3 We talked about this yesterday, but it
4 looks like by tomorrow morning you will need to make
5 a decision as to whether or not you intend to testify.
6 So, again, I encourage you to discuss this matter with
7 your lawyers, and be prepared to make a decision on that
8 tomorrow morning, all right.

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Good luck. See you all tomorrow
11 morning at 9:30.

12 MR. WARING: Thank you, Judge.

13 (End of Transcript of Record)
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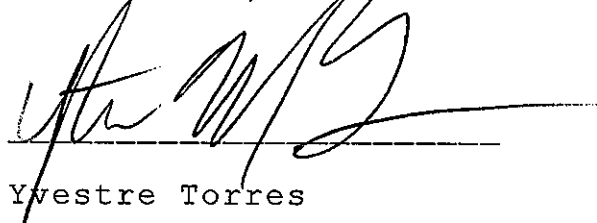
CERTIFICATE OF REPORTER

State of South Carolina)
County of Charleston)

I, the undersigned, Yvestre Torres, Circuit Court Reporter for the First Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Circuit Court for Charleston County, South Carolina, on the 13th of August, 2019.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

December 29, 2019



Yvestre Torres

Circuit Court Reporter

STATE OF SOUTH CAROLINA

COURT OF GENERAL SESSIONS

COUNTY OF CHARLESTON

2017-GS-10-02906

2017-GS-10-02910

State of South Carolina)

) TRANSCRIPT OF RECORD

-vs-)

) August 14, 2019-Volume 3 of 4

Maulique Heyward)

) Charleston, South Carolina

B E F O R E:

The Honorable Roger M. Young, Sr., Judge

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

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Reported By:

Yvestre Torres, OCR
Circuit Court Reporter for the
First Judicial Circuit

EXHIBITS

<u>NO</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EVIDENCE</u>
S-53	Autopsy Diagram		251
S-54	Rights Form		279
S-56	Clip Interview CD		285
S-57	Victim's DMV Photo		289
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1 THE COURT: Okay. Let the record reflect
2 the Defendant is in the courtroom. You've got your
3 witnesses ready?

4 MR. WARING: Yes, Your Honor.

5 THE COURT: You've got three witnesses
6 today?

7 MR. WARING: Three more, Your Honor.

8 THE COURT: Pardon?

9 MR. WARING: Three more.

10 THE COURT: Three more, including ---

11 MR. WARING: Three total.

12 THE COURT: Okay. All right. You'll be
13 ready to go then today, Mr. Smith?

14 MR. SMITH: Yes, Your Honor.

15 THE COURT: Okay. Anything we need to take
16 up before the jury?

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

18 MR. SMITH: Not from the defense,
19 Your Honor.

20 THE COURT: Okay. Bring them in.
21 Who's your first witness going to be?

22 MR. WARING: The pathologist, Your Honor,
23 Dr. Batalis.

24 THE COURT: Okay.

25 (Jury enters the courtroom at 9:33 a.m.)

NICHOLAS BATALIS - DIRECT BY MS. SIGAL

1 THE COURT: All right. Well, welcome back,
2 folks. We're going to resume now with the State calling
3 their next witness.

4 MS. SIGAL: State calls Dr. Nick Batalis.

5 DR. NICHOLAS BATALIS, was called as a
6 witness, being duly sworn, was examined and testified as
7 follows:

8 THE CLERK: For the record, please state
9 your full name, spell your last.

10 THE WITNESS: My name is Nicholas Ike
11 Batalis, B-A-T-A-L-I-S.

12 DIRECT EXAMINATION

13 BY MS. SIGAL:

14 Q. Good morning, Dr. Batalis.

15 A. Good morning.

16 Q. Can you tell us where you work?

17 A. I work at the Medical University of South
18 Carolina here in Charleston.

19 Q. How long have you worked there?

20 A. I've been on staff there for just over 11 years
21 now.

22 Q. What is your occupation with MUSC?

23 A. I'm employed there as a forensic pathologist
24 and having ranked as a professor in the department
25 of pathology and laboratory medicine.

1 Q. Can you tell us a little bit about what forensic
2 pathology is?

3 A. Sure. Let's back up a little bit to explain the
4 field of pathology. Pathology is a medical specialty
5 that deals with the study and diagnosis of disease.
6 So a general pathologist would be one that if you have
7 to biopsy a tumor, the pathologist would be the one
8 that looks at it to determine if it's cancer, if it's
9 an infection and tells you what exactly you have.

10 A pathologist also receives the clinical
11 laboratories. So if you have lab work done, it gets
12 taken to the laboratory, and the pathologist is the
13 one that runs that lab and kind of coordinates testing
14 results. So that's the field of pathology.

15 Roughly, pathology is a subspecialty. So it's
16 an extra layer beyond the general pathology that deals
17 with the study of disease but more in the legal
18 contexts. Predominantly, our work involves performing
19 autopsies to determine the cause and manner of death.

20 Q. Can you please describe your educational
21 background for the jury?

22 A. Sure. I obtained my bachelor's degree at Butler
23 University. I then moved on to medical school at
24 Indiana University School of Medicine. After graduating
25 medical school, I came to MUSC for a residency training

1 period in general pathology. So it was a four-year
2 program to get trained as a general pathologist.

3 Following those four years, I completed a --
4 I passed a national certification exam to become board
5 certified in general pathology. I then went on to
6 a one-year fellowship, subspecialty training just
7 dealing with forensic pathology at the Dallas County
8 Medical Examiner's Office in Dallas, Texas. After that
9 year, passed another examination to become board
10 certified and then took my current position.

11 Q. And so do you have a medical license?

12 A. I do.

13 Q. Do you have any -- you mentioned you're a
14 professor. Can you tell us a little bit about your
15 teaching experience?

16 A. Sure. So in my role at MUSC, I perform autopsies
17 in my role as a forensic pathologist, but I also have
18 administrative duties overseeing our training program.
19 So our new graduates out of medical school who are
20 trained to become pathologists, I oversee their program,
21 and I also teach a good amount for the medical students
22 that are still in medical school and teaching them the
23 basics of pathology and then forensic pathology as well.

24 Q. And you mentioned a little bit about this, but
25 can you tell us a little bit more about what an autopsy

1 is, how you perform one?

2 A. Sure. An autopsy is a detailed examination
3 of the body after death. We follow the same routine
4 on essentially each and every autopsy. We begin with
5 taking overall pictures of the body as you receive the
6 body in our autopsy suite before we get into
7 manipulation.

8 I will then clean the body and take any evidence,
9 remove any clothing, any personal effects, get the body
10 cleaned up and take another set of photographs after
11 the body is cleaned. We then perform an external exam,
12 which is essentially examining the body from head to toe
13 for basic stuff such as height and weight, hair color,
14 tattoos, identifying stuff, and then also any evidence
15 of injury or any evidence of natural disease.

16 After we complete that external examination,
17 we move on to our internal examination where we make
18 surgical-type incisions to open the body cavity and
19 examine the organs one by one, again, to determine
20 the presence of natural disease or injury.

21 And then at the conclusion of the autopsy --
22 during the course of the autopsy, we'll usually take
23 samples of tissue and fluid for toxicology.
24 Occasionally, we'll look at things under the microscope,
25 and then we'll put together a report that sums

1 everything up together.

2 Q. Can you tell us approximately how many autopsies
3 you have performed?

4 A. Yeah, I don't have an exact number, but it's
5 somewhere between two and three thousand at this point.

6 Q. Have you ever testified in court?

7 A. I have.

8 Q. Have you ever been qualified as an expert
9 witness?

10 A. I have been qualified as an expert witness
11 in South Carolina probably 50 to 70 times, a couple
12 of times in North Carolina, and I believe twice in
13 Texas.

14 Q. In what field are you typically admitted as
15 an expert?

16 A. In the field of forensic pathology.

17 MS. SIGAL: Your Honor, at this point,
18 the State moves to have this witness declared as
19 an expert in the field of forensic pathology.

20 THE COURT: Any objection? Do you wish
21 to voir dire the witness?

22 MR. SMITH: No objection.

23 THE COURT: All right, folks, this witness
24 has now been qualified as an expert in the field of
25 pathology -- forensic pathology. You are to give his

NICHOLAS BATALIS - DIRECT BY MS. SIGAL

1 weight -- give his testimony as much weight as you feel
2 it deserves based on all of the evidence that you will
3 hear throughout the trial as well as you've heard his
4 qualifications and decide whether or not he has
5 sufficient expertise to convince you of the validity
6 of his opinion.

7 It's the same instruction, basically, that
8 I gave you yesterday with the expert. He's now been
9 qualified as an expert. You're not required to blindly
10 accept an expert's testimony. You decide how much
11 weight to give his testimony based on all the evidence
12 you hear throughout the trial. You may continue.

13 MS. SIGAL: Thank you, Your Honor.

14 BY MS. SIGAL:

15 Q. Dr. Batalis, were you involved in the autopsy
16 of the victim in this case, Garrett Mitchell?

17 A. Yes, I was.

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

19 A. So at MUSC, we perform forensic autopsies for
20 a number of counties across the state, including
21 Charleston County. So typically we become involved
22 when one of the coroners from these counties would give
23 us a call and let us know they have a death that they
24 would like us to investigate and gave us the details
25 on this case. So how this happened here, we received

1 a call from Charleston County Coroner's Office that
2 they had a death to investigate, let us know about it,
3 and brought it to examination.

4 Q. And do you know the date that the autopsy
5 occurred for this victim?

6 A. Yes, we performed this autopsy on December 22,
7 2016.

8 Q. And do you know the date that the victim died?

9 A. In this case, brain death was pronounced on
10 December 19, 2016, so approximately two days before
11 the autopsy.

12 Q. And did you perform the autopsy on Mr. Mitchell
13 the way you just described that an autopsy is performed?

14 A. Yes, exactly as described.

15 Q. And did you do an autopsy report?

16 A. I did.

17 Q. In performing the autopsy on Mr. Mitchell,
18 did you observe any injuries to the victim?

19 A. I did.

20 Q. In preparation for trial were you asked to draw
21 up a diagram to show the victim's injuries?

22 A. I did.

23 MS. SIGAL: May I approach the witness,
24 Your Honor?

25 THE COURT: Yes.

1 BY MS. SIGAL:

2 Q. I'm showing you what has been marked for
3 identification purposes as State's Exhibit 53. Can you
4 please tell us if you recognize that exhibit?

5 A. Yes, I do recognize it.

6 Q. And what is that?

7 A. This is a body diagram that is -- what I call
8 a clean diagram that just shows the entrance and exit
9 wounds for the gunshot wounds that I found on the body.
10 Typically, when we're performing our external exam,
11 we have a body diagram that has all sorts of notes
12 and weights and descriptions. And so this was prepared
13 for trial. It's more clean and just shows the gunshot
14 wound injuries.

15 Q. And does the diagram fairly and accurately depict
16 Garrett Mitchell's gunshot wounds as you noticed during
17 the autopsy?

18 A. It does.

19 MS. SIGAL: At this time, Your Honor,
20 State would move to introduce Exhibit 53 into evidence.

21 MR. SMITH: No objection.

22 THE COURT: Admitted.

23 (State's Exhibit 53 was admitted into evidence.)

24 MS. SIGAL: Permission to publish?

25 THE COURT: You may.

1 BY MS. SIGAL:

2 Q. Okay. Can you please just briefly describe
3 what we're looking at right here, State's Exhibit 53?

4 A. Sure. This is a standard body diagram that we
5 use on many of our cases. It's labelled in the upper
6 left-hand corner of the paper with the decedent's
7 information and case number.

8 And then what I've done is I've drawn up where
9 the three gunshot wounds were located. All of the
10 wounds were -- had an entrance and an exit wound.
11 So the entrance wounds are marked with circles; the exit
12 wounds are marked with Xs.

13 I also note the gunshot wounds are labelled one,
14 two and three. That's just essentially a label -- as we
15 go to approach the body to examine the body, the first
16 one I go to that's going to be gunshot wound number one.
17 So it does not apply to the order that the gunshot wound
18 occurred.

19 Q. And so how many gunshot wounds are depicted in
20 the diagram?

21 A. There are three gunshot wounds in this case.

22 Q. And can you go through each separate gunshot
23 wound and talk about the entrance and exit of each,
24 starting with the left shoulder, which I think you have
25 depicted as number two?

1 A. Sure. So, again, there were three through
2 and through or perforated gunshot wounds in this case.
3 The first we're going to talk about is gunshot number
4 two, or GSW number two, that's on the left shoulder
5 there.

6 Q. And Dr. Batalis -- I'm sorry to interrupt you.
7 You can actually use your finger and sort of make
8 markings on that, and then you can clear it by using
9 the top -- the top corner.

10 A. Okay. So on gunshot wound number two, the first
11 one we'll describe, there is an entrance on the kind
12 of front aspect of the shoulder, so it would be right
13 around here. That bullet went through the skin and soft
14 tissues of the shoulder and then exited right adjacent
15 to it where that exit is, so kind of the posterolateral,
16 the outside part of the -- kind of back outside part of
17 the left shoulder.

18 So it came in the front and then came out the
19 backside of it. The pathway coming from the decedent's
20 -- a little bit from right to left, predominantly coming
21 from front to back, so it's kind of heading like that,
22 across the body. Again, this one did not go into the
23 chest cavity, so it didn't hit the lung, the heart,
24 any critical organs, just the musculature of the
25 shoulder.

1 Q. Okay. So as you stated, sort of the circles
2 to indicate where it entered, the Xs is where it exited,
3 and you're stating that wound -- that bullet came from
4 the front?

5 A. Correct. So it was traveling in that direction.
6 It looks like it's going to the side, but it's not
7 a three-dimensional diagram, so it is coming from right
8 to left, but also moving from front to back.

9 Q. All right. And now if you can talk a little bit
10 about -- there's a button there. If you can next talk
11 about the wound that was in the right shoulder. I think
12 you have that labelled as gunshot wound number one.

13 A. Sure. So the second wound, it's labelled GSW
14 number one, is located here on the -- kind of
15 posterolateral aspect of the right shoulder, so kind
16 of similar to where the exit wound was on the left
17 shoulder, the entrance wound was here on the right
18 shoulder. So it would be kind of on the outside, on the
19 back part of the shoulder there.

20 Again, this one the bullet entered that area,
21 came through the kind of skin subcutaneous tissue
22 and muscle, and then exited in the upper right side
23 of the chest, adjacent to where the X is as noted here.
24 So again that bullet would be traveling from back to
25 front and also from right to left across the body.

1 Q. Okay. So it appears that the bullet traveled
2 from a different direction than it did from the left
3 shoulder gunshot wound; is that right?

4 A. Correct. Both of them were moving from right
5 to left, but the one on the left shoulder was moving
6 from front to back, and the one on the right shoulder
7 was moving from back to front. So, they did share --
8 they were both kind of moving across the body. The left
9 shoulder was going towards his back; the right shoulder
10 was moving towards the front.

11 Q. Okay. And, finally, gunshot wound number three
12 of the label, that is on his head if you can describe
13 the entrance and exit wounds.

14 A. Sure. So the wound labelled gunshot wound number
15 three, the entrance, again, is notated here on the right
16 side of the scalp, what we call the parietal scalp here.
17 The bullet went into the scalp there, went through again
18 the skin, went through the skull, went through the
19 brain, so essentially straight across the head, and it
20 exited the left side of the head where the X is located.
21 So this one, again, moving from -- predominantly from
22 the decedent's right side to the left side. It also
23 moved a little bit from back to front.

24 So the similar -- essentially, the gunshot wound
25 on the right side of the head had a very similar pathway

1 to the shoulder, in that they're both moving
2 predominantly right to left but also moving from the
3 decedent's back to front. So again that one also coming
4 this direction, whereas again the one on the shoulder
5 was traveling kind of front to back.

6 Q. So it appears from your diagram that the bullet
7 that caused gunshot wounds numbers one and three were
8 from the back moving in the same direction?

9 A. Yes. Their trajectories were nearly identical.
10 And when we're saying this, we're saying when we
11 determine the trajectories of the bullet, the entrance
12 and the exit, that tells us the relationship of the gun
13 to the body when the gun was fired. So that would tell
14 us when gunshots one and three occurred, the gun would
15 have been towards the side or back of the decedent.

16 Q. And so in looking at the entrance and exit wounds
17 what conclusions, if any, can you draw about the order
18 in which they may have occurred? Are you able to answer
19 that?

20 A. Certainly. With gunshot wounds labelled one
21 and three, it's likely that they occurred in succession
22 close to each other. In order to get nearly that same
23 identical pathway, again we're dealing with a wound here
24 and here, just a couple of inches apart, I would assume
25 that those two wounds happened very quickly.

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1 The other thing is the fatal wound in this case
2 would be the gunshot wound to the head. After the
3 bullet passed through the head, the decedent would have
4 likely dropped to the ground. So putting that together,
5 what would make the most sense would be that wound
6 number two -- GSW number two would happen first,
7 and then the other two wounds would happen in succession
8 after each other.

9 Q. And could that have happened because gunshot
10 wound number two spun his body in a way where the next
11 two gunshot wounds hit him from the back?

12 A. Sure, that could be possible. For example,
13 from where you are that would somewhat approximate where
14 the left shoulder was. So if you were to shoot me here,
15 if that pulled me away, and then you shot twice more
16 that would then line up for gunshot wounds one and
17 three.

18 Q. Were you able to determine the cause of death
19 of Garrett Mitchell?

20 A. Yes, I was. The cause of death in this case
21 was the gunshot wound to the head.

22 Q. Dr. Batalis, was a toxicology test done on the
23 victim?

24 A. Yes. And in this case, we submitted admission
25 blood and urine from the hospital. So despite the

1 gunshot wound to the head, the decedent survived,
2 I don't have the exact period of time, but several
3 hours in the hospital. The coroner collected samples
4 from the hospital that we submitted for toxicology
5 testing.

6 Q. Okay. Can you briefly tell us what a toxicology
7 report is?

8 A. Sure. So we don't perform the toxicology
9 testing in-house. It's sent to a nationally-accredited
10 laboratory where essentially they do a toxicology
11 screen. They can test for up to 300 to 400 different
12 drugs, including illicit drugs, like cocaine and heroin,
13 but also numerous different medications. So it's fairly
14 routine that we order this testing done on pretty much
15 every autopsy.

16 Q. And did Garrett Mitchell have any substance of
17 note in his system?

18 A. So, again, we had blood and urine samples from
19 the decedent. The only thing that was positive in his
20 blood was a relatively low concentration of hydrocodone,
21 which is an opiate or a narcotic painkiller.

22 In addition, his urine had -- urine does not get
23 tested as much in detail because essentially if the drug
24 is in your blood, it's affecting you, your performance,
25 your mindset while the drug is in your system. As you

1 eliminate drugs, they get passed through the urine so
2 you can find things in the urine that aren't affecting
3 the person anymore, so they don't tend -- as toxicology,
4 they don't get as detailed.

5 But urine testing in this case came back positive
6 for opiates. So opiates being a large class of drugs,
7 that would include your hydrocodone that he had in his
8 blood, fentanyl, oxycodone, a lot of the drugs that are
9 those type of things.

10 The other thing that was positive in the urine
11 was a class of drugs, benzodiazepines. Benzodiazepines
12 is again a large class of drugs, predominantly work on
13 the brain. Most of them have more of a calming effect.
14 Some are used as sleeping aids, some are used for
15 anxiety, some are actually used for seizure treatment.

16 But again the only one present in his blood
17 was the hydrocodone at a relatively low concentration
18 and then again the opiates and the benzodiazapine in
19 the urine.

20 Q. Okay. And a minute ago you did mention a few
21 other drugs. You were just using it as an example,
22 right? There was no cocaine found in his system?

23 A. Correct. That was just explaining the scope
24 of the testing, that sort of thing that would be picked
25 up if it was there.

1 Q. Was any alcohol found in his system?

2 A. No.

3 Q. Okay. And you're talking about the hydrocodone,
4 and you said it was a low amount. In your experience,
5 does hydrocodone make a person agitated and uppity,
6 or does it have more of a sedating effect?

7 A. So each individual can act differently, but
8 typically with opiates and hydrocodone, it will have
9 more of a numbing effect or more of a sedative-type
10 effect than being an upper.

11 Q. And moving on to when you mentioned the
12 benzodiazapine. So that would -- I think you mentioned
13 this. Would that make someone agitated, or is that
14 similar to hydrocodone, and it would have sort of a more
15 calming effect?

16 A. So, in this case you wouldn't expect it to do
17 anything because it was just detected in the urine,
18 so it's not affecting his brain, his heart or all that.
19 If it was active in his system, the benzodiazepine again
20 are going to be more of a calming effect, a sedative,
21 a sleeping-type medication.

22 Q. And could the presence of either one of those
23 drugs in his system have been the proximate cause of
24 his death?

25 A. No. The cause of death in this case is clearly

NICHOLAS BATALIS - DIRECT BY MS. SIGAL

1 from the gunshot wound, and anything picked up from
2 the toxicology was not contributory to death.

3 MS. SIGAL: Beg the Court's indulgence.

4 (Pause.)

5 BY MS. SIGAL:

6 Q. Dr. Batalis, are you able to tell us about
7 the approximate time the drugs were in, specifically
8 the hydrocodone, was in his blood at the time of the
9 shooting? Are you able to tell us that time frame
10 at all?

11 A. I'm sorry. Could you ask that again?

12 Q. Sure. I did a bad job of asking. Are you able
13 to tell us the approximate time that the hydrocodone
14 could have been in his system in regards to the time
15 of his death?

16 A. I don't have that data in front of me. As far
17 as when we're talking about drugs, we're talking about
18 the half lives, how long it takes for half of the drugs
19 to be eliminated by your body. So, I can't comment
20 on exactly how long that would have been in his system.

21 Further, it's impossible to say. We just know
22 that basically when he died that's where his
23 concentration was. So even though it's a low
24 concentration, that could have been from one pill,
25 a few minutes, you know, an hour or two before he died,

1 or it could have been that he had several pills,
2 you know, 10 or 12 hours before that he had metabolized
3 down, kind of broke it down, so he ended up with that
4 low concentration.

5 So essentially it's impossible to tell based
6 on a single value how long it had been in his system,
7 and again I don't have the data about how long it would
8 take to break down one dose.

9 Q. Thank you.

10 MS. SIGAL: Please answer any questions
11 defense counsel may have.

12 CROSS-EXAMINATION

13 BY MR. SMITH:

14 Q. Good morning, Dr. Batalis.

15 A. Good morning.

16 Q. So, I want to be clear about kind of where these
17 wounds were, okay.

18 A. Sure.

19 Q. So we're seeing -- you're noting this on the
20 diagram that you've done, specifically, we're talking
21 about the wound to the head. So can you show us again
22 where it is, using yourself as an example?

23 A. Sure. So the gunshot entrance wound to the head
24 again was on the right side of the head, two inches
25 above and one inch behind the attachment of the ear,

NICHOLAS BATALIS - CROSS BY MR. SMITH

1 so it's somewhere essentially right around here.

2 Q. Okay. And the exit wound?

3 A. The exit wound is on the left side of the head,
4 a little bit further above the ear and a little more
5 anterior. So it's hard to see where my own hands are,
6 but the entrance wound again over here, and then the
7 exit wound over here.

8 Q. Okay. The solicitor asked you a question about
9 whether the shots -- all three of the shots could be
10 consistent with someone turning away. Do you remember
11 her asking you that?

12 A. She did.

13 Q. And would the shots also be consistent if the
14 shots have come from the side?

15 A. All of the shots had a component from the side.
16 All of them were traveling from right to left across
17 his body. But gunshot wounds numbers one and three
18 also had a back to front component to it. So, you know,
19 it would not have been straight behind the person,
20 but they could be off to the side, but it would still
21 be, I guess, kind of behind where the shoulder would be.

22 Q. So, I think the example you used it could be --
23 if I were right here, for example, and you were turned
24 this way, it could go in that direction?

25 A. In this alignment, yeah.

1 Q. From your observation of the wounds, can you tell
2 us what the distance was between the gun and the wound?

3 A. So when we determine -- there are a couple of
4 things we can see from our point of view to determine
5 how far away the gun was. We look for the presence of
6 soot.

7 So when a gun is fired, you get this cloud of
8 smoke from the explosion of the bullet being fired.
9 That travels up to about a foot or so from the barrel
10 of the gun. We can also see stippling, which are little
11 scrapes that occur on the skin that are from the burning
12 and unburned flakes of gunpowder that are in the gun
13 when the bullets are fired. Those can travel up to
14 three or four feet and still cause injury.

15 In this case, we did not have soot or stippling,
16 so that would tell us one of two things -- one of,
17 I guess, three things, since he was in the hospital.
18 The first would be that these were distant wounds.
19 So to us that would mean at least three to four feet
20 from the body, so any of that soot or stippling would
21 have hit the ground before it hit our decedent.

22 The second possibility is soot will wipe away.
23 Again, it's just kind of dirt and smudge. So since
24 he was in the hospital for some period of time under
25 an organ procurement that could have been washed away.

NICHOLAS BATALIS - REDIRECT BY MS. SIGAL

1 So, I can't say for sure that it was beyond four feet
2 because that soot could have been taken away.

3 The stippling, again those cause abrasions or streaks;
4 that's not going away.

5 The third thing that could complicate things
6 would be an intermediary object. So if there is a
7 window, a pillow, a piece of clothing between the gun
8 and the body, that could also absorb that soot and
9 stippling. So with the data I have, I essentially can't
10 say for sure. It's either distant, or it was either
11 washed away, or there was some clothing there.

12 Q. Thank you.

13 MR. SMITH: I believe that's all the
14 questions I have.

15 THE COURT: Redirect?

16 MS. SIGAL: Beg the Court's indulgence.

17 REDIRECT EXAMINATION

18 BY MS. SIGAL:

19 Q. A couple of questions for you. Regarding the
20 toxicology report, the benzodiazapine in his system,
21 are they presumptively positive, or are they definite
22 positive?

23 A. So with the laboratory report it was as
24 presumptive positive. So again this kind of gets into
25 the details of the toxicology testing. As I mentioned

1 earlier, with urine they just did a classic drug.
2 They didn't specifically say it's hydrocodone.
3 They just said opiates just to kind of give a general
4 idea of what's there.

5 The other thing, referring to the toxicology
6 standpoint, to definitively prove that a substance
7 is there, they use a second methodology to confirm
8 it's there. So for the hydrocodone that was in the
9 blood, there were two different testing methods that
10 proved, okay, this is definitely there.

11 With the urine testing, since it's more of
12 a screening, it's reported as a presumptive positive.
13 So they haven't done that second test to absolutely
14 confirm that the benzodiazepine and the opiates were
15 in the urine. So it was reported as presumptively
16 positive.

17 Q. So a confirmation was not actually done for that?

18 A. Correct.

19 Q. And, again, was it a small amount?

20 A. It's impossible to know when they report it
21 as presumptively positive, again, it's just a
22 screening-type test where it's impossible to know based
23 on these results.

24 Q. All right. Thank you, Dr. Batalis.

25 THE COURT: Recross?

DAVID PRITCHARD - DIRECT BY MR. WARING

1 MR. SMITH: No, Your Honor.

2 THE COURT: All right. You may step down.

3 Thank you.

4 THE WITNESS: Thank you, Your Honor.

5 THE COURT: All right. Next witness.

6 MR. WARING: Thank you, Your Honor.

7 State calls Detective David Pritchard.

8 DETECTIVE DAVID PRITCHARD, was called as a
9 witness, being duly sworn, was examined and testified as
10 follows:

11 THE CLERK: For the record, please state
12 your full name, spell your last name.

13 THE WITNESS: David Pritchard,
14 P-R-I-T-C-H-A-R-D.

15 DIRECT EXAMINATION

16 BY MR. WARING:

17 Q. Good morning, Detective.

18 A. Good morning.

19 Q. Detective, please tell the jury where you work.

20 A. North Charleston Police Department.

21 Q. All right. And what do you do there?

22 A. I'm a detective.

23 Q. Okay. Now back in December of 2016 were you
24 involved in this case?

25 A. Yes, sir.

1 Q. And in what capacity did you get brought into
2 this case?

3 A. I was part of the property unit. At the time,
4 I was tasked with canvassing the following day trying
5 to find witnesses and stuff like that.

