

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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Appeal from Greenville County
Honorable Robin B. Stillwell, Circuit Court Judge

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

CURTIS ALLEN BABB,

APPELLANT

APPELLATE CASE NO 2019-001529

RECORD ON APPEAL

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THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:
STATE’S EXHIBIT NO. 5 (VIDEO OF EXTERIOR OF VICTIM’S HOUSE)
STATE’S EXHIBIT NO. 28 (CD)
STATE’S EXHIBIT NO. 39 (AUDIO OF WIDEMAN’S INTERVIEW)
STATE’S EXHIBIT NO. 42 (VIDEO RECORDING OF LOOPER’S INTERVIEW)

RUSSELL IRVIN-DIRECT BY MS. OWENS

1 Q In that capacity, were you investigating a
2 murder that happened in Shemwood Crossing on December 8th
3 of 2016?

4 A I was.

5 Q As part of that investigation, did you interview
6 a Jonathan Suber-Purry?

7 A I did.

8 Q Without getting into the details of what that
9 case was about and what specifically you ask
10 Mr. Suber-Purry about his involvement, do you recall
11 speaking to him about what he was doing during the evening
12 hours of December 8th of 2016?

13 A I did.

14 Q Was Mr. Suber-Purry able to recount for you his
15 movement throughout the neighborhood immediately before
16 the incident that you were investigating?

17 A Yes. During my interview with him, I was trying
18 to ascertain his whereabouts during a certain timeframe.
19 He was able to --

20 MS. HENRY: Objection, Your Honor.

21 THE COURT: What's the objection?

22 MS. HENRY: This is hearsay. I mean, he should
23 be testifying just what he observed.

24 THE COURT: Okay. All right, I presume that you
25 are calling this witness for purposes of a 613

RUSSELL IRVIN-DIRECT BY MS. OWENS

1 statement?

2 MS. OWENS: Yes, sir, Your Honor, or 801.

3 THE COURT: Prior inconsistent statement?

4 MS. OWENS: Yes, sir. Prior inconsistent
5 statement offered under Rule 801.

6 THE COURT: Okay.

7 MS. HENRY: I'm not sure what the prior
8 inconsistent statement would be. I feel like this is
9 improper bolstering.

10 MS. OWENS: Your Honor, at this point, it's a
11 prior consistent statement now that the charge has
12 been alleged as bolstering based on the charges that
13 are pending. That's the assertion of
14 cross-examination.

15 MS. HENRY: Your Honor, I'm allowed to impeach
16 him on bias.

17 THE COURT: Yeah, no doubt. No doubt. What
18 were the denials for -- the denials of the statement
19 that were made by these witness?

20 MS. OWENS: Specifically, this witness denies
21 how he characterized -- how he described Curt.

22 THE COURT: That would be Mr. Purry?

23 MS. OWENS: The first witness, yes, Your Honor.

24 THE COURT: The first witness, okay.

25 MS. OWENS: Yes, Your Honor.

RUSSELL IRVIN-CROSS BY MS. HENRY

1 THE COURT: How did he describe him?

2 MS. OWENS: Well, Your Honor, I don't want --

3 THE COURT: I just want to make sure that it's
4 truly an inconsistent statement we're talking about
5 and we're not parsing evidence.

6 MS. OWENS: Your Honor, I'll move on. I'll just
7 ask a brief question.

8 THE COURT: Okay.

9 BY MS. OWENS:

10 Q Was the fact that Mr. Suber-Purry and Jovante
11 Dodd interacted with Curt during the evening hours of
12 December 8th, 2016, important at all to your
13 investigation?

14 A Not to my investigation.

15 MS. OWENS: Okay. I don't have any additional
16 questions.

17 THE COURT: Okay.

18 Cross-examination, ma'am?

19 MS. HENRY: Yes, sir.

20 CROSS-EXAMINATION

21 BY MS. HENRY:

22 Q You charged both Suber-Purry and Jovante Dodd
23 with obstruction of justice?

24 A I did.

25 Q Okay. Was that for lying to you?

RUSSELL IRVIN-CROSS BY MS. HENRY

1 A It was.

2 MS. HENRY: Okay. Thank you.

3 THE COURT: Mr. Robinson?

4 MR. ROBINSON: No questions.

5 THE COURT: Any redirect?

6 MS. OWENS: No, Your Honor.

7 THE COURT: You can step down, sir. Thank you.

8 Any additional witnesses from the State?

9 MS. OWENS: No, Your Honor. With that, the
10 State has concluded the presentation in reply.

11 THE COURT: Okay, good enough. Did you -- I
12 know that you had earlier suggested that you might
13 want to call another witness. I suggested to you I
14 probably would not allow you to do it. Do you need
15 to argue in that regard?