6 Q. Did you respond to the scene?

7 A. No, sir.

8 Q. Okay. But, eventually, did you respond?

9 A. Yes.

10 Q. All right. And were you involved at all in
11 the obtaining of the video surveillance?

12 A. Yes, sir.

13 Q. And did you all retrieve it that same morning,
14 December 19, 2016, do you remember?

15 A. I do believe, yeah, it was the same morning.

16 Q. Now at some point were you tasked with doing
17 a photographic lineup in this case?

18 A. Yes, sir.

19 Q. And was that specifically for a witness named
20 Tynetra Hamilton?

21 A. Yes, sir, it was.

22 Q. And do you remember the location of that lineup
23 procedure?

24 A. Yeah, it was at the solicitor's office.

25 Q. All right. And in relation to the actual

DAVID PRITCHARD - DIRECT BY MR. WARING

1 incident, do you recall -- was it around the same time,
2 or was it much later?

3 A. No, it was a couple of years later.

4 Q. Okay. Couple of years?

5 A. Yes, sir.

6 Q. Now can you tell the jury the manner in which
7 you conducted this photographic lineup procedure?

8 A. Yeah. We have more or less of an instruction
9 sheet. It's called a report of photographic lineup.
10 It just has some instructions on there that we read to
11 a witness and confirm they understand the instructions.
12 And then once we confirm they understand the
13 instructions, then we have a series of six photographs.
14 I show them one by one in sequential order. It's either
15 yes or no for each picture.

16 Q. Now was there any identifying information on any
17 of those photos?

18 A. Yeah, when she stopped at picture number two,
19 I believe it was.

20 Q. But as far as originally when these photos were
21 shown to the witness, did you all have anything written
22 on them?

23 A. No, it's just a picture, a number labelled to the
24 picture itself.

25 Q. Now was the Defendant's photo arranged in any

1 particular way to suggest that she should pick out that
2 photo?

3 A. It was not, no, sir.

4 Q. Did this photo otherwise stand out in any way?

5 A. No, sir.

6 Q. And, to the best of your memory, are subjects in
7 those photos similar as far as appearance, age, physical
8 characteristics?

9 A. Yes, sir, they were.

10 Q. Did you comply with North Charleston Police
11 Department procedures for showing these kinds of
12 photographic lineups?

13 A. I did, yes, sir.

14 Q. Now what, if anything, would Tynetra Hamilton
15 have been told prior to you all showing her the photos?

16 A. The only thing would have been the instructions
17 for the report for the photographic lineup sheet.

18 Q. Okay. And did the witness select any photos
19 from that lineup?

20 A. Yeah, she selected photo number two, I believe
21 it was, and said it was a person by the name of Rondo.

22 Q. All right. And do you recall how long it took
23 her to pick out that photo?

24 A. It was immediate.

25 Q. Did she indicate whether or not that person

DAVID PRITCHARD - DIRECT BY MR. WARING

1 was involved in the shooting?

2 A. Yeah, she said that's the person who killed
3 the victim.

4 Q. Okay. What about her level of certainty?
5 Would you say that it was high or low?

6 A. It was high. As soon as she saw the picture,
7 it was immediate.

8 Q. All right, Detective, I'm going to put up on
9 the overhead some documents. These already have been
10 admitted. We'll start off with State's Exhibit 16.
11 And, Detective, what are we looking at here?

12 A. This is the report of photographic lineup,
13 the instruction sheet.

14 Q. Okay. And these initials on the side, are those
15 Ms. Hamilton's?

16 A. They are.

17 Q. And are these the instructions that you read
18 to her prior to showing her the photos?

19 A. Yes, sir.

20 Q. Can you read to the jury what she wrote as far as
21 a comment, or what she said out loud that was documented
22 on this form?

23 A. Picture number two, name is Rondo, killed the
24 victim. He got the gun from the victim and shot him.

25 Q. All right. And, again, you said there were six

DAVID PRITCHARD - CROSS BY MR. SMITH

1 photos that were shown to her?

2 A. Yes, sir.

3 Q. Was the Defendant's photo -- I'll show you
4 State's Exhibit 17. I believe this is photo one.
5 Would this have been shown to her first?

6 A. Yes, sir.

7 Q. Okay. Now, I'm showing you State's Exhibit 18.
8 Is that photo two?

9 A. Yes, sir.

10 Q. And is that the photo that she selected and
11 circled?

12 A. It is.

13 Q. And do you recall is that her name at the bottom?

14 A. It is.

15 Q. Okay. And is this the individual that she
16 indicated she knew as Rondo who shot the victim?

17 A. It is, yes, sir.

18 MR. WARING: Court's indulgence.

19 Please answer any questions the defense has.

20 THE COURT: Cross?

21 CROSS-EXAMINATION

22 BY MR. SMITH:

23 Q. So when you did the photographic lineup, you were
24 in the solicitor's office; is that correct?

25 A. That's correct, yes, sir.

—DAVID PRITCHARD - REDIRECT BY MR. WARING—

1 Q. And you were with Detective Butler as well?

2 A. Yes, Detective Butler was also present.

3 Q. And when you did the initial form, did Tynetra
4 Hamilton fill out that form?

5 A. She just initialled by the little section by
6 each instruction, that's the only place that she filled
7 out and then the signature for it.

8 Q. And the little blurb at the bottom, was that
9 something that you wrote down?

10 A. Yeah, that was a statement she provided me,
11 and I wrote it for her.

12 MR. SMITH: No further questions,
13 Your Honor.

14 THE COURT: Redirect?

15 MR. WARING: Briefly, Your Honor.

16 REDIRECT EXAMINATION

17 BY MR. WARING:

18 Q. Detective, I'm going to put up State's Exhibit 16
19 again. Now at the bottom there, can you tell us what
20 we're looking at here?

21 A. Yeah, that's the witness's signature.

22 Q. Okay. So you didn't sign for her?

23 A. No, sir.

24 Q. Now was this signature obtained before or after
25 everything?

DANIEL PRITCHARD - DIRECT BY MR. WARING

1 A. That's the last thing that I had the witness do.

2 Q. Okay. So even after you all had written down
3 what she had said, did she sign acknowledging that what
4 you said was correct?

5 A. Yes, sir.

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

8 THE COURT: Recross?

9 MR. SMITH: No, Your Honor.

10 THE COURT: You may step down.
11 Next witness.

12 MR. WARING: Thank you, Your Honor.
13 State calls Detective Dan Pritchard.

14 DETECTIVE DANIEL PRITCHARD, was called as a
15 witness, being duly sworn, was examined and testified as
16 follows:

17 THE CLERK: For the record, please state
18 your full name, spell your last name.

19 THE WITNESS: Daniel Matthew Pritchard,
20 P-R-I-T-C-H-A-R-D.

21 DIRECT EXAMINATION

22 BY MR. WARING:

23 Q. Good morning, Detective.

24 A. Good morning, sir.

25 Q. Detective, for anybody who might be wondering

DANIEL PRITCHARD - DIRECT BY MR. WARING

1 on the jury, are you related to the prior detective
2 who just testified?

3 A. He's my younger brother.

4 Q. Okay. Now, Detective, where do you work?

5 A. The City of North Charleston.

6 Q. All right. And how long have you worked there?

7 A. Coming up on 13 years.

8 Q. Okay. You said you worked for the city, is that
9 in the role as a police officer?

10 A. Yes, sir..

11 Q. All right. Now back in December of 2016,
12 around the time of this incident, what would your
13 role have been at that time?

14 A. I was in the crime unit. We handled anything
15 from aggravated assaults, armed robberies to homicides.

16 Q. And were you specifically involved in this case
17 at that time?

18 A. I was, sir.

19 Q. Okay. Can you tell us how you initially got
20 brought into this case?

21 A. I was on call the night of the incident. And any
22 time there's a homicide, they contact the on-call
23 detective team to respond. Some detectives will respond
24 to the scene. Some detectives will respond to the
25 hospital depending on the -- to check on the welfare

DANIEL PRITCHARD - DIRECT BY MR. WARING

1 of the victim, some detectives will respond to City Hall
2 to prepare interview rooms and/or to type search
3 warrants, if needed, and I responded to the scene.

4 Q. And was the scene in front of 4625 Lowell Drive
5 in Charleston County?

6 A. Yes, sir, it was.

7 Q. All right. Now once on scene, do you remember
8 what you did?

9 A. Just kind of got a grasp of what patrol had found
10 once they had arrived. The victim had already been
11 transported to Trident Main off of University Boulevard,
12 trying to start putting pieces of the puzzle together.
13 That's what we try to do when we respond to the scene.

14 Q. Now at some point, did you learn that there was
15 a video -- a surveillance video?

16 A. We did. I believe we had that night, but had
17 made contact with the homeowner the following day.

18 Q. And at some point, did you view that video?

19 A. I did, sir.

20 Q. Can you tell the jury which apartment that video
21 shows?

22 A. It shows the aforementioned address, and
23 apartments 1706 and 1704 are the two front-facing
24 apartments that face Lowell Drive.

25 Q. Okay. Now through your investigation, how did

1 you come to find out about the Defendant?

2 A. The Defendant was actually identified on scene
3 by the patrol officers that night. He was found on the
4 left side of the incident location, sitting on a chair,
5 and had advised the officers that he was utilizing the
6 tenant's WiFi at that location.

7 Q. Okay. Did you come to find out that the
8 Defendant had indeed lied to that responding officer?

9 A. Later on we did, yes, sir.

10 Q. Now based on the information that he was on
11 scene, et cetera, what did you do next?

12 A. The night of the incident contact was not
13 made with a lot of the residents, so we went back out
14 the following day during the proper time, not after
15 midnight ---

16 Q. I'm sorry to cut you off, Detective. I guess
17 what I was asking was did you end up bringing him in
18 for questioning?

19 A. We eventually did, yes, sir.

20 Q. Okay. And can you tell us what the -- do you
21 remember what the date of the interview was?

22 A. I believe it was within 24 hours of the incident.

23 Q. Okay. Now, I just want to ask you a couple of
24 questions about that. At that time, did the Defendant
25 appear to be under the influence of any drugs or alcohol

1 that would hinder his ability to understand what he was
2 doing?

3 A. He did not.

4 Q. Did he appear to have any physical or mental
5 defects or anything?

6 A. He did not.

7 Q. Okay. And as far as the length of the actual
8 interview, was it lengthy or was it short?

9 A. In relative terms, short. I believe three,
10 maybe four hours total with talking and no talking.

11 Q. All right. And were any breaks sprinkled
12 in between all that?

13 A. There were offers of water, if he needed to use
14 the restroom, things along those lines. We didn't go
15 get snacks or anything, but there were offers of water.

16 Q. Now, Detective, did you or anybody else in North
17 Charleston threaten the Defendant to get him to talk?

18 A. No, sir, I didn't.

19 Q. Did you all make any misrepresentations to him
20 or any promises of leniency?

21 A. We did not.

22 Q. All right. Now eventually was he advised of his
23 Miranda rights?

24 A. Yes, he was.

25 Q. And did he sign an advisement of rights form

DANIEL PRITCHARD - DIRECT BY MR. WARING

1 indicating that he understood those rights?

2 A. He did.

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

5 THE COURT: Yes.

6 BY MR. WARING:

7 Q. I'm showing you what's been marked for
8 identification purposes as State's Exhibit 54. Do you
9 recognize that?

10 A. I do. It's our North Charleston Police
11 Department advisement of constitutional rights form.

12 Q. All right. And is that the same one that you
13 would have shown the Defendant and had him sign and
14 initial?

15 A. It is.

16 Q. And does it fairly and accurately depict that
17 form?

18 A. Date and time, my signature as well as the
19 witness.

20 MR. WARING: Your Honor, at this time
21 the State would like to move Exhibit 54 into evidence.

22 MR. SMITH: No objection.

23 THE COURT: Admitted.

24 (State's Exhibit 54 was admitted into evidence.)

25 BY MR. WARING:

DANIEL PRITCHARD - DIRECT BY MR. WARING

1 Q. I'm putting that on the overhead, State's Exhibit
2 54. Detective, would you mind just starting from here
3 and just reading down?

4 A. I, Maulique Heyward, have been advised by
5 Lieutenant Candy Johnson of the City -- I'm sorry --
6 of the North Charleston Police Department that I have
7 the absolute right to remain silent, I do not have to
8 answer any questions or give a statement, and this fact
9 cannot be used against me. He initialed.

10 If I do answer questions or give a statement,
11 anything I say can and will be used against me in
12 a court of law. He again initialed. I have the right
13 to consult with a lawyer of my choice before I answer
14 questions or give a statement and also have him or her
15 present while I am being questioned. The Defendant
16 initialed again.

17 If I wish to talk to a lawyer, or have him or
18 her present, but I am unable to afford to hire a lawyer,
19 one will be appointed to represent me free of charge.
20 The Defendant initialed again. If I decide to answer
21 questions or give a statement without having a lawyer
22 present representing me, I have the absolute right
23 during this interview to stop answering questions and
24 to remain silent. Again initialed.

25 It goes on to say I fully understand each of

DANIEL PRITCHARD - DIRECT BY MR. WARING

1 these rights explained to me. He signed. Lieutenant
2 Candy Johnson witnessed; I witnessed. Under that,
3 it goes on to say, having these rights in mind, I wish
4 to waive these rights and answer questions.

5 No threats, force or promises of any kind have
6 been made to me by anyone to cause me to waive these
7 rights and/or answer questions. He again initialed.
8 It was dated the 20th of December, 2016, and I think
9 that's 2049 at the bottom, and Lieutenant Candy Johnson
10 and I again witnessed.

11 Q. All right, Detective, now to the best of your
12 knowledge, would you say the Defendant's statement
13 was freely and voluntarily given?

14 A. I do.

15 MR. WARING: Your Honor, at this time,
16 we would ask the Court to publish the stipulation to
17 the jury that the Defendant's statement was freely
18 and voluntarily given.

19 THE COURT: Say again?

20 MR. WARING: Your Honor, at this time,
21 we would ask the Court to publish the stipulation to
22 the jury that the Defendant's statement was freely
23 and voluntarily given.

24 THE COURT: Well, I think you just did.

25 MR. WARING: As an added precaution,

DANIEL PRITCHARD - DIRECT BY MR. WARING

1 Your Honor.

2 THE COURT: All right. It's been admitted
3 into evidence and is now being published to you.

4 BY MR. WARING:

5 Q. Now, Detective, I want to talk about the content
6 of the Defendant's statement. Was he honest from the
7 get-go?

8 A. No, sir.

9 Q. All right. So you already mentioned that he had
10 lied right off the bat to Officer Lynch, right?

11 A. Correct.

12 Q. And then when he came in and spoke with you,
13 he lied again?

14 A. Correct.

15 Q. Now how long -- I mean, did he continue down
16 that path for a little while?

17 A. With Lieutenant Candy Johnson I would guesstimate
18 maybe her interview or contact with him was maybe an
19 hour ---

20 Q. Okay.

21 A. --- or so. And then I went in there and started
22 laying down some facts, and then he then began to what
23 I believe to be -- to start giving an honest and true
24 depiction of what occurred that night.

25 Q. And when you say you started laying down some

DANIEL PRITCHARD - DIRECT BY MR. WARING

1 facts, would you say one of those facts was the
2 existence of the shooting surveillance video?

3 A. Correct.

4 Q. So initially he lied, but then once you mentioned
5 that he had -- you all had the video, is that after when
6 he started talking?

7 A. Correct.

8 Q. Okay. Now did he ever end up admitting any
9 involvement in the shooting?

10 A. He did.

11 Q. And do you recall what the story was that he
12 settled on as his version of events?

13 A. The story was the victim in this case had arrived
14 at this location. The feeling was that the victim was
15 not wanted in that location and was escorted off the
16 property by the Defendant and another co-defendant.

17 At some point, he advised that the Defendant
18 -- I'm sorry -- the victim had pulled a gun on him
19 in which the Defendant's co-defendant tackled him.
20 They wrestled the gun away from him after a brief
21 altercation, and they then separated.

22 After approximately 14 to 16 seconds of
23 separation, the victim and Defendants are within close
24 proximity to each other, and you can see on tape the
25 Defendant raised his arm up, a muzzle flashed, and then

1 the victim falls to the ground.

2 When asked -- it appeared that they were talking,
3 and I asked the Defendant what he said, and he said that
4 he told the victim, "You were going to kill me, so I'm
5 going to kill you" and killed him.

6 Q. Now, Detective, did he mention anything about
7 a robbery?

8 A. He did not.

9 Q. Okay. And just so we're clear, his initial
10 -- his story prior to -- well, with you actually.
11 His story that he settled on was that the victim came
12 over their apartment unannounced, uninvited, they kicked
13 him out, and that's when the victim just pulled a gun
14 out of the blue, right?

15 A. Right.

16 Q. That's when the turmoil or scuffle started --
17 began, and they had to take the gun away? That's the
18 story, right?

19 A. Yes, sir.

20 Q. Okay. Now was the interview recorded?

21 A. Yes, sir.

22 Q. Okay. Now, I'm showing you what's been marked
23 for identification purposes as State's Exhibit 56.
24 Do you recognize that, Detective?

25 A. I do, sir.

DANIEL PRITCHARD - DIRECT BY MR. WARING

1 Q. And can you tell the jury what that is?

2 A. This is Maulique Heyward's video for trial,
3 initialed by me.

4 Q. Okay. And did you initial that indicating
5 that you have watched the contents of that disc?

6 A. I have, sir.

7 Q. And does that disc fairly and accurately depict
8 the portion of the Defendant's interview where he talks
9 about his version of events?

10 A. It does.

11 MR. WARING: Your Honor, at this point,
12 the State would seek to admit Exhibit 56 into evidence.

13 MR. SMITH: No objection.

14 THE COURT: All right. It's admitted.
15 You may publish it.

16 (State's Exhibit 56 was admitted into evidence.)

17 MR. WARING: Your Honor, at this time,
18 the State would also seek to pass out transcripts to
19 the jury.

20 THE COURT: All right. Folks, these
21 transcripts are to assist you in listening to this
22 audio. These things are not often of the highest
23 quality. So a transcript has been prepared to the best
24 of the transcriber's ability.

25 They believe this is true and accurate,

1 but ultimately you should decide what is. And if it
2 differs from what is on the transcript, then you have
3 the right to decide what you heard verses what's written
4 on that piece of paper.

5 The paper again is just an aid for you.
6 It's not evidence, and it won't go back to the jury
7 room with you during your deliberations, although you
8 can certainly watch the video again, if you need to,
9 during your deliberations. But this is just an aid
10 for you. Don't let it distract from you.

11 And if you again feel like what you hear
12 differs from what you read, then you decide what you
13 want to believe, all right.

14 MR. WARING: Your Honor, would the Court
15 like a copy?

16 THE COURT: Sure.

17 MR. WARING: Madam Court Reporter, would you
18 like a copy?

19 THE COURT REPORTER: Sure.

20 (Video played in the courtroom for the jury.)

21 BY MR. WARING:

22 Q. Detective, just for the jury's benefit, who is
23 Diamond, do you remember?

24 A. Diamond is the Defendant's sister's girlfriend.

25 Q. Okay. And does Diamond have any relation to

DANIEL PRITCHARD - DIRECT BY MR. WARING

1 Lil' Man, the co-defendant, that you recall?

2 A. I think they're friends. I don't know any
3 familial relationship.

4 Q. Okay.

5 (Video continues to play in the courtroom for the jury.)

6 BY MR. WARING:

7 Q. Detective, just so we're clear, so his story
8 is so far at this point that the victim comes over
9 unannounced, uninvited, nobody knows who he is, he just
10 comes in their house, and they kick him out, and that's
11 when he pulls a gun, just out of the blue, right?

12 A. That is the story so far.

13 (Video continues to play in the courtroom for the jury.)

14 BY MR. WARING:

15 Q. Detective, in his interview did the Defendant
16 ever identify the victim as someone he was with that
17 night via photo, do you recall? Through a DMV photo
18 of some kind?

19 A. Yeah, he identified him.

20 Q. And was he -- it looked like you were showing
21 him some photos of the crime scene here and there.
22 Did he indicate on some of those photos what was going
23 on?

24 A. Yes, he was just helping -- helping to make
25 sense of the video.

DANIEL PRITCHARD - DIRECT BY MR. WARING

1 Q. Okay. Detective, I'm now going to show you
2 what has been marked for identification purposes as
3 57 through 60. Do you recognize those, Detective?

4 A. I do.

5 Q. And can you tell the jury what they are?

6 A. This first one is just a single photographic
7 lineup that we showed Maulique Heyward. All he said
8 was that he did not know his name as far as his
9 identification. This is the apartment complex where
10 the incident happened.

11 This is the street view from Google Maps in front
12 of the building, marked out where Garrett was when the
13 incident occurred. And this is just another street
14 view, looking back the opposite direction from the last
15 one I showed you.

16 Q. And, Detective, do those photos fairly and
17 accurately depict the DMV photo of the victim that was
18 shown to the Defendant as well as pictures of the crime
19 scene that he marked up a little bit?

20 A. Yes, I signed them, and he signed them. I dated
21 them and put the case number on them.

22 MR. WARING: All right. Your Honor, at this
23 point, the State would move to have Exhibits 57 through
24 60 admitted.

25 MR. SMITH: Without objection.

DANIEL PRITCHARD - DIRECT BY MR. WARING

1 THE COURT: Admitted.

2 (State's Exhibits 57 through 60 were admitted into
3 evidence.)

4 BY MR. WARING:

5 Q. All right, Detective, I'm now putting up a couple
6 of these photos we just talked about. Exhibit 57,
7 whose photo is that?

8 A. That photo is the victim, Garrett Mitchell.

9 Q. All right. And now it looks like the Defendant
10 wrote don't know his name but signed his own name,
11 Maulique Heyward; is that right?

12 A. Correct.

13 Q. But did he indicate that was the individual
14 that he was with that night?

15 A. Yes.

16 Q. Now, I'm showing you State's Exhibit 58.
17 What are we looking at here? Is this the apartment
18 in front of which where the shooting took place?

19 A. Correct. So the incident took place closer to
20 -- just a little left of 1706 right here. And then 1704
21 is where Maulique's family lives at along with Diamond.

22 Q. Okay. Now State's Exhibit 59. Now it looks
23 like there's an X and the name Garrett written.
24 What does that signify?

25 A. Where the altercation began.

1 Q. And who designated this information?

2 A. Maulique Heyward.

3 Q. All right. And then here's another one,
4 Exhibit 60. Is this the incident location over here?

5 A. It is.

6 Q. All right. And again this was signed by the
7 Defendant?

8 A. Yes, it was.

9 Q. All right. Now, I want to talk briefly about
10 the surveillance video. You mentioned that you did
11 watch the video, correct?

12 A. I did.

13 Q. Would you say that it is a stellar clear video?

14 A. I would not.

15 Q. Okay. But are you able to tell more or less
16 approximately how many people are involved on this
17 video?

18 A. Correct.

19 Q. Okay. And on the video, can you see an
20 altercation?

21 A. There's an altercation observed on the video.

22 Q. On the video, is it clear that there is a
23 separation of these suspects prior to the shooting?

24 A. A clear separation.

25 Q. From the person who gets shot during that

DANIEL PRITCHARD - DIRECT BY MR. WARING

1 separation, is there any active attack that can be seen
2 to the shooter?

3 MR. SMITH: Objection, Your Honor.

4 THE COURT: What's your objection?

5 MR. SMITH: Speculation. Calls for
6 speculation.

7 THE WITNESS: It is on video.

8 THE COURT: Hold on.

9 THE WITNESS: I'm sorry.

10 THE COURT: Do you want to address that?

11 MR. WARING: Your Honor, I would say that
12 it's a layperson's opinion based on his observations,
13 experience in life what he's seen.

14 THE COURT: We'll let the jury panel make
15 that decision. Sustained.

16 BY MR. WARING:

17 Q. Now, to your knowledge -- you mentioned the
18 Defendant's family, but did the Defendant himself live
19 there?

20 A. Did not.

21 Q. Okay. Now what I want to do at this point
22 is play the surveillance video, which has already
23 been admitted, starting off with Exhibit 61.
24 Detective, can you tell the jury what the date
25 and time is on this video?

1 A. December 19th, 12:10 a.m.

2 Q. Detective, in case someone from the jury might
3 not be able to see, can you tell us where the people
4 are walking in this video?

5 A. Focus on the top left. That's where most of the
6 incident is observed.

7 (Video played in the courtroom for the jury.)

8 MR. WARING: All right. Detective, now I'm
9 going to play for you Exhibit 62, which is a zoomed-in
10 version of the same video.

11 (Video played in the courtroom for the jury.)

12 BY MR. WARING:

13 Q. Detective, can you tell us what this strange
14 structure is right here?

15 A. That's the privacy fence to the residence where
16 the surveillance camera is at the house.

17 Q. Okay. So is that why things appear to be very
18 far off in the distance?

19 A. Correct.

20 Q. Detective, just because it is difficult to see,
21 I want to play it back just one more time.

22 (Video played in the courtroom for the jury.)

23 BY MR. WARING:

24 Q. Detective, do you recall approximately how long
25 after the incident, after the shooting, that North

DANIEL PRITCHARD - DIRECT BY MR. WARING

1 Charleston PD would have gotten there on scene?

2 A. It would have been within five minutes.

3 Q. Okay. Had somebody called 911, do you remember?

4 A. At least two or three.

5 Q. Okay. Now have you had a chance to watch the
6 surveillance videos that take place after when the
7 victim was shot to when North Charleston Police
8 Department arrives on scene, and have you noticed
9 whether or not anybody approaches the victim during
10 that time frame?

11 A. Yes.

12 Q. Does anybody, other than the police, approach the
13 victim?

14 A. They do not.

15 Q. Okay. And do you recall where the victim's
16 wallet was found?

17 A. In the street where the altercation occurred.

18 Q. And did you come to find out that his blood
19 was on that?

20 A. Correct, sir.

21 Q. Now through your investigation, did you come
22 to find out whose gun this belonged to?

23 A. We did. It was Garrett Mitchell's brother's gun,
24 the victim's brother's gun.

25 Q. Now, briefly, I want to talk about the phone,

DANIEL PRITCHARD - DIRECT BY MR. WARING

1 the victim's phone. There was some testimony earlier
2 that the victim earlier in the night had an Apple iPhone
3 on him, and that he usually carried some white iPhone
4 headphones. Did you all ever find that?

5 A. No, sir.

6 Q. Through your investigation, did you come to find
7 out that the Defendant had visited the Kangaroo gas
8 station shortly after the shooting?

9 A. I did.

10 Q. Detective, I'm showing you what's been marked
11 for identification purposes as State's Exhibit 63.
12 Do you recognize that?

13 A. Yes, sir.

14 Q. And can you tell the jury what that is?

15 A. This is an areal view pinpointing where the
16 shooting occurred and pinpointing a Kangaroo gas station
17 approximately a quarter mile -- half a mile down the
18 road.

19 Q. Okay. And does that exhibit fairly and
20 accurately depict the overhead map of that area,
21 the incident location in Kangaroo?

22 A. At the time of this incident, it does.

23 MR. WARING: Your Honor, the State would
24 seek to admit Exhibit 63.

25 MR. SMITH: Without objection.

DANIEL PRITCHARD - DIRECT BY MR. WARING

1 THE COURT: Admitted.

2 (State's Exhibit 63 was admitted into evidence.)

3 BY MR. WARING:

4 Q. All right. Detective, you'll notice on here
5 4625 Lowell Drive. Is that where the shooting was,
6 around there?

7 A. Yes, sir.

8 Q. Okay. And then I'm going to scroll over here.
9 Is that where the Kangaroo gas station is?

10 A. It is.

11 Q. And you mentioned it's more or less a pretty
12 close proximity?

13 A. Correct.

14 Q. Did you come to find out whether or not there was
15 a video of that Kangaroo gas station surveillance video?

16 A. I became aware of it, yes, sir.

17 Q. And did you all retrieve that?

18 A. It was retrieved.

19 Q. Have you had a chance to review that video?

20 A. Yes, sir.

21 Q. And is the Defendant in that video?

22 A. He is.

23 Q. Now, I'm going to play what's already been
24 admitted as State's Exhibit 64.

25 (Video played in the courtroom for the jury.)