16 MS. HENRY: I do not, Your Honor.

17 THE COURT: Okay. So ladies and gentlemen, it
18 is about ten minutes till three. Okay. So we've got
19 some time left today. But I'm going to explain to
20 you the process of argument and charge so you will
21 understand where we are and why we're going to do
22 what we're going to do okay.

23 So at the close of the case, I have to hear some
24 arguments from counsel on legal matters. Then the
25 attorneys and I have to get together and we have to

1 MS. HENRY: Your Honor, give me one second.

2 THE COURT: Sure.

3 MS. HENRY: No, Your Honor.

4 THE COURT: Okay, anything, Mr. Robinson?

5 MR. ROBINSON: I renew my motion for directed
6 verdict.

7 THE COURT: Yes, sir, I respectfully deny the
8 same.

9 MS. HENRY: Again, I also need -- I apologize. I
10 also need to renew my motion for directed verdict.

11 THE COURT: Yes, ma'am, no worries. And the
12 ruling is the same.

13 Any motions from the State?

14 MS. OWENS: No, Your Honor.

15 THE COURT: Okay. All right. Counsel, if you
16 would meet me upstairs in my office in about five
17 minutes. We're just going to talk through the
18 charge, we're going to talk through timings. We're
19 going to make sure that we all are on the same sheet
20 of music when we start tomorrow morning.

21 Okay. Thank you.

22 (WHEREUPON, the proceedings were concluded for
23 the day to be reconvened on August 16, 2019.)

24

25

1 we're looking at about two hours.

2 So what I really anticipate is listening to two
3 arguments, take a short break, listening to another
4 argument, maybe take a break, depending on where we
5 are, then coming back and getting the charge. Okay.
6 If at any point when somebody finishes a charge, if
7 any of y'all need to take a break, let me know
8 because we'll take a break. Chances are if one of
9 you needs to take a break, somebody else in the
10 courtroom needs to as well.

11 So having said that, I'll defer to you
12 Ms. Owens, your argument, ma'am.

13 CLOSING STATEMENT

14 MS. OWENS: Thank you, Your Honor, may it please
15 the Court.

16 Good morning, ladies and gentlemen. It has,
17 indeed, been a long week. And I know you've heard a
18 lot of evidence, you've seen a lot of witnesses come
19 into this courtroom and seen a lot of physical
20 evidence right there in front of you. It's probably
21 been very difficult to keep track of what each
22 witness has said and follow with how confusing some
23 of these items have been. You may even be feeling
24 overwhelmed at the prospect of putting it all
25 together. But what I hope to do in my remarks to you

1 right now is put all this together and remind you
2 that at its core, this evidence is very simple.

3 Now, that you are ready to review the evidence
4 in the case and actually deliberate, you will have
5 two questions. Did these crimes occur and did these
6 two Defendants commit those crimes?

7 So starting with that first question, did these
8 crimes occur? I remind you that the Defendants are
9 each charged with the same five crimes. The first of
10 those is burglary in the first degree. The Judge is
11 going to explain to you in just a few moments that
12 the State's required to prove that the Defendants
13 unlawfully entered the dwelling, the residence, the
14 house of another person, with the intent to commit a
15 crime while they were inside. And what makes that
16 burglary a first degree burglary is that the crime
17 was committed at night, or that the people who made
18 that entry were armed with deadly weapons. In this
19 case, the evidence is that they were armed with guns.

20 Now, in evaluating the evidence, you have
21 photographs of the scene. You have video of the
22 scene. You've heard testimony that the front door of
23 Mr. Moss' house on Cox Street had been forced up, had
24 been kicked open. In fact, there's pieces of the
25 frame that were broken off. The Defendants, the

1 people, the intruders in this case forced their way
2 into that house.

3 Now, if you remember back to Tuesday morning,
4 Mr. Moss testified that he heard his door being
5 kicked open, he heard gunshots, and he heard multiple
6 voices. He heard those people asking where's the
7 money at? Now, it's difficult for any of us to ever
8 determine precisely what's in someone else's mind.
9 So the Judge is going to instruct you in just a few
10 minutes about what it means to decide whether the
11 State has proven intent. He's going to tell you that
12 the Defendant had to have an intent to commit a
13 crime. We rarely have the luxury of knowing
14 precisely what someone is thinking, so the law allows
15 you to draw inferences from the circumstances. That
16 you know when someone is shouting, where's the money
17 at? Their intention is to take money, is to find
18 money. That's how you can infer that their intention
19 with forcing open that door was to get inside to take
20 something from somebody else. That's the crime they
21 intended when they -- they intended to commit when
22 they kicked open that door.