1 BY MR. WARING:

2 Q. Okay, Detective, can you tell us approximately
3 what time this is taking place?

4 A. It is approximately 30 minutes after the incident
5 occurred.

6 Q. And so is this video on December 19, 2016 around
7 12:40 in the morning?

8 A. Yes, sir, it is.

9 Q. And just to refresh our memory, approximately
10 what time was the shooting about?

11 A. Approximately 12:10, 12:11.

12 Q. A.m.?

13 A. Yes, sir.

14 Q. Okay. And who is this individual right there?

15 A. Maulique Heyward.

16 Q. Does the Defendant appear to be buying anything?

17 A. Not at this point, no, sir.

18 Q. Does the Defendant pull something out of his
19 pocket?

20 A. Yes, sir.

21 Q. And are you able to tell the jury what you think
22 it appears to be?

23 A. It's a Smart phone, what appears to be the
24 factory-given headphones from an iPhone.

25 Q. Detective, did he appear to buy anything during

DANIEL PRITCHARD - DIRECT BY MR. WARING

1 that encounter?

2 A. He did not.

3 Q. Now, I think earlier when we talked about the
4 phone, the victim's iPhone was never found, right?

5 A. Yes, sir, that's correct.

6 Q. Did you all ever try to track it?

7 A. We did.

8 Q. And were you able to track it in any way?

9 A. We were not.

10 Q. Before I get ahead of myself, I wanted to show
11 you a couple of photos, State's Exhibits 65 through 68
12 for identification purposes. Do you recognize those?

13 A. Yes.

14 Q. Okay. Do those fairly and accurately depict
15 the still photos of the Defendant in the Kangaroo
16 gas station?

17 A. Yes, sir.

18 MR. WARING: Your Honor, the State would
19 seek to admit Exhibits 65 through 68.

20 MR. SMITH: Without objection.

21 THE COURT: Admitted.

22 (State's Exhibits 65 through 68 were admitted into
23 evidence.)

24 BY MR. WARING:

25 Q. All right, Detective, State's Exhibit 65.

1 These are the still shots you were referring to?

2 A. Correct.

3 Q. State's Exhibit 66, State's Exhibit 67 and
4 State's Exhibit 68. Now, Detective, if you all had that
5 iPhone turned on, if it were to be turned on, would you
6 all be able to track it?

7 A. We would be able to get a location.

8 Q. Would be able to get a location?

9 A. Yes.

10 Q. Okay. But if it were off, then you couldn't?

11 A. Correct.

12 Q. Now at some point, did you end up coming into
13 contact, and did your organization collect one of the
14 Defendant's own phones?

15 A. Yes.

16 Q. And was one in particular processed for data?

17 A. Yes, it was. There was a forensic dump done
18 on the phone.

19 Q. Now for those on the jury that might not know
20 what a phone dump is, can you explain what that is?

21 A. We have people trained to use a computer system
22 that has the ability to get information from the phone
23 that may have been erased, that may be locked, that may
24 be hidden. They're able to get much, much more than you
25 and I just sitting here looking at it using a system.

1 Q. Okay. So the person has a phone, you all process
2 it for data, and does that typically contain -- can it
3 contain useful information for a criminal case?

4 A. Sometimes it does.

5 Q. Such as what; photos, pictures, text messages,
6 et cetera?

7 A. Correct.

8 Q. All right. Now, I would like to show you
9 what's already been admitted as State's Exhibits 69
10 through 75.

11 THE COURT: It's been about an hour and
12 a half since we've had you all in here. So let's go
13 ahead and take a break, and let you all use the
14 restroom, stretch your legs. Again, don't begin your
15 deliberations or discussions about the case. We will
16 see you back in about 15 minutes, okay. Thank you.

17 (Jury exits the courtroom at 11:08 a.m.)

18 THE COURT: Okay, let's be back in 15
19 minutes.

20 MR. WARING: Thank you, Judge.

21 THE COURT: You can go to the restroom.
22 You can't talk to anybody during the break, but you
23 can go to the restroom.

24 THE WITNESS: Thank you.

25 (Recess taken at 11:09 a.m.)

DANIEL PRITCHARD - DIRECT BY MR. WARING

1 (Back on the record at 11:27 a.m.)

2 THE COURT: All right. The record will
3 reflect the Defendant is in the courtroom. Are we ready
4 to resume?

5 MR. WARING: Yes, Your Honor.

6 THE COURT: Bring the jury back.

7 (Jury enters the courtroom at 11:29 a.m.)

8 THE COURT: All right. We will resume
9 with the direct examination of the witness.

10 DIRECT EXAMINATION

11 BY MR. WARING:

12 Q. All right, Detective, when we left off I was
13 going to show you what's already been admitted as
14 State's Exhibits 69 through 75, starting off with
15 State's Exhibit 69. Can you tell us what we are
16 looking at here on this line?

17 A. The 19th of December, 2016, the day of the
18 homicide, 5:49 p.m., he sent a message that says
19 I wanted you to show me what you've been talking about.
20 I have this iPhone, and I got another one to be
21 unlocked.

22 Q. All right. So he says he's got another iPhone
23 to be unlocked, right?

24 A. Yes, sir.

25 Q. And this is the same day that he shot the victim,

DANIEL PRITCHARD - DIRECT BY MR. WARING

1 correct?

2 A. Correct.

3 Q. State's Exhibit 70. Can you tell me what we're
4 looking at on this highlighted line as well?

5 A. A message sent the date of the homicide at 6:31
6 p.m., you know how to unlock iPhone.

7 Q. All right. So in that message he's trying to
8 unlock another iPhone too, right?

9 A. Correct, sir.

10 Q. All right. State's Exhibit 71. Can you read
11 the highlighted portions on that information; dates,
12 times, et cetera, and the name from which it came for
13 those messages?

14 A. 12/20/2016, one day after the homicide from
15 Rondo, I need you to do me a favor. 12/20/2016, one day
16 after the homicide, Rondo sends hold these two iPhones
17 for me. 12/20/2016, 11:38 a.m., Rondo sends a message
18 that says until Friday or something. 12/20/2016,
19 11:38 a.m., Rondo says, I'm about to bring them in
20 a minute.

21 Q. All right. State's Exhibit 72. If you could
22 read the highlighted portion of that message.

23 A. This is Maulique, sent from his phone.

24 Q. State's Exhibit 74, if you could read the
25 highlighted portion, please.

1 A. I, Maulique Heyward.

2 Q. And State's Exhibit 75, the highlighted
3 portions, please.

4 A. My real name is Maulique though; Rondo is my
5 street name. My real name is Maulique though; Rondo
6 is my street name.

7 Q. All right. Detective, now through your
8 investigation and throughout the life of this case,
9 have you had a chance to listen to some jail calls
10 for this defendant?

11 A. Yes, sir.

12 Q. All right. I'm now going to put on what's
13 already been admitted as State's Exhibit 76.

14 MR. WARING: Your Honor, permission to pass
15 out transcripts to the jury, please?

16 THE COURT: You may. Again, folks, these
17 transcripts are being distributed to you as aids.
18 They're not evidence. They're just to help you go along
19 with what you're about to hear. And if you think that
20 what you hear is different from the transcript, well,
21 then you believe what you hear. But these are not
22 evidence. They're only aids to help you understand
23 what the transcriber believes is said on the audio.

24 MR. WARING: Permission to approach,
25 Your Honor?

DANIEL PRITCHARD - DIRECT BY MR. WARING

1 THE COURT: You may.

2 (Audio of jail call played for the jury.)

3 BY MR. WARING:

4 Q. Detective, can you tell us what you heard just
5 now?

6 MR. SMITH: Objection, Your Honor.

7 THE COURT: Sustained.

8 (Audio continued to be played for the jury.)

9 BY MR. WARING:

10 Q. Detective, again, what would happen if the
11 victim's phone were to be turned on, would you be able
12 to track it?

13 A. We would get a location, yes, sir.

14 (Audio continued to be played for the jury.)

15 BY MR. WARING:

16 Q. And, again, was the victim's cell phone ever
17 found?

18 A. No, sir.

19 Q. Lastly, Detective, I want to talk for a minute
20 about this witness, Tynetra Hamilton. Prior to her
21 coming in and proffering with our office -- with the
22 solicitor's office, did you all have any evidence on
23 her whatsoever?

24 A. No, sir.

25 Q. Could you have charged her back then even if

1 you all wanted to?

2 A. Unfortunately not.

3 Q. Okay. So literally she had no benefit in coming
4 to talk to us, did she?

5 A. No, sir.

6 Q. Now can you tell the jury what a proffer does?
7 There's been some talk about a proffer. Can you tell
8 them briefly what it does?

9 A. It protects you from criminal prosecution in
10 a certain case that you're proffering on.

11 Q. So if you tell the truth and you cooperate,
12 does that mean it protects you?

13 A. As long as you tell the truth.

14 Q. So, in fact, coming here this week and lying
15 could only actually put her in a much tougher spot,
16 right?

17 A. I would obtain murder warrant for her if she
18 came and lied.

19 MR. WARING: Court's indulgence.
20 Please answer any questions the defense has.

21 THE WITNESS: Yes, sir.

22 THE COURT: Cross?

23 MR. SMITH: Yes, Your Honor. Just a moment.
24 Beg the Court's indulgence.

25 (Pause.)

DANIEL PRITCHARD - CROSS BY MR. SMITH

1 CROSS-EXAMINATION

2 BY MR. SMITH:

3 Q. Detective Pritchard, you said if Tynetra had
4 come in and lied you would take warrants out for her
5 this week?

6 A. Yes, sir.

7 Q. And whether she told the truth or not, you would
8 be the judge of that?

9 A. I would be the judge -- it was my case.

10 Q. So you would be the judge to whether she told
11 the truth or not?

12 A. No, I have had no contact with her since the
13 interview I had back on a few days after the murder
14 in 2016.

15 Q. So, I guess, what I'm saying to you though is
16 if she had come into court and said something different
17 than what you thought the truth was, you would have
18 charged her?

19 A. I have no idea what her testimony was, sir.

20 Q. I understand that. But had she done something
21 that was not, or had she said something that was not
22 what you thought was consistent with the case, you would
23 have charged her? I think that's what you just told the
24 solicitor.

25 A. If she came in, and we believed it to be a lie,

1 then, yes, sir, we would prosecute her.

2 Q. And, I guess, what I'm getting at is the basis
3 in determining whether she lied during her testimony
4 would be what your perception was; is that correct?

5 A. Based on the circumstances of the case, yes, sir.

6 Q. And based on what the solicitor's circumstances
7 of the case was?

8 A. Yes, sir.

9 Q. Now, I want to go back in time a little bit
10 and talk to you about your interview with Maulique,
11 okay.

12 A. Yes, sir.

13 Q. He did agree to talk to you; is that correct?

14 A. That's correct.

15 Q. And you said it was -- in the grand scheme of
16 things, it was a relatively short interview in the
17 neighborhood of three to four hours; is that accurate?

18 A. Yes.

19 Q. And during that time, he gave you all the
20 information that you asked for?

21 A. Once I started presenting some of the photos.

22 Q. And you talked ---

23 A. It made his story make sense with what the video
24 had shown. It put everything together.

25 Q. So once you talked about the video, and the fact

1 that you had the video that's when he began to answer
2 your questions?

3 A. Yes, sir, that's correct.

4 Q. And he did not stop at any point, he continued
5 to answer any questions you asked; is that right?

6 A. Correct.

7 Q. Now Maulique Heyward was not the only person
8 arrested in this case; is that correct?

9 A. That's correct. There's another defendant.

10 Q. And that was Darron Heyward?

11 A. Yes.

12 Q. And what was he charged with, if you remember?

13 A. I would have to look at the warrant.

14 Q. But would you say that he was not charged with
15 the murder?

16 A. It may have been an accessory charge.

17 Q. Okay. You just don't remember without seeing
18 the warrant?

19 A. Yes, sir. Yes, sir.

20 Q. So, I want to make sure through your
21 investigation, let's just talk about for a minute the
22 Lowell Drive address. How many people were at the
23 Lowell Drive address based on your investigation?

24 A. According to Maulique, approximately six people.

25 Q. And those -- do you remember, can you list those

DANIEL PRITCHARD - CROSS BY MR. SMITH

1 folks?

2 A. He never does mention the female ---

3 Q. Okay. But did you -- I mean, can you tell us
4 who those folks were?

5 A. It was Maulique, his sister, Diamond, the
6 co-defendant, and I believe the co-defendant's brother.

7 Q. And did you have an opportunity to interview
8 all of those people?

9 A. We did. The co-defendant's brother did not wish
10 to speak to us.

11 Q. But you did interview, for example, Precious,
12 you interviewed her at some point?

13 A. I believe Precious was interviewed twice.

14 Q. And you interviewed Diamond?

15 A. I believe twice as well.

16 Q. And you also interviewed Tyler Heyward?

17 A. We did.

18 Q. And you did interview Darron Heyward at some
19 point?

20 A. We did.

21 MR. SMITH: Beg the Court's indulgence
22 for just a moment, Your Honor.

23 BY MR. SMITH:

24 Q. Did you at some point obtain a search warrant
25 for Mr. Heyward's house?

1 A. There was a search warrant obtained for
2 Mr. Heyward's house, yes, sir.

3 Q. Was there ever an iPhone found during that search
4 warrant?

5 A. Not to my knowledge.

6 MR. SMITH: Your Honor, I believe that's
7 all the questions I have.

8 THE COURT: Redirect?

9 MR. WARING: Just a couple of quick
10 questions.

11 REDIRECT EXAMINATION

12 BY MR. WARING:

13 Q. Detective, a couple of quick questions on Tynetra
14 Hamilton. So, again, for about a year and a half, from
15 the moment of the Defendant's arrest from the shooting
16 up until she proffered with our office, was there any
17 evidence whatsoever on her?

18 A. No, sir.

19 Q. Okay. So even if you all wanted to, you could
20 not have charged her, correct?

21 A. Unfortunately no.

22 Q. All right. So, again, did she have any benefit
23 at all to come in and tell the story that she did,
24 the story that she's testified to during this trial?

25 A. Not at this point, no.

DANIEL PRITCHARD - RECROSS BY MR. SMITH

1 Q. Now defense attorney was talking about the
2 Defendant's interview. Did he lie in his interview?

3 A. At some point.

4 Q. Did he lie immediately on scene with Officer
5 Lynch right after the shooting?

6 A. He did.

7 Q. Did he otherwise conceal the gun, had ditched
8 the gun?

9 A. He did.

10 MR. WARING: No further questions,
11 Your Honor.

12 THE COURT: Recross?

13 MR. SMITH: Just briefly, Your Honor.

14 RECROSS EXAMINATION

15 BY MR. SMITH:

16 Q. Did Mr. Heyward eventually tell you where the gun
17 was?

18 A. He absolutely did.

19 MR. SMITH: Thank you, Your Honor.
20 No further questions.

21 THE COURT: All right. You may step down.

22 THE WITNESS: Thank you, sir.

23 THE COURT: Next witness.

24 MR. WARING: Your Honor, the State rests.

25 THE COURT: Okay. Folks, what we're going

1 to do right now is you've heard all the evidence that
2 the State is going to present, however, that does
3 not mean you can start your deliberations.

4 We have some legal matters that we have
5 to take up at this point. So it's the lunch hour,
6 and so we're going to go ahead and take a break.
7 We'll do some more work, and then we'll be ready to
8 go to the next phase of the trial after lunch.

9 Now we've ordered your lunch. It's normally
10 here by 12 o'clock, 12:30 the latest, but for some
11 reason today they've said they can't get here before
12 one. So what I recommend is you can go down to the jury
13 room and hang out. Again, do not discuss the case
14 or any witnesses or any evidence at all at this point,
15 or you can go out and do whatever you want to. Your
16 lunch, again, is supposed to be here by one o'clock.

17 So if you feel like going out and stretching
18 your legs, walking in 100-degree weather, you can do
19 that. And when your lunch comes, you can eat it here,
20 or you can take it out or do whatever you want to do
21 as far as that is concerned. But it won't be here until
22 one o'clock, and that will give you roughly an hour
23 of free time.

24 So what I'm going to do is send you back
25 now, you decide how you want to handle your next hour,

1 or when lunch comes you can eat it here or take it
2 outside, do whatever you want, and we're going to
3 resume at two o'clock.

4 So, again, don't begin deliberations or
5 discussions, don't try to look up anything on the
6 internet or post anything on social media. And if
7 anybody does approach you to talk to you about the case,
8 please report that when you come back. So we'll see
9 you all at two o'clock.

10 (Jury exits the courtroom at 11:50 a.m.)

11 THE COURT: All right. Motions?

12 MR. SMITH: Judge, at this time, we make
13 a motion for directed verdict. We think even with
14 the evidence in light most favorable to the State,
15 the State has failed to meet its burden. We ask that
16 you direct a verdict.

17 THE COURT: Would you like to address that?

18 MR. WARING: Your Honor, as he mentioned,
19 if you look at the light most favorable to the
20 non-moving party, us, I think there is ample evidence
21 to give to the jury. Even if we didn't have this
22 witness, Tynetra Hamilton, or this other wallet
23 situation, text messages, or anything, by his own
24 statement, arguably, he's confessed to murder.
25 So we think there's ample evidence to give it to the

1 jury, Your Honor, and ask that the motion be denied.

2 THE COURT: I agree. I think there is some
3 evidence that the jury could convict him of both murder
4 and possession of a weapon during the commission of
5 a violent crime. So, I will deny your motion.

6 Now we'll resume at two o'clock. Now,
7 Mr. Heyward, I want you to -- we're at that point that
8 we've been talking about for the last two days that
9 you have to make a decision as to whether or not you
10 want to testify, or put up a defense of any sort.
11 I want you to go back and have a long discussion
12 with your lawyer about that, about what you want to
13 do with the remainder of this trial.

14 At two o'clock, we're going to come back
15 here and resume this trial, and you can decide what
16 you're going to do as far as putting up a defense
17 and whether or not you want to testify. I'm letting
18 the jury decide this case on murder and possession of
19 a weapon during the commission of a violent offense.

20 Again, the minimum sentence on a murder
21 trial -- a murder conviction is 30 years, day to day,
22 no parole. The maximum is life without parole.
23 So, I can give you anything between 30 years and life
24 without parole. I have not made any decision about
25 what the sentence would be if you are convicted.

1 But, again, this is as serious as it gets,
2 and your minimum sentence would be 30 years, and that's
3 day to day, again, no possibility of parole, of course,
4 I'll give you credit for the three years or so that
5 you have been sitting in jail.

6 But you need to think long and hard, have
7 a heart to heart with your lawyers about some things
8 I want him to discuss with you, as well as your decision
9 to testify or not testify. So we'll see you all back
10 at two o'clock.

11 MR. WARING: Thank you, Judge.

12 (Recess taken at 12:00 p.m.)

13 (Back on the record at 2:04 p.m.)

14 THE COURT: All right. Let the record
15 reflect, the Defendant is in the courtroom. All right,
16 Mr. Heyward, we're getting ready to start back this
17 afternoon. It's that point in time where you have
18 to decide whether or not you want to present a defense.

19 If you want to have your lawyer call
20 witnesses, you can. If you don't want to, you don't
21 have to. You can testify and tell the jury your side
22 of the story, if you want to. If you don't want to,
23 you don't have to, and I will instruct the jury they're
24 not to hold that against you in any way while they are
25 deliberating.

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1 I have explained this to you a couple
2 of times, but it is now the time you have to make
3 a decision. This is your decision and your decision
4 alone. So, I'll ask you, have you made this decision?

5 THE DEFENDANT: Yes, Your Honor.

6 THE COURT: And what have you decided?

7 THE DEFENDANT: I'm going to testify.

8 THE COURT: All right. Well, then, as soon
9 as the jury comes in, we will have you -- your lawyer
10 will call you to the witness stand, you will be placed
11 under oath, and you are to testify truthfully, all
12 right. Check to see if they are ready to go.

13 (Jury enters the courtroom at 2:07 p.m.)

14 THE COURT: All right, be seated. Well,
15 welcome back, folks. I'm sorry it took so long for
16 your lunch to get here. I don't think we've ever run
17 into a problem like that before. But, nevertheless,
18 I hope you had a chance to eat it and enjoy it.
19 We're going to now resume the trial with the next
20 phase, which is the defense calling their witnesses.
21 So, Mr. Smith.

22 MR. SMITH: Thank you, Judge. The defense
23 calls Maulique Heyward.

24 MAULIQUE HEYWARD, was called as a witness,
25 being duly sworn, was examined and testified as follows:

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1 THE CLERK: For the record, please state
2 your full name, spell your last.

3 THE WITNESS: Maulique Alexander Heyward,
4 H-E-Y-W-A-R-D.

5 DIRECT EXAMINATION

6 BY MR. SMITH:

7 Q. Good afternoon, Maulique.

8 A. Good afternoon.

9 Q. So, I would like for you to start out by telling
10 the jury a little bit about you. How old are you?

11 A. I am 22 years old.

12 Q. How far did you go in school?

13 A. I graduated high school.

14 Q. Which school did you go to?

15 A. I graduated from James Island Charter High
16 School.

17 Q. And what was the last job that you had?

18 A. I worked at Atlantic Bedding and Furniture
19 for about six months, six or seven months.

20 Q. And where are you from?

21 A. From Hollywood, South Carolina.

22 Q. And have you lived in the Charleston area
23 all your life?

24 A. Yes, sir.

25 Q. All right. You've been here, and you've heard

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1 testimony over several days, so I want to kind of jump
2 right into the incident that we're talking about, okay.

3 A. Okay.

4 Q. I would like for you to tell us a little bit
5 about what happened kind of the night before.

6 A. All right. So the night before me and my
7 brother, Tyler, we was picked up by my friend, Precious,
8 from my mother's house on Dorchester Road, and we was
9 invited over to where the incident happened, all right.

10 The night before, we was watching -- chilling,
11 watching the Medea movie, and Suicide Squad just came
12 out, watched that. Chilling the whole night until the
13 next day. Precious and Diamond went upstairs and went
14 to sleep, and me, my co-defendant, and my little brother
15 was downstairs, you know, chilling the whole day,
16 chilling in front of the house.

17 The only time we left the house is when we went
18 to the store. At the top of the neighborhood, there's
19 a corner store. Went to the store, went to get some
20 cigarettes and came back. That's the only time I left
21 the house.

22 Q. Okay. Maulique, I want to stop you for just
23 a second, okay, and kind of follow up on a couple
24 of things, okay. Now were you initially invited over
25 to that house?

1 A. Yes, sir.

2 Q. And who invited you over?

3 A. The homeowner, Diamond, and Precious.

4 Q. And who was actually renting that apartment?

5 A. It was Diamond's apartment.

6 Q. And can you tell us everybody who was in the
7 apartment that night?

8 A. It was me, my little brother Tyler, Diamond,
9 Precious, and my co-defendant, Diamond's little brother.

10 Q. Now let's move on to the next day, okay.

11 A. All right.

12 Q. And I think you were telling us you were there
13 most of that day; is that correct?

14 A. The only time I left was when I went to the
15 corner store.

16 Q. And do you remember about what time you left
17 to go to the corner store?

18 A. That's the only thing I don't remember,
19 but I know it was during the daytime.

20 Q. Do you remember there being light outside?

21 A. Yes, sir.

22 Q. So tell me a little bit about what you did when
23 you got back to the house after going to the corner
24 store.

25 A. When we got back, smoking cigarettes in front

MAULIQUE HEYWARD - DIRECT BY MR. SMITH

1 of the house because we didn't smoke cigarettes inside
2 the house. Diamond don't smoke cigarettes; Precious
3 just started back smoking cigarettes. So we was sitting
4 in front of the house smoking cigarettes. I was showing
5 up my little brother -- I don't know if you all know
6 what that is, basically, letting him have a cigarette,
7 and we've just been chilling the whole day.

8 Q. So did you all ever leave again from that house?

9 A. No, sir.

10 Q. Okay. So let's move kind of fast forward to that
11 evening, okay. Where were you all in the evening?

12 A. All right. We was basically still at the house,
13 but me and my co-defendant, Lil' Man, was in the parking
14 lot. Basically, I was smoking a cigarette, showing him
15 up on the cigarette, you know, later on that night up
16 until when the incident was about to happen.

17 So when we saw the victim walk up to the house,
18 we ran over to the house over there, and we was trying
19 to see what was going on. He was already halfway inside
20 the doorway. So my co-defendant was, like, what the
21 hell you doing here -- excuse me. I don't know if I can
22 say that or not.

23 THE COURT: What?

24 THE WITNESS: I cursed a little.

25 MR. SMITH: You can go on.

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1 THE WITNESS: Okay.

2 BY MR. SMITH:

3 A. So he was, like, what the hell you doing here,
4 confrontation. We ended up arguing with the victim.
5 He wasn't in the house that long. He didn't even get
6 all the way in. He was in the doorway when we caught
7 him, so he ended up walking off. The video show that
8 we was walking behind him, we was still arguing with
9 him.

10 Words was exchanged. I don't remember the exact
11 words, but I know it was heated, and then that's when
12 the gun came out. So when the gun came out, I did not
13 see the gun at first. My co-defendant saw the gun.
14 That's why he jumped on the gun. But I caught on to
15 it after the fact, after my co-defendant was saying
16 he got a gun, so we fought for the gun. I ended up
17 getting control of the gun.

18 I admit I did say, yes, I did, you tried to kill
19 me, so I'm going to kill you. But at the time I wasn't
20 thinking about oh, I should watch what I say, I should
21 watch what I say, the police might, you know, I wasn't
22 thinking about that. This man just pointed a gun at me,
23 and I keep hearing click, click, click. He's pointing
24 the gun. It's not at my head, but he's pointing it
25 at my direction. I can see it pointing at my head.

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1 It's a loaded gun. After I got the gun,
2 I realized it was loaded. So after I got the gun,
3 I keep trying to figure out what was wrong with the gun,
4 that's why you all saw us pausing, and it looked like
5 we was talking, but after I say what I say, I was trying
6 to figure out what was wrong with the gun. I keep
7 looking down. He kept coming towards me. He kept
8 coming, he kept coming, that's why I shot him.

9 Q. So, I'm going to kind of go through a little
10 bit of this with you just so we make sure that the
11 jury understands everything, okay. So did you know
12 Mr. Mitchell prior to this?

13 A. No, I did not know him.

14 Q. When was the first time that you saw him that
15 evening?

16 A. The first time I saw him was when he was walking
17 up to the door that night.

18 Q. And when he came up to the door, what was
19 he trying to do?

20 A. He wasn't trying to do nothing. He was already
21 halfway in the door, already halfway inside the doorway.
22 He wasn't trying to do nothing. He already was inside
23 the house, basically, until we stopped him right there.

24 Q. Did you start any kind of fight with him?

25 A. No, I did not.

1 Q. So, I want you to kind of slowly take us through
2 when you first see the gun, okay.

3 A. All right. When I first saw the gun pulled
4 out, like I said, I froze. I didn't know what it was.
5 I don't know why I froze, I just froze. But my
6 co-defendant caught on to it as soon as it was pulled
7 out.

8 So when I saw him tackle, and they went into the
9 middle of the street, that's when I -- it jumped back
10 in my mind, okay, he got something for real because my
11 co-defendant is screaming, he got a gun. So, I helped
12 him.

13 Now the whole time while my co-defendant was
14 on top of him trying to get the gun from him, he was
15 still lifting the gun in between my co-defendant's leg,
16 still aiming it at my head. I could hear the click,
17 three, four clicks, still aiming it at my head. That's
18 why I came over there, and I didn't get control of the
19 gun right then and there.

20 We fought. He -- I'm not going to lie, I wasn't
21 that big. He had a size advantage over both of us.
22 So it was a struggle. My shirt got ripped and
23 everything. Once I got the gun, I backed up off of him.
24 Like I said, I did say what I say, I'm not denying that.
25 I did say what I say, but he kept pursuing, he kept

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1 coming towards me.

2 Q. When you saw the gun come out, were you scared?

3 A. Yeah, I was scared.

4 Q. Did you believe you were in danger?

5 A. Yes, I believe I was in danger.

6 Q. Do you believe that he was trying to shoot you?

7 A. Yes, I do believe he was trying to shoot me
8 because I heard multiple times the gun clicking, and it
9 was aimed at my head.

10 Q. And do you believe he was trying to shoot
11 Lil' Man as well?

12 A. I heard the click with Lil' Man too, but at
13 the same time he caught on to it earlier, like I said.
14 So it wasn't as much clicks as it was with me, but he
15 was still trying to shoot both of us.

16 Q. Now you did get control of the gun at some point,
17 right?

18 A. Yes, sir, I did.

19 Q. And was there ever a point during that, that you
20 didn't think you were being threatened by Mr. Mitchell?

21 A. There wasn't a point that I did not think I
22 wasn't being threatened because at the same time, he got
23 a gun. He had a gun on him. He already pulled it out.
24 It was already out. I got control of it. I did not
25 want to turn my back because I didn't know if he had

1 another gun, and, like I said, he was pursuing.

2 The video show that he keeps coming towards me.

3 Q. Now you will see on the video that there's
4 a period when there's some separation.

5 A. It is. It is.

6 Q. What was Mr. Mitchell doing during that
7 separation?

8 A. He was trying to say, like, oh, I wasn't trying
9 to hurt you, but I really wasn't trying to hear that.
10 He already had the gun pointing at my head, and it
11 was already clicked, like, three or four times.

12 So when you're saying that you're not trying
13 to hurt me, but you already pulled out a gun and was
14 trying to use your gun, I'm not even thinking about
15 that at that time. Like I said, I wasn't even thinking,
16 really everything just happened so fast. It just
17 happened and so, you know ---

18 Q. Okay. I want to talk to you about that for just
19 a minute because we're talking about a decision that you
20 made very quickly. In your mind, how long do you think
21 all this went on?

22 A. (Snaps fingers.) Like that, like that.

23 Q. And at any point, did you feel your life flashed
24 in front of your face?

25 A. The whole time. The whole time.

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1 Q. Now you've admitted to the detective that you
2 shot Mr. Mitchell, right?

3 A. I did. I did lie before that, I did. I take
4 all that. But, like I said, I was scared. I've never
5 been in a situation like that before. Never.

6 Q. And you lied to Officer Lynch right off the bat,
7 right?

8 A. I did. I did.

9 Q. And why did you do that?

10 A. Because, like, I don't know, like, if anybody
11 was ever in that type of situation, but I just can't
12 see myself just coming out and telling the police that,
13 oh, I just shot this person knowing what's going on
14 around right now. That's a hostile situation right
15 there. If I just was to tell him I shot him right
16 there, I don't know what would have happened to me.
17 So, I did the first thing I did to protect myself was
18 lie.

19 Q. Now at any point after this, did you call 911?

20 A. No, I didn't.

21 Q. And ---

22 A. The reason why I didn't call 911 is because
23 when we was fighting for the gun, 911 was already
24 called. They were already on the way.

25 Q. And did you call the police at any point after?

1 A. No, sir.

2 Q. Now when you had your encounter with Officer
3 Lynch, what did you give to him?

4 A. I gave him my ID. I let him search me. I didn't
5 run. All I did was lie when he asked me if I've seen
6 him.

7 Q. You indicated you gave a description of somebody
8 else, right?

9 A. Imaginary, just trying to get them away from me.
10 Like I said, a hostile situation. Everything happening
11 so fast. I still didn't even been thinking straight.

12 Q. And when you left from the porch there, where
13 did you go?

14 A. I went to my mother's house. I walked back home.
15 I walked home -- well, first, I went to the gas station
16 to call to see if I can get a ride to go back home,
17 but I couldn't, so I walked home.

18 Q. And we saw some video earlier from the gas
19 station, right?

20 A. Uh-huh.

21 Q. And do you remember going in there?

22 A. Yeah, I remember.

23 Q. And what ---

24 A. Like I said, to call a ride.

25 Q. Okay. And did you have any other purpose

1 of being in there?

2 A. No, that's the only purpose why I was in there.

3 Q. So you didn't buy anything?

4 A. No.

5 Q. Now there's been some talk about headphones
6 and the headphones that we see potentially in that
7 video.

8 A. Okay.

9 Q. Tell me about what kind of headphones you have.

10 A. It was iPhone headphones, but who is to say that
11 I took his headphones from him. I been had an iPhone.
12 Everyone -- my momma can tell you. Everybody know I had
13 an iPhone.

14 Q. And at any point during this, did you ever take
15 any money from Mr. Mitchell?

16 A. No, never took nothing from him.

17 Q. Did you ever take a phone from him?

18 A. Never.

19 Q. Now the next day the police wants you to come
20 in and talk to them; is that right?

21 A. And I didn't run. They came to my mama's house,
22 exactly where I was at. I didn't move; I didn't run.
23 I didn't try to change locations. They came straight
24 to my mother's house, and they came and got me.

25 Q. And when you sat down with Detective Pritchard,

1 you weren't completely honest right at the beginning,
2 were you?

3 A. No, no, still wasn't honest.

4 Q. And why were you trying to throw him off the
5 trail?

6 A. Once you -- you ever heard of when you lie you
7 gotta make up another lie to cover up the first lie that
8 you made. So that's what I was trying to do, but the
9 detective told me after, like, they stated some certain
10 facts, this will only get worse if you keep lying,
11 so I chose to tell him the truth after I lied.

12 Q. And after you began telling him what had
13 occurred, did you answer all of his questions?

14 A. Truthfully after, yes, I did.

15 Q. Now when you sat down to talk to him, you did
16 go through, and you waived your right to an attorney,
17 right?

18 A. Waived the right to an attorney, and everything
19 he asked I told him.

20 Q. Now tell us a little bit about the kind of phones
21 you've had in the past.

22 A. All right. The reason -- you're talking about,
23 like, what I was talking about on the jail call?

24 Q. Well, let's go back, and then we'll get to that
25 in just a minute.

1 A. All right.

2 Q. Just generally can you tell the jury what kind
3 of phones you've had?

4 A. All right. I had a Samsung, I think it was an
5 LG Aristo and an iPhone SE. It's a family mobile
6 iPhone. You can go buy it at Wal-Mart.

7 Q. Now at any point in time, do you ever get
8 iPhones and turn around and try to sell them?

9 A. Yeah, all the time. Like, if I can get a profit
10 off the iPhone that I have I'm going to sell it,
11 especially, if somebody is asking if they want -- the
12 right price they want to buy, I am going to sell it,
13 unless I really want the phone.

14 MR. SMITH: Beg the Court's indulgence
15 for just a minute, Your Honor.

16 (Pause.)

17 BY MR. SMITH:

18 Q. So, Mr. Heyward, you were talking a minute ago
19 about some jail calls, so I do want to go through those,
20 okay.

21 A. Okay.

22 Q. Now, I want to hand you up a copy of the
23 transcript of one -- actually, the transcript of
24 a couple, okay.

25 A. Okay.

1 Q. So, I've provided you copies of those before,
2 correct?

3 A. Yes, sir.

4 Q. So, I want you to kind of take us through each
5 of those, okay.

6 A. All right. Which one you want to start with,
7 the 12/29/2016?

8 Q. Yes, let's start with that one.

9 A. All right.

10 Q. Give the jury just a second to get there to help
11 us out.

12 A. All right. This call, I was talking to my ex,
13 Tyesha [ph.] about my ex before her, Aubrey [ph.]
14 Wright. Recently, me and Aubrey just got out of
15 a relationship almost two or three years on and off.
16 And at the end of that relationship, unfortunately,
17 it was the end of that, and she burned all my clothes,
18 including one phone that I had for at least three,
19 four, five years.

20 So me emotionally -- like, still emotionally
21 attached to her, I was saying stuff that I shouldn't
22 have said. But at the end, you know, I said I'm not
23 talking to her, but at the same time, you know, I still
24 feel some type of way about her.

25 But when I went home recently this year, me and

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1 Aubrey was together, not together relationship wise,
2 but we chilled, got pictures and everything. She knows
3 I would never harm her. I was just speaking, you know.

4 Q. All right. Take a look at the next one, and why
5 don't you read out for us what date that was.

6 A. 12/27/2016.

7 Q. Okay. Let's talk about that one.

8 A. This one, this is basically almost some whoa,
9 like, some dumb shit, like, not even really processing
10 the situation that I was in, joking around, being
11 stupid. But at the same time, you see at the end,
12 I was just tripping, I was just playing.

13 Like I said, if I would have gone home and killed
14 more people -- I've been home two times. Last year,
15 I was home 27 days, and then this time -- this year,
16 I was home four months. If I wanted to harm anyone,
17 I would have did so, but I didn't because that wasn't
18 on my mindset. I was just trying to make it back home
19 to my family.

20 Q. Maulique, can you tell us how long you were
21 in jail?

22 A. I've been in jail 27 months all together.

23 Q. All right. Let's move along to the next one.

24 A. 12/30/2016. All right. This call, they already
25 took one of my phones. Earlier that year, they took

1 another phone, still never seen that phone again.

2 So why would I want to lose two more phones while
3 I'm sitting in jail? That's just more money I gotta
4 spend when I get home to get more phones.

5 Q. All right. Let's talk about the next one.

6 A. 12/29/2016?

7 Q. Yes.

8 A. And this call basically the same thing what I was
9 saying about the last call. If I let them get my phone,
10 you know, I won't have nothing to come home to. Being
11 with another situation I had going on in Dorchester
12 County, I still had to sit because of what was going
13 on over there.

14 But if I didn't have that Dorchester County
15 situation, I would have been home within four months
16 after this situation happened. So, I would have been
17 able to come home, but being that Dorchester County
18 situation, I still ended up having to sell my phone
19 anyway trying to get bond money, but still couldn't
20 do it -- enough money that I had to get the bond stuff
21 situated for the next county, so.

22 Q. Okay. So let's just talk generally for a minute
23 about the jail calls.

24 A. All right.

25 Q. Would you agree that these were all from a short

1 period of time back in 2016?

2 A. Yeah, like, a long time ago.

3 Q. Okay. Now let's move on for just a second
4 because I do want to chat with you a little more
5 about what happened out there on that night, okay.
6 You made the ultimate decision that you had to shoot
7 Mr. Mitchell, right?

8 A. Yes, I did.

9 Q. And how quickly did you have to make that
10 decision?

11 A. In my mind, it was a do or die or life or death
12 situation being that we just fought for the gun,
13 and, like I said, I did not know if he had another gun,
14 you know, couldn't turn my back on him. With a period
15 to you all that might be a long time, in a situation
16 like that, it didn't feel like a long time. Like
17 I said, it just happened like that. (Snaps fingers.)

18 Q. Did the situation ever end? Did the situation
19 ever end before the shots were fired?

20 A. No, because, like I said, he was still pursuing
21 me. He was still coming towards me, even though I was
22 looking down trying to see what was wrong with the gun.
23 I wish the video was there so you all can actually see
24 everything that was going on but.

25 Q. And you talked to the jury earlier about hearing

1 the clicks of the gun.

2 A. Yeah.

3 Q. How many clicks did you hear?

4 A. When he was pointing it at me, it was at least
5 three or four.

6 Q. Did you hear clicks any other time?

7 A. Yeah, when it was -- at my co-defendant, it was,
8 like, one or two. Like I said, as soon as he saw the
9 gun, he jumped on it.

10 Q. And did you feel that you had any other way
11 to get away from that situation?

12 A. No. Like I said, I felt like if he had this
13 one gun who's to say that he don't have another gun.
14 I don't have any gun in this situation. So, I don't
15 know. I couldn't turn my back on him. I couldn't.
16 I didn't feel right.

17 Q. Now, I want to talk to you for just a second.
18 You were here when Ms. Hamilton testified; is that
19 correct?

20 A. Yes, sir.

21 Q. Did you ever have any contact with Tynetra
22 Hamilton at any point?

23 A. On -- I'm going to tell the truth. On Facebook,
24 it was a message or whatever, but I never met up with
25 her or was at her house or none of that or all that

1 stuff that she was saying. I was never at her house.
2 There was never a message saying that, oh, I'm coming
3 over or something like that. It wasn't like that.
4 Never.

5 Q. Did you meet her at any point at her house
6 the day of the incident?

7 A. No.

8 Q. Did you ever set up any type of robbery?

9 A. No.

10 Q. Did Lil' Man ever set up any type of robbery?

11 A. No.

12 MR. SMITH: Beg the Court's indulgence
13 for just a moment, Your Honor. I believe that's all
14 the questions I have. Please answer any questions
15 Mr. Waring has.

16 THE WITNESS: Yes, sir.

17 THE COURT: Cross?

18 MR. WARING: Thank you, Your Honor.

19 CROSS-EXAMINATION

20 BY MR. WARING:

21 Q. Good afternoon, Mr. Heyward.

22 A. Good afternoon.

23 Q. Mr. Heyward, you said -- you testified the victim
24 kept coming and kept coming towards you so that's why
25 you had to shoot him, correct?

1 A. Yes, sir.

2 Q. Okay. But the video doesn't show that, does it?

3 A. It does.

4 Q. Let's play the video. I'm going to put what's
5 already been admitted as State's Exhibit 62.

6 (Video played in the courtroom for the jury.)

7 BY MR. WARING:

8 Q. All right. At this point, 38 seconds, the victim
9 is over here, right? Where the cursor is, correct?

10 A. Yes, sir.

11 Q. And you and Lil' Man are over here. This is
12 Lil' Man in the middle, and this is you on the right,
13 correct?

14 A. Yes, sir.

15 Q. All right. And you just testified that the
16 victim kept coming and kept coming, right?

17 A. You just passed the part where he kept coming
18 at me.

19 Q. Well, what I want to know is, and what I'm
20 concerned with is what happens after you get the gun
21 from now until you shoot him.

22 A. Like I said ---

23 Q. Mr. Heyward, let me finish. The victim is on the
24 left, right? You are on the right over here, correct?

25 A. Yes, sir.

MAULIQUE HEYWARD - CROSS BY MR. WARING

1 Q. The clock is running, and the victim is not
2 approaching you, is he?

3 A. Like I was saying, at the part where I said he
4 kept coming towards me, I was still trying to figure
5 out what was wrong with the gun. I didn't know the
6 gun had a safety until right then. It may seem like
7 it was a long time, it wasn't a long time. Everything
8 was happening, boom, boom, boom, that fast ---

9 Q. Mr. Heyward ---

10 A. --- 15 seconds.

11 Q. Okay, so you agree there's about 15 seconds
12 where he was not attacking you?

13 A. I didn't say that.

14 Q. Should we play it again?

15 A. You can.

16 Q. All right. At about 36 seconds, 37 seconds,
17 I'm going to play the clock.

18 (Video played in the courtroom for the jury.)

19 BY MR. WARING:

20 Q. All right. So that's about what, 10 to 12
21 seconds, 35 seconds to about 47 seconds where he's
22 not attacking you, correct?

23 A. I mean, yeah, you are right.

24 Q. Okay. Now you would also agree in addition
25 to that time lapse where he's not attacking you,

MAULIQUE HEYWARD - CROSS BY MR. WARING

1 there's a separation between you all, right?

2 A. It is a separation.

3 Q. Okay. He's not right up on you. He and you
4 are separated at a distance, right?

5 A. It's not a great distance, but it is a little
6 distance.

7 Q. Now as we already discussed, on video it's you,
8 the victim, and Lil' Man, right?

9 A. Yes, sir.

10 Q. So it's a two-on-one situation, correct?
11 There's two of y'all and one of him, right?

12 A. When the fight for the gun happened, yes,
13 it was. But after the situation, it basically was
14 just me and him.

15 Q. But ---

16 A. After I got control of the gun.

17 Q. Lil' Man was there, and he was on your side,
18 and not the victim's side, right?

19 A. Yes, sir.

20 Q. Now after shooting the victim, as the video
21 indicates, you ran immediately, correct?

22 A. Yes, I did.

23 Q. And I think you already talked about it with
24 Mr. Smith. You didn't call 911?

25 A. No, I did not.

1 Q. Now briefly I want to talk about the responding
2 officer and your presence on scene right after the
3 shooting. When they showed up, you were on the scene
4 right around the corner, correct?

5 A. Yes, I was.

6 Q. And you already admitted that you lied and didn't
7 tell them what happened.

8 A. I did.

9 Q. Didn't tell them that you had to defend yourself
10 or anything like that, right?

11 A. Like I said, I've never been in a situation like
12 that before. I lied to protect myself, so, yes, I did.

13 Q. You lied to protect yourself, right?

14 A. Yes.

15 Q. Now while you were lying to protect yourself,
16 the victim was indeed around the corner at the same
17 exact time dying, correct, on the ground?

18 A. Yes, sir.

19 Q. And you were just hanging out lying, right?

20 A. I wasn't really hanging out, but I was lying.

21 Q. Now you're aware that the victim's wallet was
22 found in the roadway near the incident location, right?

23 A. After I was locked up and got my Rule 5, yes,
24 sir.

25 Q. But you've been present and awake during this

1 trial, correct?

2 A. Yes, sir.

3 Q. Ans so you've heard the testimony that his wallet
4 was indeed found in the roadway with his blood on it,
5 right?

6 A. Yes, sir.

7 Q. Okay. Now do you remember Detective Pritchard
8 testifying that on the surveillance video nobody goes
9 up to the victim after the shooting, other than when
10 they get there on scene?

11 A. Yes, sir.

12 Q. So you would agree that the victim's wallet
13 became separated from him prior to the shooting, right?

14 A. How you mean prior to the shooting? Before the
15 shooting?

16 Q. If nobody goes up to him in between when you shot
17 him and when North Charleston Police Department showed
18 up, the wallet was separated from his person prior to
19 the shooting?

20 A. I don't know when the wallet was taken off of his
21 body because it could have fell while we was fighting.
22 Like I said, I never touched his wallet; I never touched
23 his phone. I wasn't worried about no wallet or no phone
24 when the time was -- when we was fighting for the gun.
25 I wasn't thinking about a wallet or a phone or anything

1 that was missing from him.

2 Q. So you're agreeing though -- you just said that
3 it's possible it came out while you were fighting?

4 A. It's possible.

5 Q. Okay. You would agree that when it became
6 separated from him, that he was injured in some form
7 or fashion since he was bleeding, right?

8 A. I mean, we was fighting for the gun. He probably
9 was injured.

10 Q. Okay. And not only was his wallet on the ground,
11 but you've heard testimony that his keys and other
12 personal items were on the ground too, right?

13 A. Yes, sir.

14 Q. I want to talk about the Kangaroo gas station
15 for a minute. Now about 30 minutes after you shot the
16 victim, you went to this Kangaroo gas station, right?

17 A. I did.

18 Q. And you already admitted you didn't buy anything?

19 A. I didn't.

20 Q. Now during that time, you did pull out a cell
21 phone with some headphones and showed it to the cashier?

22 A. Yes, sir. I was showing that my phone was dead.
23 That's why I went to the store to ask if I could use
24 his phone to call a ride. I even told him I don't have
25 to touch your phone, you can just dial the number.

MAULIQUE HEYWARD - CROSS BY MR. WARING

1 Q. And you're aware that the victim's cell phone
2 was not found on him, right?

3 A. No, I wasn't aware.

4 Q. Are you aware now after sitting through this
5 trial?

6 A. Yes, sir.

7 Q. And you know it's never been found, right?

8 A. I don't know.

9 Q. And you heard testimony from multiple witnesses
10 that prior to the victim going to the incident location
11 where you killed him that he had an iPhone on him prior
12 to that, right?

13 A. Can you repeat the question, please?

14 Q. Do you recall testimony from witnesses who
15 said that prior to going to the shooting location where
16 he was shot that he had an Apple iPhone on him earlier
17 that night?

18 A. Yes, sir. Yes, sir.

19 Q. Okay. Now, I think you testified with Mr. Smith
20 that you said you profit off iPhones, right?

21 A. From time to time, yes, sir.

22 Q. And there was some talk that at some point
23 you did speak with North Charleston Police Department,
24 correct? In addition to the initial incident, you spoke
25 with Detective Pritchard, right?

1 A. Yes, sir.

2 Q. And you already admitted that you lied during
3 that interview, initially, right?

4 A. I did.

5 Q. Now you did admit that after you got control
6 of the gun that you all sat and talked for a minute,
7 correct?

8 A. Like I said, it wasn't really like a conversation
9 or a friendly conversation. I said what I said. I did
10 say, you tried to kill me, so I'm going to kill you.
11 But at the same time, I was trying to figure out what
12 was wrong with the gun. I heard clicks, but the gun
13 wasn't firing. So, I had to -- tried to keep looking
14 at the gun, but every time I looked down he kept getting
15 closer.

16 Q. After you took the victim's gun, as far as you
17 knew, he didn't have a gun anymore, right?

18 A. As far as I knew, he could have had another gun.
19 He already had one gun.

20 Q. But he didn't pull out another gun, did he?

21 A. Because I had his first gun. I didn't know if
22 he had a second gun or not.

23 Q. What I'm asking you is he didn't pull out
24 a second gun?

25 A. No, he didn't. He didn't.

1 Q. And you mentioned that the victim was telling
2 you not to shoot him, right?

3 A. Yes, sir.

4 Q. And, again, you mentioned it earlier that during
5 this whole time there's no physical altercation, right?

6 A. At the time, after I got control of the gun, no,
7 there was no physical altercation.

8 Q. And you already mentioned you said what you
9 did about you tried to kill me, I'm going to kill you.
10 But before pulling the trigger, you're saying that you
11 actually had the time to say those words, right?

12 A. I wasn't thinking about what to say in a
13 situation like that. I wasn't thinking.

14 Q. But that's not what I'm asking, whether you
15 thought about what you said. I'm asking if you had
16 the time to say what you said. You did, right?

17 A. Yeah, I did have time to say what I said because
18 I said it.

19 Q. Now was the victim still a threat after the first
20 shot?

21 A. It wasn't just, oh, shoot him one time.
22 I don't know why I shot three times. I don't know
23 why -- I could have shot one time. I don't know why.
24 I just did it. Like I said, everything happened fast.
25 I wasn't even thinking straight.

1 Q. All right, you weren't thinking straight.
2 But during this time you all had sat and talked for
3 a minute. You admitted he wasn't coming after you
4 at that time, and I think you used the time frame
5 of about 15 seconds where this is going on, where there
6 was no active altercation, right?

7 A. Can you repeat that?

8 Q. During this time, he's not attacking you,
9 during those 15 seconds where he's begging for his life,
10 and you got ahold of the gun, right?

11 A. Yes, sir.

12 Q. You got rid of the gun too, as you mentioned.
13 You ditched the gun?

14 A. Yes, I did throw the gun.

15 Q. Okay. So you tried to get rid of the evidence,
16 right?

17 A. Yeah, I did.

18 Q. Now, I think briefly you talked about the phone
19 messages and you profit off of iPhones, right?

20 A. If I don't want the phone, yes, sir, I will sell
21 the phone.

22 Q. All right. But later that same day -- you shot
23 the victim December 19, 2016, and you can see that later
24 that same day, you shot multiple messages asking people
25 to unlock an iPhone.

1 A. I was trying to sell the phone before this
2 incident happened. I already had two iPhones.

3 Q. Now you are also mentioning on messages that
4 you're needing them to hold those iPhones for you too,
5 right?

6 A. To see if they can get it unlocked and just
7 to hold it because I was working. I didn't have time
8 to go get it back until I got out of work.

9 Q. Okay. So clearly these phones had some
10 importance that you're wanting other people to hold
11 them, right?

12 A. Yeah, they're my phones. They're mines.

13 Q. Okay. But they were important enough that you
14 didn't want to keep them yourself, right?

15 A. I don't know how to unlock an iPhone. If it's
16 unlocked, I'm going to keep it. I was going to get
17 it right back as soon as they were unlocked.

18 Q. Okay. So you were going to give it to somebody
19 else to hold for you to unlock it, and then you were
20 going to go get it from them?

21 A. Yes, sir.

22 Q. And, again, the victim's phone was never found,
23 right?

24 A. That's what everybody said.

25 Q. Now there was some talk about the jail calls.

1 And you said on that one call that you wanted to get
2 out so you can kill some more motherfuckers, right?

3 A. Yes, sir.

4 Q. You didn't mention anything on there about
5 how you were scared for your life, and you had no choice
6 but to kill the victim, right?

7 A. This is days after this happened, sir. Days.

8 Q. So was that a yes or no?

9 A. Ain't no gun pointed at my face at that time,
10 so why would I be scared? I've been in jail.

11 Q. I'm not going to answer your questions; you
12 answer my questions. Did you say on those jail calls,
13 when you're talking to this girl, that you had no choice
14 but to kill the victim and that you were scared?

15 A. Which call are you talking about again, so I know
16 exactly what you're talking about?

17 Q. Jail call number one.

18 A. Can you put the date, please?

19 Q. That's December 27, 2016 at 19:34:55.

20 A. Now what did you say that I said again?

21 Q. Well, you said on that call, "I hope I get out of
22 this bitch, so I can go kill some more motherfuckers."
23 And I'm asking you, did you say anywhere on that call
24 that you had to kill the victim because you were scared
25 when he pointed a gun at you?

1 A. Oh, no, sir.

2 Q. Okay. Now you heard testimony from Detective
3 Pritchard that they couldn't track the victim's cell
4 phone, right?

5 A. Yes, sir.

6 Q. I don't want to put words in your mouth. Do you
7 remember that?

8 A. Yes, sir.

9 Q. And on jail call number three, that's the one
10 that's December 29, 2016, at 15:35:22, you specifically
11 tell the girl you're talking to, "Don't turn my shit
12 on either because then you're gonna have all the police
13 on your ass, police come after your ass, you ain't want
14 that type of heat on you," right?

15 A. Yes, sir, I did say that.

16 Q. Now at that point that you were making that
17 phone call, you were in custody, correct?

18 A. Yes, sir.

19 Q. You had already been charged with murder?

20 A. Yes, sir.

21 Q. And you had already given your statement
22 to police, correct?

23 A. Yes, sir.

24 Q. A statement which you are, more or less, giving
25 today, which is that there was no robbery, right?

1 A. Yes, sir.

2 Q. And yet there you are a few days after the
3 incident on December 29, 2016, telling somebody on the
4 other line that you don't want them to turn on that cell
5 phone, right?

6 A. Yeah, but that don't mean I was talking about
7 his phone. They don't stop making iPhones.

8 Q. But you're agreeing that you're talking about
9 a cell phone that you didn't want somebody to unlock,
10 right, or turn on?

11 A. I didn't say that I didn't want to unlock it.
12 I just didn't want them to turn it on, as in turn my
13 phone on-on.

14 Q. Okay, fair enough. Now on call two, December
15 29, 2016, that's the one, 15:35:22, this is the one
16 where you say, "I hope them boy don't bag that bitch,
17 or I'm gonna have to get her ass knocked off." Are you
18 familiar with that call?

19 A. Yeah, I'm familiar with it.

20 Q. Now right before saying that, you said on there,
21 "Man, I forget I on this phone. I can't even talk to
22 you about this shit, man." Did you say that too?

23 A. Yeah, we was talking about something totally
24 different.

25 Q. Okay. But you admit that during that comment,

1 there was something that you couldn't talk about on
2 the jail phone call, right?

3 A. Yes, sir.

4 Q. All right. Now your position here today is that
5 this is not Tynetra Hamilton that you're wanting to bump
6 off, right?

7 A. No, sir, it is not.

8 Q. All right. So you're saying you wanted to bump
9 off a different girl?

10 A. I told you I was talking about my ex the whole
11 time.

12 Q. Okay. Now throughout the State's case this week
13 though, Tynetra Hamilton is the only female witness who
14 directly implicates you in this murder, right?

15 A. Well, at first she didn't directly implicate me.

16 Q. That's not what I'm asking. This week, she's the
17 only female witness that directly implicates you in this
18 murder case, correct?

19 A. Yes, sir.

20 Q. And, again, you lied before to protect yourself,
21 right?

22 A. Yes, sir.

23 MR. WARING: No further questions,
24 Your Honor.

25 THE COURT: Redirect?

MAULIQUE HEYWARD - REDIRECT BY MR. SMITH

REDIRECT EXAMINATION

BY MR. SMITH:

Q. Maulique, are you lying today about what you're telling this jury?

A. No, I'm not.

Q. At any point during this altercation, did you feel like you were safe?

A. No, I did not.

Q. And Mr. Waring wanted to talk to you about times and the amounts of time. You all were always very close; is that correct? Close in distance?

A. Yes, sir, we was.

Q. And you never felt like things were over?

A. Never.

Q. Would you say that was true even after you had the gun.

A. Still did not think it was over because I didn't know if he had another gun or not.

Q. Now the solicitor wanted to know about the selling of the phone. Were you trying to sell an iPhone around this time?

A. The day before the incident even happened, yes, I was.

Q. And you did text people about that; is that correct?

1 A. Yes, sir.

2 MR. SMITH: That's all the questions I have.

3 THE COURT: Recross?

4 MR. WARING: Nothing further, Your Honor.

5 THE COURT: You may step down. All right.

6 Any other witness from the defense?

7 MR. SMITH: No, Your Honor. At this time,
8 the defense rests.

9 THE COURT: Any reply from the State?

10 MR. WARING: No, Your Honor.

11 THE COURT: All right. Well, folks,
12 you have now heard all the evidence that you're going
13 to hear in the trial. I'm going to send you back to
14 the jury room. Again, it's not time to begin
15 deliberations or discussions about the case in any way.
16 We've got to do some legal things to get the case ready
17 for the last part of the trial, and so I'll meet with
18 the lawyers, and we will discuss that, and I will have
19 you back shortly. But, again, don't begin your
20 deliberations or discussions in any way about the case.
21 Thank you.

22 (Jury exits the courtroom at 3:00 p.m.)

23 THE COURT: All right. Motions?

24 MR. SMITH: Judge, we'll renew our motion
25 for directed verdict. We still believe that the State,

1 even looking at the evidence in the light most favorable
2 to the State, has failed to meet its burden. We also
3 renew any other previous trial objections, Your Honor.

4 THE COURT: What's the last part again?

5 MR. SMITH: I said we would also renew any
6 objections we made.

7 THE COURT: All right.

8 MR. WARING: Your Honor, in the light most
9 favorable to the non-moving party, I think there's
10 sufficient evidence to give it to the jury. I think,
11 if anything, he's even solidified the argument and made
12 it even stronger than he's not entitled to a
13 self-defense charge, but I'll leave that up to Your
14 Honor. We would ask the motion be denied.

15 THE COURT: All right. Well, I'm going
16 to deny the motion for directed verdict on murder.
17 There is evidence in the case which would allow the
18 jury to find that he took a life of another with malice
19 aforethought. So the State has met their burden in
20 moving forward on that charge. So, let us talk about
21 what goes to the jury to decide. You're going to ask
22 for murder ---

23 MR. SMITH: Murder ---

24 THE COURT: --- and involuntary
25 manslaughter.

1 MR. SMITH: And voluntary and self-defense,
2 Your Honor.

3 THE COURT: Okay. And what are you asking
4 for?

5 MR. WARING: Your Honor, I think we're just
6 going full speed ahead with murder.

7 THE COURT: All right. How do you feel
8 about his request for a charge on self-defense?

9 MR. WARING: Judge, that's an interesting
10 issue. I mean, I think his story -- his idea of
11 self-defense doesn't really comply with what the law
12 says self-defense is, but I will leave that to the
13 Court's discretion.

14 THE COURT: Well, Mr. Smith, tell me why
15 he's entitled to that.

16 MR. SMITH: Thank you, Judge. We do think
17 -- we clearly established, through Mr. Heyward's
18 testimony, that he was not -- that he was without
19 fault in bringing on this difficulty. Obviously,
20 it's up to the jury to decide whether Ms. Hamilton's
21 testimony was credible and/or correct.

22 He certainly testified that he was in
23 danger, imminent danger, throughout. And we believe
24 that will be -- that anyone that had a gun pointed
25 at them in that situation would reasonably believe that.

1 We also, Your Honor, would say, as he testified, as to
2 the duty to retreat, that at no point did he feel safe
3 or that the danger was over. And even indicated during
4 his testimony that he believed and perceived that
5 Mr. Mitchell was continuing to come at him. So based
6 on that, Your Honor, I would ask the Court to instruct
7 on self-defense.

8 THE COURT: Well, the way this is
9 structured, the State is charging him with murder,
10 and they have to prove the elements of murder,
11 and I believe that they've done that. They don't have
12 to disprove self-defense as an element of their case
13 in chief, only and until you put in some evidence
14 of self-defense do we discuss it. And, again,
15 the burden shifts to the State to disprove it beyond
16 a reasonable doubt.

17 So let's look at each of the elements
18 and see what some evidence is, or any evidence.
19 So the first element is Defendant must be without fault
20 in bringing on the difficulty. Well, we got to split
21 the facts on that one. Obviously, the State has put
22 forward evidence that this was a robbery that was
23 planned by the Defendant and others, that would preclude
24 anyone from being able to argue that.

25 On the other hand, his evidence is he didn't

1 plan the robbery, wasn't involved in the robbery.
2 All of a sudden this guy showed up and pulls out a gun,
3 and it was Lil' Man starts -- says there's a gun and
4 wrestles him, and they get the gun.

5 So that puts that one in fair play, which is
6 a matter of law I think the jury has to decide factually
7 whether to believe Tynetra Hamilton's version or his
8 version. But the State only has to just prove beyond
9 a reasonable doubt any one of the four elements.
10 Set the first one aside, as that's a jury call.

11 The second element was is the Defendant
12 actually in imminent danger from death or serious bodily
13 injury, or did he actually believe he was in imminent
14 danger of threat or serious bodily injury. Well, was
15 he in actual imminent danger at the time of death --
16 at the time of the shooting, was he actually in imminent
17 danger of death or serious bodily injury, first problem.

18 Well, the evidence is uncontroverted that
19 the victim was disarmed of the gun. Whether or not he
20 was threatening to shoot the Defendant or anybody prior
21 to disarming him is a matter of dispute, I suppose.
22 But it's undisputed that he was disarmed, and the gun
23 that he was using, which either jammed or the safety
24 was still on, ended up in the Defendant's hand.

25 It also sounds like there was a time period

1 of about 15 seconds in which the victim was disarmed.
2 And it's also admitted by the Defendant that the victim
3 did not have a gun, couldn't shoot him because he didn't
4 have a gun. And he even said, I'm going to kill you
5 because you tried to kill me.

6 So you have a gap of about 15 seconds there.
7 So, I don't think this is a matter of law where you can
8 say the Defendant wasn't in actual imminent danger of
9 death or bodily injury any longer. So the second
10 problem of the second element, or the Defendant actually
11 believed he was in imminent danger of death or serious
12 bodily injury.

13 Now the Defendant said, yeah, I was scared.
14 There's a guy pulling the trigger, aiming the gun at me,
15 it didn't go off, and I was scared to death, and this
16 is all happening fast. So you could -- then we have
17 to argue well, if he wasn't actually -- he wasn't
18 actually in imminent danger because the person was
19 disarmed.

20 Under the circumstances, that would have
21 warranted a person of ordinary firmness and courage
22 to strike the fatal blow to save himself from death
23 or serious bodily injury, you have to show that he
24 believes he was in imminent danger, and a reasonably
25 prudent person of ordinary firmness and courage would

1 have had the same belief.

2 And so we look at all the facts and
3 circumstances surrounding that crime. The Defendant
4 doesn't have to at that point show that he was actually
5 in danger. It's enough that he believed he was in
6 imminent danger, and a reasonably prudent person of
7 ordinary firmness and courage would have believed the
8 same.

9 If we look at those facts and circumstances,
10 there are -- there's no evidence of prior difficulties
11 between the people because I believe the Defendant said,
12 he didn't know the guy, he never met him before that
13 evening. He just showed up and had a gun. So it
14 couldn't have been that he thought the guy had some
15 kind of dangerous propensity.

16 It doesn't look like there was any big
17 difference in size, in age, in weight, no reputation.
18 Again, he had never seen the victim before. No prior
19 instances of violence by the victim. There were
20 threats that were made by the victim to be determined,
21 the intoxication of the victim could be considered.
22 There was no evidence of intoxication.

23 So it really boils down to would a
24 reasonably prudent person believe at that time that
25 even though he had disarmed him -- disarmed the victim,

1 and he possessed the gun for approximately 15 seconds,
2 if that person was moving towards him still, which
3 really isn't supported that much by the video, would
4 a reasonably prudent person believe that he was in
5 imminent danger by an unarmed person. That's a tough
6 one, and I have to think about that one for a few
7 minutes.

8 The final element is the Defendant had
9 no other probable way to avoid the danger of death
10 or serious bodily injury, other than to act as the
11 Defendant did in this particular instance. We sometimes
12 call that the duty to retreat.

13 Now in this instance, you got again that
14 15-second gap in which the Defendant said -- had the
15 time to say, you shot me, so I'm going to kill you --
16 you tried to kill me, so I'm going to kill you.
17 You know, again, the victim was disarmed at that point,
18 and I'm just hard pressed to say that is a jury question
19 to say that the Defendant had an arguable no choice but
20 to stand there and defend himself because he believed,
21 in essence, that the victim was still a danger to him,
22 even though he had disarmed him, and there was about
23 15 seconds passed.

24 You know, when you couple that with the fact
25 that he had enough time and the presence of mind to make

1 an actual threat that I'm going to kill you because you
2 tried to kill me, I just struggle to say that the jury
3 even needs to consider that there is a self-defense
4 defense available to him. That's totally giving him
5 the benefit of the doubt.

6 You know, Ms. Hamilton's testimony that
7 this was all a staged robbery gone bad, just put that
8 aside and giving him the benefit of the doubt on his
9 testimony, of any evidence of self-defense. Did the
10 State disprove beyond a reasonable doubt, basically,
11 that he wasn't in imminent danger, and he had other ways
12 to avoid this by just simply standing down and either
13 retreating or just not shooting the guy? I'm really
14 struggling on seeing how that -- how the jury can
15 consider that.

16 Let's put that aside for just a moment
17 while I give that a little bit more thought. Voluntary
18 manslaughter. What's the State's position on that being
19 an available lesser included charge?

20 MR. WARING: Your Honor, I just want to get
21 clarification. I'm not sure if Mr. Smith said he was
22 asking for involuntary or voluntary.

23 THE COURT: I believe he said voluntary.

24 MR. SMITH: Voluntary.

25 MR. WARING: Oh, voluntary. Okay. For some

1 reason, I thought he said involuntary. Your Honor,
2 you know, I guess if the jury does not believe
3 Ms. Hamilton's testimony and believed the Defendant's
4 testimony, I guess there's probably the possibility
5 that they could believe it's voluntary based on his
6 being under his emotions, and things like that --
7 if they completely don't believe Tynetra or the whole
8 robbery setup, I think it is possible they could think
9 that it could be manslaughter.

10 Obviously, we think it's murder still,
11 and that's what we're going for, but as far as the jury
12 charges, Your Honor, that's our position.

13 THE COURT: Mr. Smith.

14 MR. SMITH: I think Mr. Waring kind of
15 touched on it. You know, I think this is a situation
16 based on the number of stories given by Ms. Hamilton
17 that the jury may and could disbelieve what she had
18 to say.

19 That being said, I do think that these
20 instances could have risen to kind of a heat of passion
21 situation, and we would request voluntary manslaughter.

22 THE COURT: Well, I think the facts here
23 support a voluntary manslaughter lesser included
24 charge. It would mean the jury could totally disregard
25 Ms. Hamilton's testimony and believe him, and if you

1 believed him, him being the Defendant, then sudden heat
2 of passion, he disarmed the guy who had been aiming
3 a gun at him, despite the fact there being 15 seconds
4 or so, I still think that would fall under the umbrella
5 of sudden heat of passion. I will allow that charge.

6 Here's what I think I'm going to do.
7 I would like to sleep on this self-defense. Our court
8 came out with a self-defense charge case here a month
9 or so ago. I looked at it -- I looked at it just
10 coincidentally last week, had nothing to do -- didn't
11 know I was trying this case last week. Read it last
12 night. I just want to think on the burden shifting
13 part of this.

14 You know, part of me wants to give him the
15 benefit of the doubt and say let the jury decide
16 self-defense. On the other hand, I just struggle with
17 this 15-second gap, and if any reasonable juror could
18 consider that, that is a good-faith belief, you know,
19 that he was in imminent danger.

20 He believed he was in imminent danger,
21 would a reasonable person believe he was in danger,
22 and most importantly, in my mind, did that 15-second
23 gap also preclude him as a matter of law and say, well,
24 I didn't have a choice but to shoot him in essence,
25 even if I had the duty to retreat, I couldn't have done

1 it. He, at that point, had the gun; the victim didn't
2 have the gun, and no other problem or way to avoid
3 the danger.

4 I don't see that there was any special
5 knowledge that an unarmed person could have killed him,
6 other than that, you know, you just had a fistfight,
7 is what it boils down to at that point. The victim --
8 the Defendant had the gun; the victim didn't have the
9 gun. And he, most importantly, cannot discount that
10 he made this threat. That threat that's the thing
11 that's going to cause you the most problem on
12 self-defense. It will give him something to hang
13 on with voluntary manslaughter.

14 I just want to sleep on it overnight.
15 So what I'm going to do is we'll do the charge -- we'll
16 do the arguments -- we'll do the final arguments in
17 the morning. I will make a decision on this after
18 I have thought about it a little bit, and I will have
19 my law clerk send you the jury charges. It will either
20 include -- ultimately, tomorrow I'll decide whether
21 or not you are going to get to charge self-defense
22 or not, and that will be the only thing that's taken
23 out.

24 It's pretty straightforward. Everything
25 that would apply to this kind of case, standard murder

1 charge, standard voluntary manslaughter charge,
2 identification charge -- nothing unusual about that.
3 So that's what we'll do. Bring the jury back in.

4 (Jury enters the courtroom at 3:23 p.m.)

5 THE COURT: Okay, folks, here's what we're
6 going to do. It's 3:30 now. By the time we get our
7 legal part done that we need to do to get ready for the
8 final arguments, and then we get arguments on the case,
9 it's going to be after five o'clock before you begin
10 deliberations.

11 So we are going to start fresh with
12 arguments in the morning. So even though you've heard
13 all of the evidence now, it's not proper to begin your
14 deliberations about the case. Don't discuss it with
15 each other or with anybody else.

16 I'll have you back here at 9:30 tomorrow
17 morning, and we will begin at that time with the closing
18 arguments, and then I'll charge you on the law, and then
19 you will consider what your verdict will be. So, again,
20 go home and enjoy your evening. Don't give this any
21 more thought.

22 I haven't seen any -- I don't think there's
23 any newspaper reporters here, no television cameras.
24 But if you happen to look in the paper in the morning,
25 and you see something written about the case, please

1 just avert your gaze, and read it after the trial
2 is over with.

3 No social media, no trying to find out
4 anything on the internet and no discussions with
5 anybody, including other members of the jury panel.
6 We'll see you tomorrow morning at 9:30.

7 (Jury exits the courtroom at 3:25 p.m.)

8 THE COURT: Okay. I may very well make
9 my decision in the next few hours and have Lindsey
10 let you all know. But, if not, we'll, at worst 9:30
11 tomorrow morning, okay. Thank you.

12 MR. WARING: Thank you, Judge.

13 (End of Transcript of Record)
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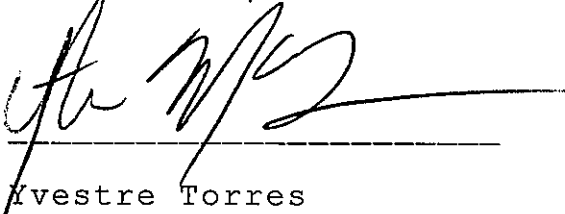
CERTIFICATE OF REPORTER

State of South Carolina)
County of Charleston)

I, the undersigned, Yvestre Torres, Circuit Court Reporter for the First Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Circuit Court for Charleston County, South Carolina, on the 14th of August, 2019.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

December 29, 2019



Yvestre Torres

Circuit Court Reporter

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

COURT OF GENERAL SESSIONS

2017-GS-10-02906

2017-GS-10-02910

State of South Carolina)

) TRANSCRIPT OF RECORD

-vs-

)

) August 15, 2019-Volume 4 of 4

Maulique Heyward)

) Charleston, South Carolina

B E F O R E:

The Honorable Roger M. Young, Sr., Judge

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

T. Richard Waring, II, Esquire
Price Sigal, Esquire
Attorneys for the State

Ted Smith, Jr., Esquire
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Reported By:

Yvestre Torres, OCR
Circuit Court Reporter for the
First Judicial Circuit

EXHIBITS

<u>NO</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EVIDENCE</u>

NO EXHIBITS INTRODUCED

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1 THE COURT: All right. Let the record
2 reflect, the Defendant is in the courtroom. You all got
3 the words in the charges from my law clerk yesterday.
4 I assumed that I had decided we're not going to have
5 a charge for self-defense, basically.

6 While I think there is an argument that
7 could be made for the first three factors, the final
8 factor that I think the State had proven beyond a
9 reasonable doubt was that the victim had been disarmed
10 and approximately 15 seconds passed between the time
11 he had been disarmed, and the Defendant had the gun,
12 coupled with the uncontroverted fact that the Defendant
13 said, you tried to kill me, I'm going to kill you,
14 I think that disposes any issue of whether or not he
15 had any alternative means to do anything other than
16 to shoot the victim, who was clearly at that point
17 no longer a threat of death or serious bodily injury.

18 So, I have decided to rule as a matter
19 of law that the State has met its burden of disproving
20 at least one element of self-defense, and so that's not
21 available to the Defendant.

22 So we've got the charges. There's only
23 one small change from what she sent you last night,
24 and that is if you'll turn over to Page 8 on possession
25 of a weapon during the commission of a violent crime,

1 the last bullet point says murder is defined in 16-3-10
2 as a violent crime, I added voluntary manslaughter
3 is also a violent crime, okay. That's the only change
4 other than what got sent to you last night.

5 So, having said that, is there anything
6 from the State on the charges that got sent to you?

7 MR. WARING: Nothing from the State,
8 Your Honor.

9 THE COURT: All right. How about the
10 defense?

11 MR. SMITH: Thank you, Judge. We would
12 just ask that you note our objection to the fact that
13 you didn't charge self-defense.

14 THE COURT: All right. Other than that,
15 do you have any objection to the charges as they are
16 presented?

17 MR. SMITH: No, Your Honor, I do not.

18 THE COURT: Okay. All right, then. Well,
19 procedurally then we are ready to go. As I interpret
20 our rules on final argument, the State has to make their
21 full argument in the beginning, the Defendant then makes
22 an argument, and then the State will have the right to
23 a brief reply on anything that was raises new by the
24 defense.

25 MR. WARING: That's my understanding as

1 well, Your Honor.

2 THE COURT: Is that what you understand?

3 MR. SMITH: It is, Your Honor.

4 THE COURT: All right. How much time do
5 you think you'll need?

6 MR. WARING: Your Honor, I think I can get
7 everything done on the first opening within 20 to 25
8 minutes.

9 THE COURT: Okay.

10 MR. SMITH: I think mine will be very
11 similar to that.

12 THE COURT: Okay. All right. Well,
13 good then. Are you all ready? How about Ms. Runey?

14 MR. SMITH: Judge, I'm going to ask if
15 I can step out in the hallway to check for her.
16 I'm kind of relying on her for some power point stuff.
17 I'm not sure where she is.

18 THE COURT: Okay. They tell me the jury
19 is here, so we'll be ready to go as soon as you can
20 track her down.

21 (Pause.)

22 MS. RUNEY: Judge, I'm so sorry.
23 I apologize. I've been circling the parking garage,
24 and I finally just pulled up and ran in and got my
25 paralegal to park the car.

1 THE COURT: You're forgiven.

2 MS. RUNEY: Thank you.

3 THE COURT: Are you set up and ready,
4 Mr. Smith?

5 MR. SMITH: Yes, sir.

6 THE COURT: Okay. Well, if everybody
7 is ready, let's bring the jury in.

8 (Jury enters the courtroom at 9:32 a.m.)

9 THE COURT: All right. Well, welcome back,
10 folks. We are now on the final phase of the trial in
11 which you will hear the closing arguments from the
12 lawyers, and then I will charge you on the law that
13 applies to this type of case, then you will retire
14 to consider what your verdict will be.

15 You've heard all the evidence that's been
16 presented. Any factual disputes, you decide, but the
17 lawyers will now be making what we call closing
18 arguments in which they will review the facts that
19 you've heard and then attempt to persuade you to render
20 a verdict on their client's behalf. They know what
21 I'll be charging on the law, so they will be probably
22 referring to that as well.

23 This is argument. I want to stress that
24 this is not to be considered by you as evidence.
25 They're only reviewing the evidence that you heard.

CLOSING ARGUMENTS - BY MR. WARING

1 This is argument by the lawyers, so do not consider
2 it as evidence.

3 Our rules provide that because the State
4 has the burden of proof, the State must make the opening
5 argument, in which they will argue in full. They will
6 -- the defense will then have the opportunity to make
7 a closing argument, and then the State will be allowed
8 to make a reply to any new arguments that the defense
9 makes in their statement.

10 After that, I will again charge you on
11 the law. So we will begin with Mr. Waring making
12 the opening argument for the State.

13 MR. WARING: Thank you, Your Honor.
14 May it please the Court. Mr. Smith. A robbery setup.
15 A subsequent unspeakable act of cruelty and a plan
16 to cover it all up. I mentioned that at the beginning
17 of this trial because that's really what this case is
18 all about.

19 And my hope and challenge for you during
20 the course of this closing argument is that you will
21 look for the connection in all this evidence, you'll
22 see the meaning, and you'll see that this points
23 to murder and nothing else.

24 Let's go back through the evidence. Now
25 let's start off with Tynetra Hamilton and her testimony.

CLOSING ARGUMENTS - BY MR. WARING

1 Now she said the victim visited her -- excuse me --
2 the Defendant came to her earlier in the night on the
3 night of the shooting and told her to bring the victim
4 to the incident location so that they could rob him
5 while making it seem like it was going to be a weed
6 deal.

7 So right off the bat, from the get-go,
8 this was a robbery, plain and simple. She testified
9 that she and the victim went to the incident location
10 on Lowell Drive in North Charleston where the shooting
11 took place, and that the Defendant was there with
12 Lil' Man, who's the co-defendant.

13 Now Tynetra also testified that the
14 Defendant kept trying to go through the victim's
15 pockets, had his cash, trying to steal his money,
16 was trying to get the victim's phone and wallet,
17 and that the victim was trying to get that information
18 -- trying to get those items back.

19 She also said the Defendant was trying
20 to get the victim to go take him to a bank to take
21 out more money. And it's at that point, she said,
22 the victim pulled out a gun to defend himself.

23 She also testified the Defendant had
24 taken the gun away and was hitting the victim with it,
25 and that the victim had his arms up in the air once

1 the Defendant got ahold of the gun. Finally,
2 she testified that the Defendant shot the victim
3 and ran.

4 Now this was a calculated setup right from
5 the beginning. And do you want to know why you should
6 believe Tynetra Hamilton's testimony? Because as
7 testified to by Detective Dan Pritchard, who was the
8 lead detective on this case, prior to Tynetra coming
9 in and speaking with our office, North Charleston Police
10 Department had nothing on her. No evidence at all tying
11 her to the murder, so she was never charged.

12 Now, yes, it's true she came in, and she
13 wasn't completely forthcoming the whole time, but we're
14 talking about a 16-year-old girl who was around 14 or 15
15 at the time of the incident. She came in with
16 absolutely nothing to gain and ended up implicating
17 herself in a murder and telling us about how the
18 Defendant came to her to set this thing up.

19 She picked the Defendant out of a six-person
20 photographic lineup. As Detective Dan testified about,
21 she signed that agreement that said if she told the
22 truth about what happened, we couldn't use it against
23 her. So, in fact, if she came in this week and lied,
24 that's the only way she could get in trouble for what
25 she had done and for what she had said, so she has

1 to tell the truth this week. That's why her story
2 is credible.

3 Much of her story, interestingly enough,
4 is actually corroborated by the Defendant's own
5 statement. She said the victim was telling the
6 Defendant and Lil' Man that he wasn't going to hurt
7 them; the Defendant said the same thing. Tynetra said
8 that the victim was telling the Defendant not to do it;
9 the Defendant said the same thing.

10 Think about it. The only part of her story
11 that doesn't match up with the Defendant's story is
12 the setup, the robbery, the most incriminating portion
13 of this whole story. And, of course, the Defendant
14 didn't want to mention that part to the police because
15 it didn't fit in with his cover-up story.

16 So Tynetra has a major incentive to tell the
17 truth. The Defendant, on the other hand, has an even
18 bigger incentive to not tell the whole story because if
19 he told you all what really happened, that this started
20 as a robbery, that he robbed the victim, then you all
21 would most certainly convict him.

22 Now the final thought for Tynetra that
23 I want you all to consider is the following. If our
24 office and the police department had nothing on her
25 for over a year and a half, and she was never charged

CLOSING ARGUMENTS - BY MR. WARING

1 in this case, then why wouldn't she either just simply
2 not help us at all, or just maintain a constant series
3 of lies across the board about her involvement?

4 It's not like we had any evidence on her.

5 If she came in and told us she wasn't
6 involved at all, we would have no way of proving that
7 she was lying. But instead she came in and confessed
8 to being involved in a robbery that turned into a
9 murder. If she was really trying to save her skin don't
10 you think she would have just told us nothing from the
11 get-go and just lied across the board? Think about it.

12 Now, I want to talk about the video for
13 a minute. It's hard to see a lot of what's going on.
14 I'll concede to that. But you can tell there's an
15 altercation of some sort, and you can tell that at one
16 point the victim is trying to fend himself off against
17 the two defendants.

18 What's very important to note is that right
19 before the shooting though, if you look closely at the
20 video, you can see the victim's arms are up. You will
21 have the video back with you in the jury room.
22 I challenge you to take a look at it for yourself at
23 your own pace. If you study it, you will agree that
24 the victim's arms were up.

25 Tynetra's testimony backs this up because

1 she says his arms were up too. If his arms were up,
2 he wasn't a threat. And, in addition, though the video
3 is not great, you can clearly see that the victim is not
4 attacking or fighting with the Defendant at the moment
5 he shot him.

6 In addition, after the physical altercation,
7 but prior to the shooting, there's a time lapse of about
8 15 seconds where the victim is separated from the
9 Defendants. He's not a threat. As the Defendant
10 mentioned in his statement, they sat and talked for
11 a minute. What does all this mean? Looked at with
12 the evidence of the robbery, it means this was a murder,
13 100 percent.

14 Now immediately after pulling the trigger
15 and shooting the victim three times, what did the
16 Defendant do? He immediately ran. Didn't call 911;
17 didn't check on the victim. Now why run? According to
18 the Defendant, the victim attacked him first by pulling
19 out a gun for no reason than trying to shoot them,
20 right?

21 Then why run? Well, you know why.
22 The simple reason is because his story didn't add up.
23 Things didn't go down the way he said they did, and the
24 Defendant knew he was in deep trouble for murdering the
25 victim.

CLOSING ARGUMENTS - BY MR. WARING

1 After he ran, what's the next thing he did?
2 Ditch the gun. How do we know that's the same gun
3 as the one the Defendant used? Well, because he
4 admitted to throwing a small black and silver gun
5 in a ditch line near the crime scene. He concealed
6 the murder weapon by throwing it in a pond behind the
7 apartments where he shot the victim. Does that look
8 like the actions of an innocent man? Absolutely not.

9 Now what's the next thing, the next series
10 of events that occurred? When Officer Lynch from the
11 North Charleston Police Department, who was our first
12 witness who got up there, he stumbled upon the Defendant
13 less than 10 minutes after the shooting. He had not
14 a clue in the world that the man he was speaking with
15 had just shot somebody three times. And why would he
16 suspect that anyway?

17 From watching the body cam footage,
18 the Defendant was calm and cool, not a care in the
19 world. He heard some gunshots and saw some people
20 running away. That was his story at that time.
21 But to the cop, no, he wasn't involved. The Defendant
22 was sitting on a porch in an apartment that is part
23 of the same building where the shooting took place,
24 not a care in the world.

25 He didn't tell Officer Lynch that he was

CLOSING ARGUMENTS - BY MR. WARING

1 involved in the shooting. Didn't tell him that he had
2 pulled a gun on the victim after taking it away from
3 him to defend himself. Didn't mention anything about
4 being in fear for his life, and he didn't mention
5 shooting the victim. Now what does all that mean?
6 For you, the jury, it means that you can't trust every
7 word that has come out of his mouth. This is all part
8 of the coverup.

9 And what's the most disturbing point about
10 Officer Lynch's whole encounter with the Defendant?
11 That while he's speaking with the Defendant,
12 simultaneously around the same corner, the victim
13 is on his deathbed, lying on the ground, fighting
14 for his life.

15 Now there was testimony that the victim's
16 wallet, credit cards and keys and other miscellaneous
17 personal items were strung all about. If that stuff
18 was all over the street and on the grass, what does
19 that mean? It means that Tynetra Hamilton's testimony
20 is corroborated. This started as a robbery.

21 Why do you think the wallet is in the middle
22 of the street a great distance away from the victim's
23 body and not in his pocket? Because he was robbed,
24 and the Defendant at some point prior to the shooting
25 had ahold of it. Now Tynetra said the victim was asking

CLOSING ARGUMENTS - BY MR. WARING

1 for his wallet back that the Defendant had taken,
2 and also that the Defendant had taken his cash.
3 Think about it.

4 Now you heard from Donna Money from SLED,
5 South Carolina Law Enforcement Division. She testified
6 that the victim's blood DNA was on the wallet.
7 Detective Pritchard testified that he watched the
8 surveillance videos, and that from the time the
9 Defendant shoots the victim up until when North
10 Charleston Police Department arrives on scene and checks
11 on the victim, in that time span nobody comes up to the
12 victim and otherwise takes anything from him. Nobody
13 approaches the victim.

14 So what does that mean? That means that
15 the wallet was removed from the victim's person prior
16 to the shooting. And that means with the blood DNA
17 on there, that it was removed while he was being injured
18 and not at some other random time unrelated to the
19 incident. Now this all corroborates Tynetra Hamilton's
20 testimony that the victim was asking for his wallet back
21 from the Defendant after the Defendant had robbed him
22 of it.

23 Let's talk about the iPhone for a minute.
24 Both Azjai Heyward and Isaiah Jackson testified that
25 the victim had his iPhone on him earlier in the night

1 when they last saw him, later in the night on December
2 18, 2016 leading up to the night -- excuse me -- the
3 early morning of the incident on December 19, 2016,
4 around 12:10 a.m.

5 Isaiah testified that the victim usually
6 had his white standard iPhone headphones on him.
7 And the police never found the victim's cell phone
8 on him since it was missing from the crime scene.
9 It was not on the victim. What does this mean?
10 When looked at with the other evidence, it means
11 the Defendant robbed the victim of his phone in
12 addition to his money and wallet.

13 What happened next? Approximately,
14 30 minutes, more or less, later that time had passed,
15 the Defendant goes to the Kangaroo gas station on Cross
16 County Road with the victim's iPhone. While there,
17 you could clearly see on the video he's not buying
18 anything. You all are going to have that video back
19 there with you. Take a look at it.

20 He doesn't bring any items for purchase
21 up to the counter. He's looking around; he's acting
22 suspicious. And he sure is interested in the victim's
23 cell phone, and he pulls that out of his pocket and
24 shows it to the clerk.

25 Now remember Isaiah Jackson testified

1 that the victim usually had on standard white iPhone
2 headphones with his iPhone, and he saw the victim with
3 his iPhone earlier that night leading up to the
4 shooting. This surveillance video proves that the
5 Defendant had the victim's iPhone. You can see the cell
6 phone with the white headphones.

7 And you know what he's doing at this moment?
8 He's asking the clerk if he knows how to unlock an
9 iPhone. That is supported by the Defendant's messages
10 on his phone later in the day, the same day of the
11 shooting, which I'm going to put up in a minute,
12 asking if people knew how to unlock an iPhone.

13 So the Defendant robbed the victim,
14 shot him, ran immediately, got rid of the gun,
15 didn't call 911, lied to the police when they initially
16 responded, and then less than ten minutes after the
17 shooting -- excuse me -- 30 minutes later, he's at the
18 Kangaroo gas station presenting the victim's cell phone,
19 trying to find a way to unlock it.

20 There's no other explanation. This is
21 crucial evidence that proves the Defendant's guilt
22 of murder. And, of course, meanwhile during this time
23 the victim is fighting for his life, not a care in the
24 world by the Defendant.

25 Let's go to the phone messages.

1 The Defendant's phone messages are crucial evidence
2 that he robbed the victim, and that, therefore,
3 this was murder. He identifies himself clearly on
4 the phone, so there should be no doubt about whose
5 phone this is. He literally says, I'm Maulique Heyward.
6 Here again he identifies himself, "My real name
7 Maulique, though. Rondo is a street name." Guess who
8 else referred to him as Rondo? Tynetra Hamilton.

9 Now on December 19, 2016, the same exact
10 date of the shooting, later in the afternoon, he's
11 asking someone about unlocking an iPhone. Now why is
12 he trying to unlock an iPhone at that key time, so close
13 to the shooting? It's clearly not his phone. You know
14 whose phone it is though. It's the victim, Garrett
15 Mitchell's. The timing is too close to the shooting
16 to be coincidental. This is proof the Defendant
17 robbed the victim, and therefore, murdered him.
18 There's absolutely no other explanation.

19 Now the Defendant sent another message
20 about an hour later, around 6:13 p.m. that same day of
21 the shooting, asking someone do you know how to unlock
22 an iPhone. He sure is really interested in unlocking
23 that specific iPhone. Well, it's not his phone clearly,
24 so whose is it? You already know the answer to that
25 question. It's the victim, Garrett Mitchell's.

1 Then the day after the shooting, December
2 20th, the Defendant is desperately trying to get someone
3 to hold onto the victim's phone. He says, "I need you
4 to do me a favor, hold these two iPhones for me until
5 Friday or something, I'm about to come bring them in
6 a minute." At least one of those phones that he's
7 talking about is the victim's. It's possible they're
8 both his, or one could be the Defendant's and one the
9 victim's, but we know that at least one is his.

10 And why in the world would the Defendant
11 want someone else to hold those phones for him?
12 Because he knows he's in deep trouble if the police
13 find Garrett's phone. So just like the gun, he had
14 to get rid of the evidence, and remember the victim's
15 phone was never found.

16 Let's talk about the jail calls for
17 a second. While in county jail, the Defendant made
18 some interesting statements.

19 (Jail call played for the jury.)

20 MR. WARING: I asked the Defendant on the
21 stand while he was on the stand, did he mention anything
22 in that phone call about having to kill the victim
23 because he was in fear for his life because the victim
24 pulled a gun on him out of the blue? Nope. Are those
25 the words of an innocent man? Absolutely not.

CLOSING ARGUMENTS - BY MR. WARING

1 (Jail call continued to be played for the jury.)

2 MR. WARING: Now, he starts off by
3 indicating that he can't even really talk about what
4 can only be deduced as his case much on that phone since
5 he knows he's being recorded. But then immediately
6 after, he goes in to talking about bumping off a female
7 witness.

8 Now who's he talking about here? Without
9 question, he's talking about Tynetra Hamilton. And how
10 do we know that? Because she's the only female who is
11 directly involved enough in this whole case who knows
12 the real story, who implicates him into a robbery plot.
13 There's no other explanation.

14 (Jail call continued to be played for the jury.)

15 MR. WARING: Now in this call he tells the
16 girl on the other end not to turn on his phone because
17 the police will be all over her, and she doesn't want
18 that type of heat. While Detective Pritchard testified
19 that they couldn't track the victim's phone because
20 it wasn't turned on, but that if it were to be turned
21 on, they could track it.

22 Now guess whose phone the Defendant
23 is talking about? The victim's. That's the only
24 conclusion that makes any possible sense because
25 the Defendant, at that time, on December 29, 2016,

CLOSING ARGUMENTS - BY MR. WARING

1 had already been arrested and charged with murder.

2 But here is the million-dollar problem
3 at issue that the Defendant found himself in on
4 that date of December 29, 2016, or in other words,
5 after he was arrested and told his story. He didn't
6 tell the cops anything about the robbery setup.

7 So if the phone were turned on, the one
8 he's talking about, and the cops found it, they would
9 know that this was a little bit deeper and was a little
10 bit more serious than the story that he was saying went
11 down. In other words, that this began as a planned
12 calculated robbery.

13 The Defendant knew this, and that's why
14 he doesn't want this girl to turn the phone on. We can
15 add this to the list of evidence that proves this is
16 a murder. There's no other explanation.

17 (Jail call continued to be played for the jury.)

18 MR. WARING: Again, this is after he's
19 already been arrested and charged with murder, after
20 he has already given his version of events that don't
21 include anything about a robbery setup. So why is he
22 so concerned about this phone? Because again it
23 implicates him in the setup -- the robbery setup.

24 Now, as testified to by Detective Pritchard,
25 the Defendant lied for much of his interview and denied

CLOSING ARGUMENTS - BY MR. WARING

1 any involvement, just as he did when Officer Lynch
2 initially found him on scene. Again, this shows you
3 can't trust every word he says.

4 Then, he finally admitted that he shot the
5 victim after he said the victim came over uninvited,
6 unannounced, and so they had to kick him out, and then
7 the victim just pulled a gun out on him randomly.
8 Does that even make any sense? None whatsoever.

9 But what is interesting is that the
10 Defendant says that after he took the gun away from
11 the victim, the victim was saying, chill, I'm not trying
12 to hurt y'all. And that right before the moment of
13 the shooting, they sat and talked for a minute where
14 the victim was telling him not to do it.

15 Now this is code for he was begging for
16 his life. And if you watch the video closely you can
17 see that the victim's arms are up, which is what Tynetra
18 Hamilton testified to. And the Defendant says he told
19 the victim, you just tried to kill me, now I'm going
20 to kill you. He testified he said that. He had the
21 time to say that. This proves this was a murder.
22 There was no threat. Remember, this started as
23 a robbery.

24 And, in addition, during the Defendant's
25 testimony during the trial he said he had to kill the

1 victim because the victim kept coming and kept coming
2 at him. Well, you're going to have the video back
3 there with you in the jury room, take a look. It's the
4 Defendant who runs up to the victim, not the other way
5 around.

6 Now, I want to talk about the elements of
7 murder for a second. Murder is the killing of another
8 with malice aforethought, and I briefly mentioned that
9 during opening statements. Malice is the wrongful
10 intent to injure another. It indicates a wicked or
11 depraved spirit, intent on doing wrong. It's the doing
12 of a wrongful act intentionally and without just cause
13 or excuse.

14 Now, it's got to be aforethought, meaning it
15 has to have occurred -- that ill will or hatred towards
16 the victim or intent to injure must have occurred just
17 prior to the moment the Defendant shot the victim.

18 For this case, the Defendant's malice began
19 the moment he acted on the robbery setup. Now the
20 robbery proves the Defendant had malice because he had
21 a wrongful intent to harm the victim, and otherwise had
22 ill will towards the victim.

23 Now just because the victim may have pulled
24 out a gun to defend himself in the midst of being robbed
25 does not absolve the Defendant of his murder.

CLOSING ARGUMENTS - BY MR. WARING

1 The Defendant's malice continued until he shot the
2 victim three times, including one time in the head while
3 the victim had his arms up, was begging for his life,
4 and was unarmed. We have proven this Defendant guilty
5 of murder beyond a reasonable doubt.

6 Now you may have asked yourself at some
7 point, well, what about self-defense, does that apply
8 here? The answer is 100 percent no, and I will tell
9 you why. You don't have to just take my word for it.
10 If self-defense applied in this case, you will hear
11 a jury charge on it, and at the conclusion of this case,
12 you're not going to hear that. So what that means is
13 you're not to consider it.

14 Now what you will hear the judge charge is
15 an other possible offense that you may have the option
16 to find the Defendant guilty for, and that is voluntary
17 manslaughter. Now the judge is going to charge you
18 that to prove voluntary manslaughter, the Defendant
19 would have had to have taken the life of the victim
20 in a sudden heat of passion based on sufficient legal
21 provocation.

22 Now if you don't believe any of the evidence
23 we've presented about this robbery setup, if you don't
24 believe what Tynetra Hamilton said, if you don't believe
25 that any of these jail calls or phone messages or

CLOSING ARGUMENTS - BY MR. SMITH

1 Kangaroo videos or lying to the arresting officer or any
2 of that stuff that proves this was a robbery setup from
3 the get-go and then turned into a shooting, which is
4 murder, if you don't believe any of that, then at the
5 very least this Defendant is guilty of voluntary
6 manslaughter.

7 But I want to get one thing straight
8 today because he is guilty of murder, not manslaughter.
9 There's too much evidence to support murder over
10 manslaughter. He is not going to walk out of here
11 a free person today. It was a robbery setup. His arms
12 were up, a 15-second pause. No threat. The victim was
13 a sitting duck that day. You know what to do. Find him
14 guilty of murder and the gun charge and hold him
15 accountable for taking the victim's life.

16 THE COURT: All right. Mr. Smith.

17 MR. SMITH: Beg the Court's indulgence.

18 (Pause.)

19 MR. SMITH: May it please the Court.

20 Mr. Waring, Ms. Sigal. The click, click, click of a gun
21 failing to fire is the sound that Maulique Heyward will
22 remember forever. Those sounds are etched in his mind.

23 In December 2016, Maulique Heyward was in
24 a fight for his life. As I've told you at the beginning
25 of this case, we're not here to argue about who killed

CLOSING ARGUMENTS - BY MR. SMITH

1 Mr. Mitchell. Maulique sat there on that stand, and he
2 told you that he shot Mr. Mitchell. What you're here
3 to decide today is whether my client, Maulique Heyward,
4 is guilty of murder.

5 You're going to have a chance to look at
6 a lot of the evidence and even listen to testimony,
7 if you need to, in this case. And I have a little bit
8 of an overview of my closing arguments so that you'll
9 have an idea of what I'm going to talk about.

10 So take a look at these. I'm going to
11 talk first about Tynetra's trouble with the truth,
12 a conspiracy that makes no sense, her deal, and the fact
13 that she was desperate to save herself. I think those
14 are all very important things to talk about.

15 In addition to that, I'm going to talk
16 about the fight that went on, when the shots are fired,
17 what happened after the shooting, what Maulique had
18 to say to Detective Pritchard, and we're going to talk
19 about the jail calls and all the surrounding questions.

20 So let's kind of get right into it. Tynetra
21 Hamilton's real problem with the truth. I found this
22 quote that I think sums her up, "The best liar is he who
23 makes the smallest amount of lying go the longest way."
24 And Tynetra Hamilton started lying to the police from
25 day one.

CLOSING ARGUMENTS - BY MR. SMITH

1 She never gets that story straight, and so
2 she comes in here and she testifies. And it's not only
3 Maulique Heyward's life that's on the line; it's Tynetra
4 Hamilton's. And she would throw anybody to the wolves
5 if she could in order to make that happen.

6 She went in, and she met with the solicitor.
7 She admitted to the solicitor that time and time again
8 she was not totally truthful with them from the
9 beginning. The only thing that you can count on Tynetra
10 Hamilton doing is changing her story again and again
11 and again until she needs it to match up, until she
12 needs it to match the solicitor's story in this case.

13 Now, she wanted to get up on the stand,
14 and she got up there, and she wants you to believe
15 everything she said while she was on the stand. You got
16 to see her; you got to listen to her. She agreed,
17 basically, with anything anyone said to any questions
18 anyone asked.

19 Now she talked and told you, oh, well,
20 at the beginning, I was scared. I was scared to tell
21 the truth. Really? The person who sets up someone that
22 she was going out to dinner with, someone that she has
23 palled around with, someone that she has seen for quite
24 a long time.

25 But the story she told matched what she

CLOSING ARGUMENTS - BY MR. SMITH

1 needed to match to make sure that she leaves with no
2 charges, nothing, no threat to her life or her
3 wellbeing. Now she didn't tell you -- when she did
4 testify, she didn't tell you about any threats from
5 my client or anybody else.

6 How did those play in? We're talking
7 about the jail calls that we've heard so much about.
8 I want you to listen to those, and I want you to listen
9 to one specifically where they're claiming that he was
10 threatening Ms. Hamilton.

11 Maulique talks in that jail call
12 specifically about a girl that had burned up some
13 of his stuff, including his phone. It had nothing to
14 do with a threat, but the State wants you to think so.
15 If there had been any threats, you certainly would have
16 heard it because the State was listening the entire
17 time.

18 Now let's talk about this plan, this
19 robbery, that Tynetra says takes place. First,
20 we've got Gabe Mitchell. He's somebody she has been
21 seeing, buys her candy, takes her to water parks.
22 Then we have my client, Maulique Heyward, that she
23 met one time in person, and she talked to him one time
24 on Facebook.

25 And so when this random guy shows up at her

CLOSING ARGUMENTS - BY MR. SMITH

1 house, along with Lil' Man, they devise a scheme to rob
2 this fellow that she's been talking to for a long time.
3 That doesn't make any sense. It's just too random.

4 And think about this. If they had made
5 up this plan to rob Mr. Mitchell, they had time,
6 they had opportunity, and there was just no evidence,
7 and you heard nothing to suggest that either Maulique
8 or Lil' Man were ever armed in this situation.

9 If they're planning to do a robbery,
10 they certainly have plenty of time to do that, to get
11 armed, to get ready to make things happen. There's no
12 way they would have entered a robbery without being
13 armed, not knowing the person, not knowing what their
14 propensity is for violence, whether they carry a gun,
15 whether they carry a weapon.

16 So the plan again, you know, to involve
17 these guys she barely knows, she takes side with a guy
18 she barely knows. That's not really something you would
19 expect, and it's not something you would expect from
20 a 15-year old, and the reason is because it never
21 happened.

22 Now don't you think -- just think for
23 a second. The State presented a lot of messages from
24 Maulique. They presented you jail calls from Maulique.
25 They could have, and if they had them, you would have

CLOSING ARGUMENTS - BY MR. SMITH

1 heard about messages between Maulique and Tynetra on
2 Facebook or on the phone. If they had messages from
3 Lil' Man to Tynetra or to Maulique, they would have
4 shown those to you, but they don't. They don't exist
5 because it didn't happen.

6 Let's talk about this deal for just
7 a second. She told you she had not been charged with
8 anything, and that's right. She hasn't. And as long
9 as her story remains consistent with what the
10 solicitor's story and version of this case is, they're
11 probably not going to charge her, it's not going to
12 happen.

13 Detective Pritchard told you yesterday
14 when he testified he sure would like to charge her,
15 but he can't, and the reason he can't is because she
16 signed a proffer agreement agreeing to cooperate,
17 agreeing to tell the truth, the truth as it's narrated
18 by the solicitor in this case and their theory of the
19 case.

20 She's desperate to save herself. What could
21 it mean for her? Murder, 30 years to life; armed
22 robbery, 10 to 30 years. But she doesn't want any
23 of those. She wants the magic door number three,
24 the one that allows her to walk from here, out that
25 door, and to remain free forever. And what's the way

CLOSING ARGUMENTS - BY MR. SMITH

1 that she can do that? If she fits the narrative of
2 the solicitor's case.

3 I want to move on, and let's talk about
4 the fight for just a bit. You heard testimony about
5 it. You heard Maulique tell you about it. I do want
6 to highlight some things, and I want you all to consider
7 all of those things.

8 Maulique told you that Mr. Mitchell
9 approached this residence. He had been invited over;
10 he was there. It was owned by Diamond and Precious,
11 and he was an invited guest. He saw Mr. Mitchell
12 approach the door and an argument began, and then things
13 got very serious.

14 When the gun came out, things and feelings
15 really kicked up. Think about the sounds that Maulique
16 heard for just a minute. The click, click, click of
17 the gun, as he saw the gun aimed not only at himself
18 but repeatedly at Lil' Man, and the clicks continued
19 again and again and again.

20 There's a fight that goes on, there's
21 no question about that, for the gun. He was provoked
22 into this fight because he jumped in, as he told you,
23 to assist Lil' Man once that gun came out. He knows
24 once that gun comes out that Mr. Mitchell only has
25 one intention, and that intention was to shoot him

CLOSING ARGUMENTS - BY MR. SMITH

1 and to shoot Lil' Man, if he gets the opportunity,
2 and so Maulique acts the only way that he could.

3 Let's talk for a moment about the emotions.
4 Imagine the rawness of emotions going through Maulique's
5 head as this fight is going on. The gun is pointing
6 not only at him but again at his friend. It's fear;
7 it's worry. I can't imagine the thoughts that are
8 running through his mind, and the fact that he is having
9 to make decisions at a moment's notice.

10 Let's kind of set the stage just a little
11 bit. There is no doubt that Maulique Heyward was in
12 grave danger. The gun was pointed at him, the fight
13 went on and on to the point where he was able to get
14 the gun away. And what he did, he acted in the only
15 way that he could.

16 Now the solicitor wants you to believe for
17 a second that this thing went on for minutes and minutes
18 and minutes, that there was time for discussion, there
19 was time for everybody to settle down and think about
20 things. You're going to see the video. You saw it
21 yesterday. You're going to have an opportunity to play
22 it again.

23 Everything that happened in this case
24 happened very quickly and very, very succinctly and in
25 a short area. I mean, we're not talking about being

CLOSING ARGUMENTS - BY MR. SMITH

1 football field apart. We're not talking about being
2 far apart as from me to the back of this courtroom.
3 Everything happened in a very, very short area.

4 All right. So let's talk about the point
5 when the shots were fired. He reacted -- Maulique
6 reacted the only way he could. He got the gun away
7 as this fight happened, and he fired the shots. He did
8 not deny that. But in his mind, the threat was not
9 over.

10 As he testified to you, Mr. Mitchell was
11 still advancing, and you have to remember the mindset
12 that Maulique was in at that time. He had been
13 threatened with a gun. He was fearful; he was anxious.
14 His adrenaline was pumping, and he did what he thought
15 he could do with what he had available.

16 Why didn't he take off? Why didn't he get
17 away? Well, it kind of goes back to what I was just
18 talking about. He perceived that the threat was not
19 over. He testified to that. He told you that again
20 and again he felt Mr. Mitchell was continuing to come
21 over and come toward him.

22 Well, is that reasonable or unreasonable?
23 Think about it from this perspective. Mr. Mitchell,
24 to him, was someone that showed up at a house that he
25 had been invited to and was trying to get in the door,

CLOSING ARGUMENTS - BY MR. SMITH

1 and he did not know Mr. Mitchell, did not know whether
2 he had other weapons, or whether he had any propensity
3 for violence towards anyone. All he knew was he was
4 somebody trying to walk into a house where he wasn't
5 invited to be late, late at night.

6 Now, let's talk about Maulique and acting
7 the way that he did. His senses were heightened at
8 that point. So remember, the adrenaline was probably
9 pumping, and people are all hyped up out there, it was
10 a chaotic scene. It was one of those scenes that is
11 hard to imagine, but you have to know that the sight
12 of that gun made everyone and everything kick up.

13 Now, let's talk about after the shooting
14 because that's important. Maulique was playing dumb
15 on the porch. You guys have seen the video of him doing
16 that, and you guys have seen the still photos the
17 solicitor showed you. Not really a smart play, but he
18 was polite to the officer. He gave him his information.

19 It would have been real easy to say my
20 name is Ted Smith or whatever, but he didn't do that.
21 He handed over his ID, and so they knew he was on the
22 scene, and eventually they were going to probably talk
23 to him.

24 So should he have told the officer what
25 happened? Certainly, he should have. Just remember,

1 he's a 20-year-old guy who had just come out of a very,
2 very, very scary situation. He knew he shot someone.
3 At that age, it's hard to imagine that you're equipped
4 to deal with that. So, I don't think what he did was
5 completely inconsistent with the actions of someone
6 of that age.

7 So let's talk for a minute just about the
8 crime scene. We talked about, and the solicitor showed
9 you pictures, of the wallet, the debit card and various
10 other cards that the crime scene tech told you were out
11 there. You heard about DNA that was on the wallet that
12 was Mr. Mitchell's. No question about that.

13 What you did not hear about was any of
14 Maulique's DNA being found on that wallet. You didn't
15 hear about any of Maulique's fingerprints being found
16 on that wallet or any of the items that were out there.
17 The reason for that is he never touched them. He never
18 was a part of any kind of robbery. That wallet and
19 those cards came out as that fight progressed.

20 Now let's talk about Maulique when he talked
21 to Detective Pritchard. There is no question, and he
22 told you right from the stand, that at the very
23 beginning I'm deflecting, I did not tell him the truth.
24 I did not. But what he did was he waived his right
25 to remain silent, signed the paperwork. He waived his

CLOSING ARGUMENTS - BY MR. SMITH

1 right to have an attorney present, to have one provided
2 for him. And what does he do? He sits down, and he
3 answers all of Detective Pritchard's questions, one by
4 one.

5 You got to see that interview, and you'll
6 get the chance to see it again, if you want to.
7 He ultimately -- the solicitor talks about him getting
8 rid of the gun. He didn't have to tell him where that
9 gun was, but he did. You saw that happen on the video,
10 and he wanted to clear the air. He had lied to
11 detective -- I'm sorry -- Officer Lynch, and so this
12 was his chance to clear the air, and that's what he did.

13 So let's talk for a minute about the jail
14 calls. When I listen to the jail calls what I hear
15 is a lot immaturity. He's talking to a young woman,
16 he's trying to sound big and bad on the phone, and he
17 does say some dumb things. There's no question about
18 that. He and I went through those yesterday; the
19 solicitor and he went through those yesterday.
20 And Maulique, during that time, was making calls kind
21 of immediately after things happened.

22 Now he remained in jail for a very long
23 time, and the calls that you hear are from a set period
24 of time. If he had been making incriminating calls
25 all throughout, you would have heard those too.

CLOSING ARGUMENTS - BY MR. SMITH

1 These weren't incriminating. This was him talking
2 to a young lady, saying some dumb things. And how
3 do we know that? Well, nothing happened to Tynetra.
4 She didn't even tell you about a threat, nobody has
5 told us about any threat.

6 And so what they're trying to suggest to
7 you is the same guy that put on this heinous conspiracy,
8 heinous plan to rob someone, is the guy who somehow
9 couldn't accomplish having Tynetra threatened and having
10 Tynetra hurt in some manner, but that never happened
11 because had it happened, you would have heard about it.

12 Now he told you about -- Maulique told
13 you about some of the phones that he had previously
14 confiscated. Let's talk about that call for a minute.
15 Any phone associated with him, the police knew about.
16 The moment that it was turned on, the police was going
17 to be looking, if they knew that phone was for him,
18 so that's what he's talking about on that call.
19 He doesn't want to lose the phones that he has.

20 Let's get to kind of the solicitor's --
21 I guess one of his bigger points, the question of the
22 phone. You heard testimony that this phone that was
23 taken was a rose gold iPhone. For some reason, the
24 solicitor wants to suggest that Maulique has taken this
25 phone, and he goes to a random Kangaroo store right

CLOSING ARGUMENTS - BY MR. SMITH

1 around the corner, and he's asking the clerk how to
2 unlock an iPhone.

3 There's certainly no audio there.
4 You haven't heard from the clerk, and I don't know
5 about you, but that would be the last place I would
6 consider taking a phone if I wanted to have it unlocked.
7 Maulique told you what happened. He went there.
8 His phone was out of charge. He showed the phone to
9 the clerk in an attempt to be able to use the phone.

10 Now the messages about unlocking the
11 iPhones, you're going to have those. I want you to
12 be able to take a look at those and look at those very
13 carefully because what you're going to learn is he's
14 talking about unlocking iPhones before this ever
15 happened. And so it's obvious that he has an iPhone
16 he wants to sell before any of this takes place.

17 Detective Pritchard told you there were
18 search warrants done of his home, Maulique's home,
19 and they were done very quickly after this event.
20 No phone was found there. No rose gold iPhone;
21 no headphones. Nothing that would suggest that
22 Maulique at any point had the victim's iPhone.

23 All right. As I run them down here,
24 there are a couple of things that I think we can get
25 to very briefly. When you watch the video it's grainy,

1 but you're going to have an opportunity to watch it
2 again and again, and I ask you to do that. Again,
3 you're going to see it's not a minute-by-minute thing.
4 This is something that happened in seconds, it happened
5 very quickly. It's chaotic.

6 Think about this. The person who said
7 she saw it all, Tynetra Hamilton, that's the one person
8 you're not going to see on the video. So where was
9 she when she could see all this happening?

10 Now, finally, let's talk about Maulique.
11 He came up here yesterday, placed his hand on the Bible,
12 raised his right hand, swore that he would tell you the
13 truth. He didn't have to do that. He could have sat
14 there silently, not said a word to you, and you couldn't
15 have even considered that had he done it, but he did.

16 He sat there, and he answered my questions,
17 he told you exactly what happened, and then he went
18 through cross-examination with the solicitor. He told
19 you what he felt, what he saw, what he perceived in that
20 situation, and he told you what exactly happened.

21 Now, I'm not going to go through all of his
22 testimony. You're going to have the opportunity,
23 if you need to, to replay that and to listen to that.
24 You heard him in court just yesterday, but you have that
25 ability to listen to it at the end, if you need to.

REBUTTAL CLOSING ARGUMENTS - BY MR. WARING

1 What I want you to concentrate on is how
2 quickly things happened, that Maulique was fighting for
3 his life when this happened. There's no question about
4 that. He testified to that. He perceived that the
5 threat never ended and that Mr. Mitchell was continuing
6 to be a threat to him, and potentially to his friend,
7 Lil' Man, and that he acted the only way he could.

8 Finally, I can get to the point about
9 Maulique being provoked to act. He was provoked to act
10 the moment he went over to that door and confront this
11 man going into his friend's house. You got to see his
12 demeanor on the stand. I think he's as genuine as he
13 could be. You got to see yesterday who I think the real
14 Maulique Heyward is.

15 Maulique Heyward had mere seconds to make
16 a decision that changed lives forever. There's no
17 question about that. He acted because he was provoked.
18 Maulique acted out of fear, Maulique acted in the
19 moment, and Maulique acted the only way that he could.
20 I'm asking you to find Maulique Heyward not guilty of
21 murder.

22 THE COURT: Any reply?

23 MR. WARING: Thank you, Your Honor,
24 just briefly. Ladies and gentlemen, so I have made my
25 closing argument, and defense has now made their closing

REBUTTAL CLOSING ARGUMENTS - BY MR. WARING

1 argument, and in this case, now I get to have a rebuttal
2 closing argument. So, I would like to respond briefly
3 to a few of the points that the defense made, starting
4 off with Tynetra Hamilton.

5 Here's the bottom line. I don't like
6 Tynetra Hamilton. I don't think anybody in this case
7 does. She's going to have to deal with that for
8 the rest of her life. That's not something obviously
9 she's proud of. She was a young girl. I'm not saying
10 I'm pals with her. I don't think anybody would want
11 to be pals with her. I don't like her. But you can
12 believe her because we had nothing on her when she
13 came in to speak with us.

14 We're talking about a year and a half from
15 the beginning of the life of this case until when she
16 came and implicated herself in this murder. We had
17 nothing on her. Detective Dan Pritchard, sitting over
18 here, he testified, unfortunately, they couldn't charge
19 her even if they had wanted to, simple fact was that
20 they had no evidence.

21 So what possible benefit would this young
22 girl have to come in and confess to being implicated
23 in a murder? Think about that. That is why you can
24 believe her. Her testimony is corroborated by other
25 independent evidence; the wallet in the roadway,

1 the victim's phone was never found, all the evidence
2 where the Defendant is trying to unlock an iPhone the
3 same day of the shooting, the Kangaroo video where
4 30 minutes after the shooting the Defendant is in
5 there acting suspicious, not buying a single thing,
6 and presenting a cell phone with some white headphones.

7 There was testimony that you heard,
8 and we've talked about it, that the victim had standard
9 white Apple headphones. The Defendant himself
10 corroborates her story because they both said the victim
11 was telling the Defendant not to do the shooting once
12 the Defendant had the gun right before he got shot.

13 They also both said that the victim said
14 he wasn't going to hurt them. Now that's corroboration.
15 Tynetra's story is corroborated by the Defendant's own
16 testimony on the stand.

17 Now, Mr. Smith talked about us not having
18 evidence of text messages between Tynetra and the
19 Defendant and things like that. Now, I want to put
20 a point in front of you that absence of that evidence
21 does not necessarily negate the possibility that it
22 existed at some point. I want you to think about that.
23 Not every case has 100 percent of the evidence in it.

24 She was a 15-year-old young impressionable
25 girl at the time. The Defendant used her. Now they

1 would have you believe that because she inserted herself
2 in this situation two years after the fact that she just
3 set up the Defendant to be convicted, and in the process
4 exposed herself to possible prosecution. Does that make
5 any sense for a 15-year-old girl who had no evidence
6 against her in this murder case?

7 Now the Defendant's story, his story,
8 and I mentioned it before, that he came over -- the
9 victim came over to their apartment unannounced,
10 uninvited, somehow made himself halfway through the
11 door, and that's when they told him to get out, and then
12 outside the victim pulls a gun on him, and that's when
13 everything unfolds. Does that make any sense
14 whatsoever? None at all.

15 The Defendant talked about how he's in
16 the iPhone selling business. Guess who had an iPhone?
17 The victim. The Defendant would have known that iPhones
18 are worth a lot of money, so he had a motive to rob him.

19 Detective Pritchard testified that the
20 Defendant started talking after they told him there was
21 a video. So he had to admit something, but he just gave
22 him enough that would not completely implicate himself
23 in a setup. That's what Detective Pritchard testified
24 about. It was only after they told him, hey, man,
25 it's on video that he coughed up a little bit of

REBUTTAL CLOSING ARGUMENTS - BY MR. WARING

1 information and settled on a story that he testified
2 to this week.

3 Now Officer Lynch's encounter, the
4 responding officer, who spoke with the Defendant on
5 scene. The Defendant testified that he -- on the stand,
6 he testified that he lied at that time to protect
7 himself, and that's what he's doing this week.
8 He's trying to protect himself.

9 Yes, he was polite to Officer Lynch,
10 but he was polite in lying to him. That was part of
11 his coverup. He had the foresight to sell that coverup,
12 and that's why Officer Lynch said the Defendant was
13 calm, cool, didn't suspect a thing out of him. Bottom
14 line is he covered it up.

15 Now the DNA. The defense mentioned how
16 the Defendant's DNA -- there was no testimony that
17 his DNA was on the wallet, on the victim's wallet.
18 And, again, Donna Money from SLED testified that
19 the absence of that evidence does not negate the
20 possibility that the Defendant did, in fact, touch the
21 wallet. There are other factors at play that contribute
22 to that.

23 Briefly on the jail calls. The defense
24 is saying he was immature on the jail calls. I submit
25 to you that he simply was just being reckless and

1 revealing information about the case. If that iPhone
2 was turned on, North Charleston Police Department could
3 have tracked it.

4 What's the other explanation out there in
5 the world for why he would not want this girl to turn on
6 an iPhone of his after he had already been charged with
7 murder about a week later? He's already been charged.
8 Why does he not want them to turn on this phone?

9 The reason is, as I mentioned, because he
10 was in a predicament. He confessed, but he did not
11 admit to his involvement in this being a setup. So if
12 they were to find that phone, they would see that he had
13 actually lied about that and that this story went much
14 deeper than he was leading on.

15 Phone messages. Last time I checked,
16 and you're going to have them back with you, these
17 messages where he says he's got a new iPhone to be
18 unlocked are the same day of the shooting and subsequent
19 to that. Now there's no other explanation than it's
20 the victim's phone. Too close in proximity to the
21 shooting, and remember the phone was never found.

22 Let's talk about the video for a second.
23 Not great, but you can see, and the Defendant agreed
24 with me, there's a 15-second time lapse where during
25 that time there's no physical altercation. Period.

1 The victim is not attacking him. He admitted that.
2 He admitted he had the time to tell the victim,
3 you just tried to kill me, now I'm going to kill you.

4 Now there was also a separation.

5 No altercation. The victim is not attacking him.
6 I know he said I killed him because he kept coming
7 and kept coming. You saw the video; you're going to
8 have it back with you. I challenge you and encourage
9 you to play it again and again as many times as you
10 need to at your own pace. You're going to see that
11 his story is not making any sense.

12 Now all this means, when you look at all
13 the evidence, this was a setup. This means this was
14 a robbery that turned into a shooting which means
15 murder. You're going to have this evidence back there
16 with you. I challenge you to take a look at it. He is
17 guilty of murder, and that's what we're going to ask you
18 to find him guilty of.

19 THE COURT: All right. Well, folks,
20 you have now heard the arguments, you've heard the
21 evidence, and it's time for me to charge you on the law.
22 And I told you at the beginning of the trial that I have
23 some duties, and you have duties.

24 One of my duties was to preside over the
25 case and make sure that both sides got a fair trial,

1 followed our rules of procedure, our rules of evidence,
2 that sort of thing. You consider only the evidence
3 that you heard in this courtroom, and that was presented
4 to you in the form of testimony from the people on the
5 witness stand, there's photographs, there's evidence
6 that were admitted. That's evidence that you would
7 consider.

8 But I also now have the additional duty
9 of charging you on the law that applies to this kind
10 of case, and this is the law under the oath that you
11 took at the beginning of the trial that you have a duty,
12 a sworn duty, to apply to the facts as you find them.

13 This may not necessarily be what you think
14 the law is, or what you wish the law was. But under
15 the oath that you took, you have a duty to apply the law
16 as I now charge you to the facts as you find them.
17 You are the sole judges of the facts. I have no opinion
18 on the facts. I'm not allowed to comment on the facts,
19 or make any statement to you about how I feel about the
20 facts of this case.

21 If you, for some reason, think that I was
22 trying to indicate to you how I am feeling about
23 a particular issue in this case based upon a ruling that
24 I made or some kind of gesture, I assure you that you
25 are incorrect on that assumption.

1 You, the jury, are the sole judges of the
2 facts, and you don't infer anything that I said in
3 the trial, on ruling on the admissibility of evidence,
4 or anything that I say here in this instruction that
5 I have any opinion about the facts of this case.

6 The law does not allow me to have an opinion
7 about the facts of the case. That is solely a matter
8 for you to determine. It is your duty as jurors to
9 determine the effect, the value, the weight, and the
10 truth of the evidence that was presented during this
11 trial.

12 Now, I want to remind you that the fact
13 that the Defendant was arrested and charged and indicted
14 in this case is not evidence in this case, and it can't
15 be considered by you as evidence of guilt in this case,
16 nor does it presume -- create any presumption of guilt
17 or any inference of guilt.

18 The indictments, as I've told you at the
19 beginning of the trial, are simply the formal written
20 notice. It puts the Defendant on notice of what he's
21 charged with, and what he is to stand trial for. It is
22 also the documents by which this Court gets jurisdiction
23 on this case to try this case.

24 The indictments in this case, there were
25 two of them, and that was for murder and for possession

1 of a weapon during the commission a violent offense
2 or violent crime. The Defendant pled not guilty to both
3 of those indictments, and that plea then puts the burden
4 on the State to prove that the Defendant is guilty
5 beyond a reasonable doubt.

6 A person who is charged with committing
7 a criminal offense in South Carolina is never required
8 to prove himself innocent. This is an important rule
9 of law that we have in this country. A criminal
10 defendant, or a defendant in a criminal trial, is always
11 presumed to be innocent of the crime for which he is
12 indicted, unless and until his guilt has been proven by
13 evidence, satisfying you of his guilt beyond a
14 reasonable doubt.

15 This is not just some kind of legal theory
16 that we talk about in law school. It's not just a legal
17 phrase that we throw about. This is a substantial
18 constitutional right, which every defendant is entitled.
19 This is a presumption that accompanies the Defendant
20 from the time he is charged, throughout the trial,
21 and unless and until you reach a verdict based upon
22 the evidence satisfying you of that guilt beyond
23 a reasonable doubt.

24 So, again, what is a reasonable doubt?
25 I gave you an example. Some of you who might have

1 served as a juror in a civil trial, and you were told
2 it was only necessary to prove that a fact is more
3 likely true than not true, such as by the greater weight
4 of the evidence, sometimes called the preponderance
5 of the evidence.

6 But in a criminal case, the State's proof
7 has to be more powerful than that. It must be beyond
8 a reasonable doubt. Proof beyond a reasonable doubt
9 is proof that leaves you firmly convinced of the
10 Defendant's guilt. Reasonable doubt has also been
11 defined as the kind of doubt that would cause a
12 reasonable person to hesitate to act.

13 There are very few things in this life that
14 we know with absolute certainty, and in a criminal case
15 the law does not require proof that overcomes every
16 possible doubt. If based on your consideration of the
17 evidence you are firmly convinced that the Defendant
18 is guilty of this charge -- of the crimes he has been
19 charged with, then you must find the Defendant guilty.

20 On the other hand, if you think there's
21 a real possibility that the Defendant is not guilty,
22 then you must give the benefit of the doubt to the
23 Defendant and find him not guilty.

24 Now during a trial, there's usually two
25 types of evidence that are presented. There's direct

1 evidence, and there's circumstantial evidence. Direct
2 evidence directly proves the existence of a fact that
3 doesn't require any kind of deduction.

4 Circumstantial evidence, on the other hand,
5 is a proof of a chain of facts and circumstances that
6 indicate the existence of a fact. Crimes can be proven
7 by circumstantial evidence. The law makes no
8 distinction between the weight or value to be given
9 by either direct or circumstantial evidence.

10 However, to the extent that the State relied
11 on circumstantial evidence, all of the circumstances
12 must be consistent with each other, and when taken
13 together point conclusively to the guilt of the accused
14 beyond a reasonable doubt.

15 If these circumstances merely portray the
16 Defendant's behavior as suspicious, then the proof has
17 failed. The State, again, has the burden of proving
18 that the Defendant is guilty beyond a reasonable doubt,
19 and again this burden rests on the State regardless
20 of whether the State relies on direct evidence,
21 circumstantial evidence, or some combination of the two.

22 I also told you about expert witnesses.
23 And I told you that ordinarily we don't let people come
24 in and give you their opinion about evidence, but they
25 do make an exception for expert witnesses, and these

1 are people who are experts because of either education
2 or specialized training and experience in some field.
3 We allow them to give their opinion and state the
4 reasons for their opinion.

5 As I've told you during the trial, you can
6 give an expert witness as much or as little weight that
7 you think it deserves. If you don't think it's based
8 on sufficient education or experience, or you conclude
9 that the opinion is not sound or is outweighed by other
10 evidence, then you can disregard that opinion entirely.
11 In other words, you're not compelled to blindly accept
12 an expert's opinion, even if it's uncontradicted.

13 Medical testimony can be rejected if you
14 find it's consistent with or inconsistent with other
15 facts or is otherwise unreasonable. You have the
16 right to consider the testimony in light of all the
17 circumstances and give it such weight, if any, that you
18 think it's entitled to.

19 Now as part of your role as a juror,
20 you determine the credibility of the witnesses.
21 Credibility simply means believability. And it's your
22 duty as jurors to analyze and evaluate the evidence
23 and determine which evidence convinces you of its truth.

24 In determining the believability of
25 witnesses, you can believe one witness over several

1 witnesses or several witnesses over one witness.
2 You may believe the testimony of a witness in its
3 entirety, or you can reject the testimony of a witness
4 in its entirety. You could believe part of the
5 testimony of a witness or reject part, the remaining
6 part, of the testimony of that same witness. And if you
7 reject part of it, you can still accept the remainder
8 of a witness's testimony.

9 You can consider such things as whether
10 or not a witness is exhibiting to you any interest,
11 bias, prejudice or other motive in the case. You may
12 consider the appearance and demeanor of a witness while
13 the witness was on the witness stand. You're not bound
14 to decide the case based upon the number of witnesses
15 that a side produces.

16 Now there were two offenses in this charge
17 -- in this case. There's murder and possession of
18 a weapon during the commission of a violent crime,
19 and I'm going to now break down what they have to prove
20 in order to prove each of those charges.

21 So we'll go over the first one, which is
22 murder. Murder is statutorily under 16-3-10 of the
23 South Carolina Code of Laws. In order to prove that
24 somebody has committed murder, the State has to prove
25 beyond a reasonable doubt the Defendant killed another

1 person with malice aforethought.

2 So malice is hatred, ill will or hostility
3 towards another person. It's the intentional doing
4 of a wrongful act without just cause or excuse and
5 with an intent to inflict an injury, or under the
6 circumstances that the law will infer an evil attempt.

7 Malice aforethought does not require that
8 malice exist for any particular time before the act
9 is committed, but malice must exist in the mind of
10 the Defendant just before and at the time the act
11 is committed. Therefore, there must be a combination
12 of a previous evil intent and the act.

13 Malice aforethought may be expressed
14 or inferred. These terms expressed can infer and not
15 mean different types of malice, but merely the manner
16 in which malice may be shown to exist. Again, that
17 is either by direct evidence or by inference from facts
18 and circumstances which are proved.

19 Expressed malice is shown when a person
20 speaks words which express hatred or ill will for
21 another, or when a person prepared beforehand to do
22 the act, which is later accomplished, for example,
23 lying in wait for another person or other acts of
24 preparation that goes to show the deed was within
25 the Defendant's mind. That would be an example of

1 expressed malice. Malice can be inferred in conduct,
2 showing a total disregard for human life.

3 I also charge you that the law says that
4 if one intentionally killed another during the
5 commission of a felony, the implication of inference
6 -- excuse me -- the implication of malice may arise.

7 If facts are proven beyond a reasonable
8 doubt sufficient to raise an inference of malice to
9 your satisfaction, this inference would simply be an
10 evidentiary fact to be taken into consideration by you,
11 the jury, along with other evidence in the case, and you
12 give it such weight that you think it deserves.

13 Now let's talk about voluntary manslaughter.
14 This is called a lesser included charge. If you find
15 that the State has failed to prove beyond a reasonable
16 doubt that the Defendant committed murder, then you
17 may consider whether the State has proven beyond
18 a reasonable doubt that the Defendant committed
19 voluntary manslaughter.

20 To prove voluntary manslaughter, the State
21 must prove beyond a reasonable doubt that the Defendant
22 took the life of another in the sudden heat of passion
23 based on sufficient legal provocation. Both heat of
24 passion and sufficient legal provocation must be present
25 at the time of the killing to constitute voluntary

1 manslaughter.

2 Sudden passion may, for a time, affect
3 a person's self-control and temporarily disturb a
4 person's reasoning. The sudden heat of passion must
5 be the type that would make an ordinary person unable
6 to truly reflect on his actions and would produce
7 an uncontrollable impulse to do violence.

8 Sufficient legal provocation must be
9 the type that would make a person of ordinary reason
10 and caution to become enraged and to lose control
11 temporarily. The provocation needed for voluntary
12 manslaughter must come from some act of or related
13 to the victim.

14 Words alone, however vulgar or insulting,
15 are not enough to be a legal provocation. Where death
16 is caused by the use of a deadly weapon, the words must
17 be accompanied by some overt threatening act, which
18 would have produced the heat of passion. The exercise
19 of legal right, no matter how offensive it is to
20 another, is never sufficient legal provocation for
21 voluntary manslaughter.

22 If the heat of passion had cooled, or there
23 was enough time between the provocation, if any, and the
24 killing or the passion of a reasonable person had
25 cooled, the killing would not be voluntary manslaughter.

1 In deciding whether a reasonable person
2 would have had enough time to cool off, you would
3 consider all the circumstances surrounding the killing.
4 You may consider the nature of the provocation, if any,
5 the Defendant's mental and physical state and the
6 circumstances and relationships between the party.

7 Now the second indictment was for possession
8 of a weapon during the commission of a violent crime,
9 and this is a crime in violation of Section 16-23-49
10 of our code of law. In order to prove this, the State
11 must prove beyond a reasonable doubt that the Defendant
12 was in possession of a firearm or visibly displayed
13 what appeared to be a firearm during the commission
14 of a violent crime.

15 A firearm means a machine gun, automatic
16 rifle, revolver, pistol or any weapon which will is
17 designed to or may be readily converted to expel a
18 projectile. In order to convict the Defendant or find
19 the Defendant guilty of possession of a weapon during
20 the commission of a violent crime, you must first find
21 the Defendant guilty of either committing a violent
22 crime or attempting to commit a violent crime.
23 And I charge you that murder, as defined by 16-3-10,
24 is a violent crime, and voluntary manslaughter is
25 a violent crime.

1 Now in determining your verdict of guilty
2 or not guilty you are not to consider any possible
3 penalty for any particular crime. Punishment for
4 a crime is a matter for me to determine and should never
5 be considered by you in any way whatsoever in arriving
6 at a verdict of guilty or not guilty. Finally, your
7 verdict must be unanimous. In other words, all 12
8 of you must agree as to the outcome of the verdict
9 of the charge.

10 Now, Mr. Foreman, these are the two
11 indictments, all right. Now on the back of these
12 indictments, and again these are not evidence, these are
13 the only two pieces of paper that are going to go back
14 with you that are not evidence. Anything else that goes
15 back with you is considered evidence.

16 The reason I'm sending these back is because
17 on the back of these, or on the front depending on which
18 way you look at it, you will see just below there's
19 a red stamp that says true bill, there's a place below
20 that says verdict, all right. And that's where you,
21 the foreman, will write what the verdict is after the
22 jury unanimously comes to that verdict.

23 Now as to the murder indictment, there are
24 four possible verdicts. As to murder, there is guilty
25 or not guilty, all right. If you find the Defendant

1 is guilty of murder, then you'll write that down,
2 all right. On the other hand, if you find he's not
3 guilty of murder, then you are to consider whether
4 or not you find him guilty of voluntary manslaughter.
5 Two possible verdicts again, guilty or not guilty.

6 If you find that he's guilty of voluntary
7 manslaughter, under there I want you to write guilty
8 of voluntary manslaughter, all right. Now if you find
9 he's not guilty of murder and of voluntary manslaughter,
10 you just write down not guilty one time, and that will
11 let us know that you found him not guilty of both murder
12 and of voluntary manslaughter, all right.

13 Now as to the indictment for possession of
14 a weapon during the commission of a violent crime, there
15 are two possible verdicts; there's guilty or not guilty,
16 all right. In order to find him guilty of possession
17 of a weapon during the commission of a violent crime,
18 you must find him first guilty of either murder or
19 of voluntary manslaughter.

20 If you find him not guilty of murder and not
21 guilty of voluntary manslaughter, then you must find him
22 not guilty of possession of a weapon during the
23 commission of a violent offense. If you find that he
24 is guilty of either murder or voluntary manslaughter,
25 then you could consider a guilty verdict for possession

1 of a weapon during the commission of a violent crime,
2 okay.

3 Now, I'm going to send you back.
4 Don't begin your deliberations just yet. Now you saw
5 some videos. If you want to see them again, sometimes
6 this works, sometimes it doesn't, we bring the computer
7 back with it loaded on it, and you can watch it back
8 there.

9 Sometimes the technology just doesn't work,
10 and we bring you back in, and we put it up, and you can
11 watch it and you go back and discuss it. Same thing
12 with the audio or anything like that.

13 You'll have copies of the verdict form.
14 You'll actually have the weapon back there. Weapons
15 make people extremely nervous; I get that. You will
16 see though that this weapon has been disarmed.
17 It's locked up. The firing pin, you can't use it,
18 but it's there if you want to take it out and examine
19 it. But there's no bullets to go back with it,
20 and there's no chance of anybody getting hurt with it.
21 I just wanted to explain that because weapons make
22 people nervous. It's secured. You can touch it if
23 you feel like you need to.

24 You can take as much time as you want to
25 discuss this case, to deliberate. I hope that you will

1 give everyone the opportunity to have whatever they want
2 to say, whatever questions, and you have a full
3 discussion about it. Once you have reached a verdict,
4 a unanimous verdict on both charges, then you let the
5 bailiff know, and he will let me know.

6 Now don't begin your deliberations until
7 I send word back with the evidence and the indictments.
8 I will also send you back a copy of the jury charges.
9 I have to give the lawyers the opportunity to tell
10 me if I misspoke on anything. If I did misspeak,
11 I'll bring you back in, and say I made an error,
12 recharge you on this one point.

13 But more than likely, I will just send
14 you back word along with the evidence, the charges,
15 and the indictments, and the bailiff will tell you
16 that you can begin your deliberations. If you need to
17 send any kind of a note or a question to me, I ask that
18 you have a form to write it down, give it to the
19 bailiff, and they will bring it to me. But that's what
20 we'll do right now. Again, don't begin deliberations
21 or discussions until I send word back with the bailiff,
22 all right. Go ahead.

23 (Jury exits the courtroom at 10:58 a.m.)

24 THE COURT: Okay. Anything from the State?

25 MR. WARING: No, Your Honor.

1 THE COURT: Anything from the defense?

2 MR. SMITH: No, Your Honor.

3 THE COURT: What do you have if they ask
4 to see the video? Do you have a computer -- is that
5 stuff loaded?

6 MR. WARING: Your Honor, the discs are not
7 -- the contents of the discs are not on the computer.
8 The discs are up there. It does have a disc drive.

9 THE COURT: I guess I'll just bring them
10 back in.

11 MR. WARING: Okay.

12 THE COURT: I did have one on the jury
13 charge, Page 8, there was one typo where it says
14 in order to -- it should be in order to find.
15 So, I'm going to write the word "find" in there.
16 Also visibly. Two sentences above that it says that
17 the State must prove beyond a reasonable doubt that
18 the Defendant was in possession of a firearm. It reads
19 visibility. It should be visibly. Let's correct that
20 also. Okay. Anything else?

21 MR. SMITH: Judge, one thing that came up.
22 I just want to make sure -- I don't believe the
23 transcripts were part of the evidence.

24 THE COURT: Correct.

25 MR. SMITH: I wanted to make sure those

1 do not go.

2 THE COURT: Double check and make sure
3 everything that is in evidence is there.

4 (Adjourned.)

5 (Jury deliberations begins at 11:07 a.m.)

6 (The alternate has been discharged at 11:10 a.m.)

7 (Jury enters the courtroom to listen to Tynetra
8 Hamilton's testimony.)

9 (Jury exits the courtroom at 1:00 p.m. to continue
10 deliberations.)

11 (Adjourned.)

12 (Jury enters the courtroom to listen to Defendant's
13 testimony at 2:38 p.m.)

14 (Jury exits the courtroom at 3:31 p.m. to continue
15 deliberations.)

16 (Adjourned.)

17 (Back on the record at 5:08 p.m.)

18 THE COURT: Let the record show the
19 Defendant is in the courtroom. I understand the jury
20 has reached a verdict, so bring them in.

21 (Jury enters the courtroom at 5:09 p.m.)

22 THE COURT: All right, Mr. Foreperson,
23 I understand the jury has reached a verdict; is that
24 correct?

25 THE FOREPERSON: It is.

1 THE COURT: Is it unanimous as to both?

2 THE FOREPERSON: I believe so.

3 THE COURT: All 12 voted for the same
4 verdict?

5 THE FOREPERSON: Yes.

6 THE COURT: All right. Would you hand it
7 to the bailiff, please.

8 THE FOREPERSON: All right.

9 THE COURT: All right. The Defendant will
10 rise. All right. As to indictment, 2017-GS-10-2906,
11 the indictment for murder, the verdict is guilty.
12 Indictment 2017-GS-10-2910, possession of a weapon
13 during the commission of a violent crime, the verdict
14 is guilty. All right, you may be seated.

15 Ladies and gentlemen, if this is your
16 verdict would you, in fact, please indicate that by
17 raising your right hand. Let the record reflect all
18 12 jurors have raised their right hand. Would you like
19 to have the jury pulled?

20 MR. SMITH: I would, Your Honor.

21 THE COURT: All right. The clerk will pull
22 the jury.

23 THE CLERK: When I call your juror number,
24 please stand up. Juror No. 27, is this your verdict?

25 THE JUROR: Yes.

1 THE CLERK: Is it still your verdict?

2 THE JUROR: Yes.

3 THE CLERK: You may sit down. Juror No. 29,
4 is this your verdict?

5 THE JUROR: Yes.

6 THE CLERK: Is it still your verdict?

7 THE JUROR: Yes.

8 THE CLERK: Juror No. 43, is this your
9 verdict?

10 THE JUROR: Yes.

11 THE CLERK: Is it still your verdict?

12 THE JUROR: Yes.

13 THE CLERK: Juror No. 264, is this your
14 verdict?

15 THE JUROR: Yes.

16 THE CLERK: Is it still your verdict?

17 THE JUROR: Yes.

18 THE CLERK: Juror No. 295, is this your
19 verdict?

20 THE JUROR: Yes.

21 THE CLERK: Is it still your verdict?

22 THE JUROR: Yes.

23 THE CLERK: Juror No. 279, is this your
24 verdict?

25 THE JUROR: Yes.

1 THE CLERK: Is it still your verdict?

2 THE JUROR: Yes.

3 THE CLERK: Juror No. 127, is this your
4 verdict?

5 THE JUROR: Yes.

6 THE CLERK: Is it still your verdict?

7 THE JUROR: Yes.

8 THE CLERK: Juror No. 76, is this your
9 verdict?

10 THE JUROR: Yes.

11 THE CLERK: Is it still your verdict?

12 THE JUROR: Yes.

13 THE CLERK: Juror No. 244 -- Juror No. 247,
14 Mr. Singleton, is this your verdict?

15 THE JUROR: Yes.

16 THE CLERK: Is it still your verdict?

17 THE JUROR: Yes.

18 THE CLERK: Juror No. 261, Mr. Stuntebeck.

19 THE COURT: He was the alternative; he was
20 dismissed.

21 THE CLERK: Juror No. 232, is this your
22 verdict?

23 THE JUROR: Yes.

24 THE CLERK: Is it still your verdict?

25 THE JUROR: Yes.

1 THE CLERK: Juror No. 50, is this your
2 verdict?

3 THE JUROR: Yes.

4 THE CLERK: Is it still your verdict?

5 THE JUROR: Yes.

6 THE CLERK: Juror No. 9, is this your
7 verdict?

8 THE JUROR: Yes.

9 THE CLERK: Is it still your verdict?

10 THE JUROR: Yes.

11 THE CLERK: The jury has been pulled,
12 Your Honor.

13 THE COURT: All right. Well, folks, I want
14 to thank you for your service this week. I know it's
15 a difficult case, it's a difficult charge, a difficult
16 set of circumstances. You know, the last trial
17 I conducted a week or so ago, it was, you know, a little
18 small wreck case, and I told the jury those are not the
19 big ones, you know, like we have on some weeks.

20 You just never know what you're going to get
21 in one week, but they're all important. But, you know,
22 let's face it, some are more important than others.
23 We don't have a more serious offense than a murder
24 trial. It's the worst offense that we have on the
25 books.

1 And so, you know, it's a process that
2 we have that we give people that say they didn't do
3 it the right to a jury trial, and we bring 12 people
4 in. You saw the process we went through for
5 qualifications; you saw the process we went through
6 for drawing the jury.

7 We got 12 people that all claim they do
8 not know anybody involved in the case, didn't know
9 anything about the case, all kinds of different
10 backgrounds, all kinds of different races and jobs
11 and education levels. And yet you all came to the same
12 verdict, which is in this day in age, I find that's
13 a difficult thing to do, when you stop and think about
14 how hard it is to get 12 people to agree the sun rises
15 in the east on some days, it seems like.

16 The fact of the matter is that 12 members
17 from a large part of the community came together,
18 and y'all listened to each other. I don't know exactly
19 how you came to your decision, but I know the way
20 jurors, generally speaking, work.

21 This wasn't a five-minute verdict; this
22 wasn't a 30-minute verdict. You all have been working
23 on this since about 11 o'clock this morning, and it's
24 now after five o'clock. That shows me you took it very,
25 very seriously, which is again my experience on what

1 people do, even small little wreck cases.

2 People may not necessarily want to serve
3 on a jury, but when they get here, and they get picked
4 on a jury, they take their job very seriously.
5 So whether or not it's a small little wreck case,
6 or it's a murder case, people believe in the jury system
7 deep down. They really do. And this is your government
8 at work this week.

9 Normally, if you stop and think about it.
10 What do you get to do to participate in your government?
11 Vote and pay taxes is about it, unless you happen to
12 work for a branch of the government. This is your
13 government at work. You have those three branches.
14 Remember, the legislative, executive and judicial?
15 Well, this is the judicial branch at work. This is the
16 big leagues, folks. This is the biggest case you get
17 anywhere.

18 We don't -- sometimes you get those cases
19 that take weeks and weeks and weeks, but a lot of times,
20 it's just like this. It takes a few days. It takes
21 a while to get here sometimes because, unfortunately,
22 we have a lot of cases and a lot of crimes that have
23 been committed. But once we get here it moves on
24 a whole pretty fast and pretty rapidly.

25 But we have lawyers that do a good job.

1 They spend a lot of time and a lot of energy preparing
2 for cases. And the only thing that we ask when you get
3 here is that you listen and that you take it seriously
4 and that you deliberate carefully. And I am telling
5 you, you folks did as good a job as any that I've ever
6 seen.

7 Part of my job, as I have told you, is to
8 conduct the trial and charge you on the law. But part
9 of conducting a trial is to keep an eye and make sure
10 people haven't fallen asleep and that sort of thing.
11 This didn't happen in this case.

12 This is one of those cases where everybody
13 was paying attention because you all realized I think
14 immediately that the seriousness of the charge demands
15 the seriousness of taking the job to be as important
16 as it is.

17 So this is your government; this is how it
18 works. And you should be proud of the job that you did
19 this week. The law doesn't permit me to have an opinion
20 about the outcome of your verdict. I accept your
21 verdict. I think it's reflected in the facts, and you
22 guys did your duty this week.

23 And I don't know if I necessarily got to
24 mention this to you because I didn't qualify the jury
25 this week, but I usually tell the jury when I'm

1 qualifying them, you know, that all around the world
2 people have the right to a jury -- they have 200 plus
3 countries, but they don't have the right to a jury trial
4 in very many of them. And it's considered by many
5 in this country to be a burden, to be a responsibility,
6 but it's also a privilege to serve on a jury, and that
7 people all over this world wish they had the right to
8 a jury trial and they don't.

9 And so we do it week in and week out and
10 take it for granted, just like anything else that you
11 do every day and every week. But it's really, really
12 very special what you've done this week, to participate
13 in your government by coming in, and you don't work for
14 the government.

15 You work for -- you came in and you decided
16 what the outcome of this case would be, not me or
17 a panel of judges, as it is in most governments around
18 the world. You decided, and it's your government.
19 And so you should take pride in the fact that you showed
20 up and participated, and you did exactly what we asked
21 you to do, and it's clear that you took your job very
22 seriously.

23 So, I thank you for that, and I will now
24 dismiss you. You don't have to call back after six
25 o'clock. You're finished for the week. If you remember

1 from Monday when you got picked on the jury, you
2 basically got told you're now disqualified for the rest
3 of the year to serve on a jury. But you also have an
4 exemption from jury service now for the next three
5 years. However, it's an exemption, and you don't have
6 to accept it. You don't have to exercise that
7 exemption.

8 And I kind of hope really that you enjoyed
9 it enough that you want to do it again, maybe not right
10 away. But if you get picked again, I hope that you
11 enjoyed this week enough that you would want to do it
12 again. And I hope that you enjoyed it enough that you
13 speak favorably of your experience when you're talking
14 to people about it now because you should take pride
15 in the fact that you served on a jury.

16 Everybody wants to talk about their jury
17 experience, and it's something that you will live with
18 for the rest of your life now. And you should be proud
19 of the fact that you served on a jury, and I hope that
20 you would speak favorably about the experience.

21 But again I have been telling you all week
22 long that you can't talk to anybody about the case.
23 You can now talk to anybody you want to about the case.
24 You can post whatever you want to on social media about
25 the case. Hopefully, again, it will be favorable,

1 and you enjoyed it. But it was a difficult case,
2 and it's clear that y'all took it very, very seriously.

3 So you may hear from -- sometimes they have
4 somebody from the solicitor's office call or somebody
5 from the lawyers' offices may call, or you might get
6 something from the clerk's office. They want to know
7 how you enjoyed the experience, the clerk's office
8 would. The lawyers often want to know, can you tell us,
9 you know, what you're thinking about because they need
10 to know, it helps them prepare for their next case.
11 That is fine.

12 You can talk to anybody you want to now
13 about the experience. There's no prohibition.
14 You're not doing anything wrong if you talk to them,
15 if you want to. If you don't want to just say I really
16 would rather not talk about it, and then they will,
17 you know, leave you alone.

18 If you have a problem or something -- I've
19 never had anybody call me and say they got pestered
20 by a lawyer afterwards. But it's perfectly fine now
21 if you would like to talk to somebody, if you want
22 to. And, again, it helps everybody do a better job
23 for the next one, if you do talk to them.

24 So that's all I've got to say. You're now
25 free to go. Thank you very much on behalf of the

1 citizens of Charleston County and the state of South
2 Carolina. All right, you're free to go.

3 (Jury exits the courtroom at 5:23 p.m.)

4 THE COURT: All right. Any motions?

5 MR. SMITH: Judge, I would just ask to
6 reserve our right to motion for a new trial for ten
7 days. It's going to be based basically on the rulings
8 that's already been had. I just want to put it in
9 writing, if I could.

10 THE COURT: All right. I'll allow that.
11 Okay. Well, we will move into sentencing. What would
12 the State like to say?

13 MR. WARING: Thank you, Judge. We'll start
14 out with his criminal history. From what I can tell
15 is a 2015 receiving stealing goods, a recent 2019
16 Dorchester County unlawful carrying of a pistol.
17 Your Honor, I have had this case for about three years.
18 From what I can tell, the Defendant has not shown really
19 any remorse during that time.

20 The word was that Tynetra, who testified,
21 had an active hit out on her by the Defendant. That's
22 what I was told. The Defendant is on numerous jail
23 calls talking about wanting to shoot multiple people.
24 In one call, he says when he gets out he's going to
25 rob everybody.

1 The facts, of course, speak for themselves,
2 Your Honor. And, of course, he did state on that one
3 jail call that he hopes to get out so he could kill some
4 more people. He took the victim's life, Your Honor,
5 and so that's what we would ask for. The victim's
6 family is here, and I'm sure somebody may want to speak
7 as well.

8 THE COURT: Is there anyone who would like
9 to say anything?

10 MR. THOMPSON: Okay. My name is
11 Mr. Thompson, and Garrett Mitchell was my grandson.
12 And he was a young man that had a lot of promise.
13 And we, the members of this family, feel like we were
14 robbed of seeing what he would become. He had a lot
15 of promise, a lot of potential.

16 But I also feel sympathy for Mr. Heyward's
17 family as well because both families have suffered a
18 tremendous loss. I just hope and pray that these young
19 people would stop killing one another in our community.
20 I just would love to see this killing cease. It's so
21 senseless.

22 But I thank this Court for their
23 professionalism, the solicitor's office for their
24 professionalism in how they've dealt with this case,
25 and I'm just grateful. Thank you.

1 THE COURT: Thank you, sir. Anyone else
2 from the family?

3 MS. THOMPSON: I'm Anita Thompson. I'm the
4 grandmother of Garrett. We love him. We will always
5 love him. We will miss him. As his grandfather said,
6 he had so much promise. He was the son that I never
7 had. I have daughters, but I never had a true son.

8 We thank you for all that you've done.
9 We thank the solicitor and his team, and I say as my
10 husband had said, we have to come together. We can't
11 have this killing, this senseless killing. It's so
12 unnecessary. A life was taken, a human being, and
13 I can't get it out of my mind how he was left to die.
14 Thank you.

15 THE COURT: Thank you. Anyone else?
16 All right. Mr. Smith.

17 MR. SMITH: Thank you, Judge. As you heard,
18 my client is 22 years old. He did graduate from James
19 Island Charter High School. He was last employed with
20 Atlantic Bedding and Furniture. He had done that about
21 six or seven months.

22 He's joined in the courtroom by his mother
23 who's here in the second row. His brother is in the
24 back row; his girlfriend is in the second row. He's had
25 close family members here earlier in the week that

1 weren't able to be here today.

2 Your Honor, there's no question that --
3 I would say that Mr. Heyward, being as young as he was,
4 made some rash decisions in this case. And we hope that
5 the Court will take into account that as we've seen
6 research say time and time again, young people's brains
7 are not fully developed at that age. They make
8 impulsive choices, hard choices, and we hope that you
9 will consider something less than a life sentence.
10 He did spend 490 days in jail prior to this trial.

11 THE COURT: How old did you say he was?

12 MR. SMITH: Twenty-two.

13 THE COURT: And how far did he get in
14 school?

15 MR. SMITH: He graduated from James Island
16 High School -- James Island Charter.

17 THE COURT: All right.

18 MR. WARING: Your Honor, may I approach?

19 THE COURT: Yes.

20 (Pause.)

21 THE COURT: All right, Mr. Heyward,
22 would you like to say anything?

23 THE DEFENDANT: I would ask that you will
24 be lenient with the sentence. I understand what you
25 have to do. Whatever you do, I accept the consequences

1 like a man.

2 THE COURT: Well, you are a young man.

3 This job is making me old some days. You know,
4 like Mr. Mitchell's relatives said, young people have
5 just got to learn to not kill each other. It's like
6 there's no value to life anymore amongst young people.

7 The jury obviously believed that there
8 was a robbery. I believe there was a robbery that
9 was planned to take place, you know, over what, \$20.
10 I mean, there wasn't really anything of consequence that
11 was taken, an iPhone. I mean, these are trivial things.

12 People's lives are being taken away from
13 them. If I gave you the benefit of the doubt that
14 it was felony murder, which basically means you didn't
15 plan to kill anybody, but you planned a robbery,
16 and then it went bad, and you ended up killing somebody,
17 that will get you convicted of murder in this state.

18 So, I'll give you the benefit of the doubt
19 that you didn't plan to kill this person ahead of time.
20 That'll keep from giving you life without parole,
21 but you're going to go away for a long time to pay
22 for something like this. The minimum is 30. I'm going
23 to give you 40, and then you've got five added on to
24 that for the possession of a weapon during the
25 commission of a violent crime.

1 So by the time you get out, you will be
2 an old man, but at least you'll have the chance to walk
3 again some day. I hope when you come out, you have
4 learned to appreciate freedom and the value of life.
5 You'll have a long time to think about it. So, I will
6 give you credit for the 490 that you served. Good luck
7 to you. All right. I'll give you ten days to file any
8 post-trial motions. All right.

9 (End of Transcript of Record)

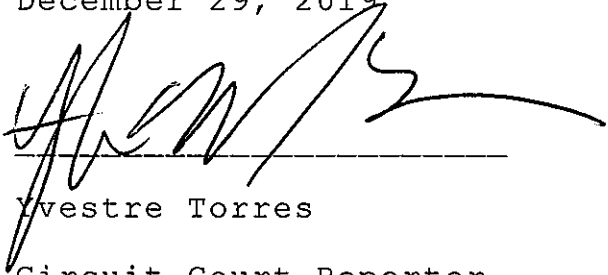
CERTIFICATE OF REPORTER

State of South Carolina)
County of Charleston)

I, the undersigned, Yvestre Torres, Circuit Court Reporter for the First Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Circuit Court for Charleston County, South Carolina, on the 15th of August, 2019.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

December 29, 2019



Yvestre Torres

Circuit Court Reporter

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

) IN THE COURT OF GENERAL SESSIONS
) FOR THE NINTH JUDICIAL CIRCUIT
)

) Warrant No(s): 2016A1021001112;
) 2016A1021001111

Charge(s): Murder / Murder; Weapons / Poss.
weapon during violent crime, if not also
sentenced to life without parole or death

STATE OF SOUTH CAROLINA

vs.

MAULIQUE ALEXANDER
HEYWARD,

Defendant

MOTION FOR A NEW TRIAL

2019 AUG 23 PM 1:29
JULIE J. ARMSTRONG
CLERK OF COURT

FILED

Now comes the Defendant, by and through the undersigned attorney, moving for a new trial. As a basis for this motion the Defense offers all previously preserved objections, all previously ruled upon motions, and this Court's decision not to charge Self Defense to the jury.

The Defendant therefore requests that a new trial be granted.

Respectfully Submitted,

W. Ted Smith

W. Ted Smith
Deputy Public Defender
Attorney for Defendant

Charleston, South Carolina

Dated: 8/23/19

IN THE STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)
STATE OF SOUTH CAROLINA,)

vs.)

MAULIQUE ALEXANDER HEYWARD,)

IN THE COURT OF GENERAL SESSIONS
NINTH JUDICIAL CIRCUIT

Indictment No(s): 2017-GS-10-2906
2017-GS-10-2910

**ORDER DENYING MOTION
FOR A NEW TRIAL**

BY 
JULIE J. ARMSTRONG
CLERK OF COURT

2019 OCT -4 AM 10:06

FILED

This matter came before the Court for trial on August 12, 2019. The Defendant was convicted by the jury of Murder and Possession of a Weapon during the Commission of a Violent Crime. The Defendant thereby filed a Motion for a New Trial.

Standard of Review

The grant or denial of new trial motions rests within the discretion of the Circuit Court, and its decision will not be disturbed on appeal unless its findings are wholly unsupported by the evidence, or the conclusions reached are controlled by error of law. *Umhoefer v. Bollinger*, 379 S.E.2d 296, 297 (S.C. Ct. App. 1989). "In deciding whether to assess error to a Court's denial of a motion for a new trial, we must consider the testimony and reasonable inferences to be drawn therefrom in the light most favorable to the nonmoving party." *Id.*

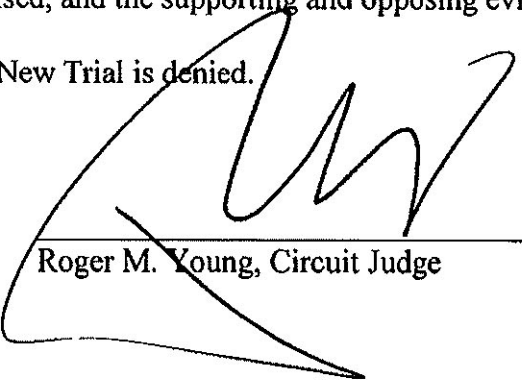
Discussion

The basis for Defendant's Motion for a New Trial was all previously preserved objections, all previously ruled upon motions, and the Court's decision not to charge Self Defense to the jury. The Defendant did not request a hearing on the Motion, and the State filed



no Response. Having considered the argument raised, and the supporting and opposing evidence, and based on the same Defendant's Motion for a New Trial is denied.

AND IT IS SO ORDERED.



Roger M. Young, Circuit Judge

10/3, 2019
Charleston, South Carolina.

2019 OCT -4 AM 10:06
JULIE J. ARMSTRONG
CLERK OF COURT
BY MA

FILED

TRW/0324687
WITNESSES

North Charleston Police Department

AGENCY CASE NUMBER
2016-038002

ARREST WARRANT NUMBER
2016A1021001112

DATE OF ARREST
12/21/2016

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

MAY 09 2017
Date:

VERDICT

GUILTY- MURDER

Andrew Fluder
Foreperson of Petit Jury

8-15-19
Date:

DOCKET NO. 2017-GS-10-02906

The State of South Carolina
County of Charleston

COURT OF GENERAL SESSIONS
MAY TERM 2017

THE STATE

VS.

MAULIQUE ALEXANDER
HEYWARD

Indictment for

MURDER

SC Code: § 16-03-0010
CDR Code: 0116

RECEIVED
OCT 07 2019
SC Court of Appeals

STATE OF SOUTH CAROLINA

INDICTMENT

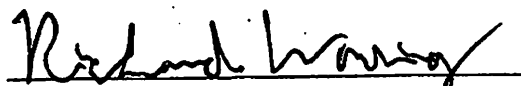
COUNTY OF CHARLESTON

At a Court of General Sessions, convened May 2017, the Grand Jurors of Charleston County present upon their oath:

MURDER

That in Charleston County, South Carolina on or about December 19, 2016, the defendant, Maulique Alexander Heyward, feloniously, willfully and with malice aforethought, did kill and murder Garrett Payton Mitchell by means of shooting him with a handgun, and Garrett Payton Mitchell did die in Charleston County as a proximate result thereof on or about December 19, 2016; 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

-400

TRW/0324687
WITNESSES

North Charleston Police Department

AGENCY CASE NUMBER

2016-038002

ARREST WARRANT NUMBER

2016A1021001111

DATE OF ARREST

12/21/2016

ACTION OF GRAND JURY

TRUE BILL

MAY 09 2017

Foreperson of Grand Jury

Date:

VERDICT

GUILTY

Andrew Elder

8-15-19

Foreperson of Petit Jury

Date:

DOCKET NO. 2017-GS-10-02910

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

MAY TERM 2017

THE STATE

VS.

MAULIQUE ALEXANDER
HEYWARD

Indictment for

POSSESSION OF A WEAPON DURING
THE COMMISSION OF A VIOLENT
CRIME

SC Code: § 16-23-0490

CDR Code: 0549

RECEIVED

OCT 07 2019

SC Court of Appeals

STATE OF SOUTH CAROLINA

INDICTMENT

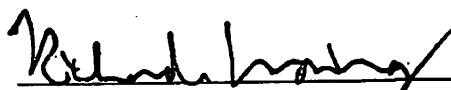
COUNTY OF CHARLESTON

At a Court of General Sessions, convened May 2017, the Grand Jurors of Charleston County present upon their oath:

POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME

That in Charleston County, South Carolina, on or about December 19, 2016, the Defendant, Maulique Alexander Heyward, did possess a firearm or did visibly display what appeared to be a firearm or did visibly display a knife during the commission of or attempted commission of a violent crime, to wit: Murder; in violation of Section 16-23-490, Code of Laws of South Carolina, (1976, as amended).

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


T. RICHARD WARING
ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

STATE VS.

MAULIQUE ALEXANDER HEYWARD

AKA:

Race: Black/African AmericanSex: DOB: SS#: Address: City, State, Zip: DL#: SID# *CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: MurderIn violation of § 16-03-0010 of the S.C. Code of Laws, bearing CDR Code # 0116☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS☐ Mandatory GPS☐ §17-25-45(CSC w/minor 1st or CSC w/minor 3rd)The charge is: ☒ As indicted, ☐ Lesser Included Offense,☐ Defendant Waives Presentment to Grand Jury. (def.'s initials)The plea is: ☒ Without Negotiations or Recommendation,☐ Negotiated Sentence.☐ Recommendation by the State.

ATTEST:

Richard Waring 100465
T. Richard Waring, Assistant Solicitor SC Bar #

Defendant

W. Ted Smith 70744
Attorney for Defendant SC Bar #

WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections ☐ County Detention Center,
for a determinate term of 40 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____
months/years and subject to South Carolina Department of Probation, Parole and Pardon Service standard conditions of probation, which
are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State
Department of Corrections. 490 Days☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic
Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing☐ Ordered PTUP _____

Total: \$ _____ plus 20% fee: \$ _____

_____ days/hours Public Service Employment

Payment Terms: _____

Obtain GED ☐☐ Set by SCDPPPS _____

Attend Voc. Rehab. Or Job Corp. _____

Recipient: _____

May serve W/E beginning _____

*Fine: _____ \$ _____

Substance Abuse Counseling ☐

§14-1-206 (Assessments 107.5%) \$ _____

Random Drug/Alcohol Testing ☐§14-1-211 (A)(1)(Conv. Surcharge) \$100 \$ 100

Fine may be pd. in equal consecutive weekly/monthly

§14-1-211 (A)(2)(DUI Surcharge) \$100 \$ _____

pmts. of \$ _____ Beginning _____

§56-5-2995 (DUI Assessment) \$12 \$ _____

\$ _____ Paid to Public Defender Fund

§56-1-286 (DUI Breath Test) \$25 \$ _____

Other: _____

Proviso (Public Def/Probation) \$500 \$ _____

§14-1-212 (Law Enforce. Funding) \$25 \$ 25

§14-1-213 (Drug Court Surcharge) \$150 \$ _____

§50-21-114 (BUI Breath Test Fee) \$50 \$ _____

§56-5-2942(J) (Vehicle Assessment) \$40/ca \$ _____

3% to County (if paid in installments) \$ \$ 3.75TOTAL \$ 128.75Clerk of Court/Deputy Clerk: Presley JamesCourt Reporter: Presley JamesPresiding Judge: 2134Judge Code: 8/15/19Sentence Date: 8/15/19

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SC Court of Appeals

☐ Appointed PD or appointed other counsel,
Proviso requires \$500 be paid to Clerk
during probation and shall be collected before any other fees.

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

STATE VS.

MAULIQUE ALEXANDER HEYWARD

AKA:

Race: [REDACTED] Sex: [REDACTED]
 DOB: [REDACTED] SS#: [REDACTED]
 Address: [REDACTED]
 City, State, Zip: [REDACTED]
 DL# [REDACTED] SID# [REDACTED]

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Possession Of A Weapon During The Commission Of A Violent CrimeIn violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code # 0549
☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45
(CSC w/minor 1st or CSC w/minor 3rd)The charge is: ☒ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury, ☐ (def.'s initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Richard Waring 100465
 T. Richard Waring, Assistant Solicitor SC Bar # Defendant

W. J. Smith 70744
 Attorney for Defendant SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center,
 for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed years
 and/or to pay a fine of \$; provided that upon the service of days/months/years and or payment
 of \$; plus costs and assessments as applicable*; the balance is suspended with probation for
 months/years and subject to South Carolina Department of Probation, Parole and Pardon Service standard conditions of probation, which
 are incorporated by reference.

☐ CONCURRENT or ☒ CONSECUTIVE to sentence on: 2017-GS-10-2906☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives HearingTotal: \$ plus 20% fee: \$ Payment Terms: ☐ Set by SCDPPPS Recipient: *Fine: \$ §14-1-206 (Assessments 107.5%) \$ §14-1-211 (A)(1)(Conv. Surcharge) \$100 \$ 100§14-1-211 (A)(2)(DUI Surcharge) \$100 \$ §56-5-2995 (DUI Assessment) \$12 \$ §56-1-286 (DUI Breath Test) \$25 \$ 25Proviso (Public Def/Probation) \$500 \$ §14-1-212 (Law Enforce. Funding) \$25 \$ 25§14-1-213 (Drug Court Surcharge) \$150 \$ §50-21-114 (BUI Breath Test Fee) \$50 \$ §56-5-2942(J) (Vehicle Assessment) \$40/ca \$ 3% to County (if paid in installments) \$ 3.75TOTAL \$ 128.75Clerk of Court/Deputy Clerk: Yvette TorresCourt Reporter: Yvette Torres

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2017-GS-10-02910A/W: 2016A1021001111Date of Offense: 12/21/2016S.C. Code §: 16-23-0490CDR Code #: 0549

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS2017-GS-10-2906☐ Ordered PTUP days/hours Public Service EmploymentObtain GED ☐Attend Voc. Rehab. Or Job Corp. May serve W/E beginning Substance Abuse Counseling ☐Random Drug/Alcohol Testing ☐

Fine may be pd. in equal consecutive weekly/monthly

pmts. of \$ Beginning \$ Paid to Public Defender FundOther: SC Court of Appeals

☐ Appointed PD or appointed other counsel.
 Proviso requires \$500 be paid to Clerk
 during probation and shall be collected before any other fees.

Presiding Judge: 2134Judge Code: 815/19Sentence Date: 8/5/19

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.”

This 10th day of December, 2020.

Respectfully Submitted,

s/David Alexander
Appellate Defender

RECEIVED

Dec 10 2020

SC Court of Appeals

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

ATTORNEY FOR APPELLANT