23 Now, Mr. Moss also told you that he recalls
24 seeing a gun in someone's hand, in addition to having
25 heard those gunshots. That's one of the ways that

1 you know that these Defendants were armed while they
2 were committing this burglary. You heard testimony
3 and you saw physical forensic evidence that shell
4 casings were found outside. You saw photographs and
5 video of bullet holes through the front window of
6 that house. There's plenty of evidence that the
7 Defendants who kicked open that door and made entry
8 into that house were armed with guns. And that's
9 what makes the burglary committed at three o'clock in
10 the morning, at nighttime, a burglary in the first
11 degree.

12 Now, the Defendants are also charged with
13 attempted armed robbery. The Judge will instruct you
14 in just a few minutes that that means that someone
15 attempted to take something of value from another
16 person by threat or violence. And that when they
17 were doing it, they were using a deadly weapon. The
18 evidence is, basically, the same to demonstrate that
19 was their intended purpose, to go to the house, to
20 take items of value from the people inside.

21 Now, you heard testimony throughout the trial
22 that, at some point, the Defendants talked about the
23 purpose of this robbery being to take what they
24 believed to be a large quantity of drugs from inside
25 that house. That's evidence from which you can

1 conclude that that was the purpose to rob the people
2 who lived in this house thinking that drugs were
3 inside.

4 Now, I imagine that the Defendants will argue to
5 you in just a few moments that Mr. Moss did not hear
6 what he thought he heard, that the multiple voices
7 that he heard were between one gunman and Mr. Clinton
8 Pearson, the deceased victim in this case. I remind
9 you to remember what Dr. Ward, the medical examiner,
10 testified about. He described that the gunshots, the
11 wounds that Mr. Pearson suffered, taking together or
12 one in particular, singularly, would have been fatal.
13 He also testified that the direction of that shooting
14 was from bottom to top. The evidence is that
15 Mr. Pearson was shot while he was laying on that
16 couch.

17 You heard testimony in this trial that the
18 Defendants described to someone else that they pulled
19 the victim off of the couch. There is no evidence
20 that Mr. Pearson was arguing with anyone. There is
21 no evidence that Mr. Pearson was able to stand, let
22 alone speak after he was shot on that couch. There
23 were multiple people in the house and the evidence
24 throughout this trial has pointed to exactly three
25 people.

1 Now, the Defendants are also charged with
2 conspiracy. The Judge is going to instruct you that
3 that means that two or more people, the Defendants,
4 combined together to commit a crime. The law does
5 not require the State to prove that there was a
6 specific agreement, no one has to sign a contract.
7 It's an agreement together to commit a crime. The
8 evidence that you heard is that the Defendants
9 traveled together to this house on Cox Street for the
10 purpose of stealing items from inside. That's the
11 conspiracy.

12 They're also charged with possession of a weapon
13 during the commission of a violent crime. The Judge
14 is going to instruct you that attempted armed
15 robbery, burglary in the first degree and murder are
16 all violent crimes. The evidence that we have is
17 that .40 caliber shell casings were left on scene and
18 that Mr. Pearson's wounds were the result of medium
19 caliber projectile consistent with .40 caliber shots.
20 We know they were armed. You also heard testimony
21 about the Defendants having a shotgun inside that
22 house. I'll circle back to that a little bit later.
23 But that's the evidence, that these two particular
24 Defendants were armed with a weapon during the
25 commission of the robbery or the burglary or the

1 murder.

2 Now, finally, the Defendants are charged
3 necessarily with murder. The Judge will instruct you
4 that the law requires the State to prove that the
5 Defendants intentionally killed Mr. Pearson with
6 malice aforethought. Meaning that they had a
7 meanness or an ill will in their minds at the time.

8 Again, the testimony has been and the evidence
9 shows the shots were fired from outside this window
10 into the house where Mr. Pearson was sleeping. The
11 shots, again, were from below, suggesting that
12 Mr. Pearson was lying down. All the evidence points
13 to the fact that these .40 caliber shots were fired
14 from outside inside intentionally.

15 Now, you may be wondering -- and I know Ms. Gary
16 addressed this in her opening statement. I wanted to
17 emphasize to you before the Judge's instruction how
18 it is that three people could be responsible and
19 legally guilty of killing one person when only one
20 person fired the shot, only a .40 caliber shot was
21 what actually killed Mr. Pearson. But the oath that
22 you took that you would apply the law as it is given
23 to you by the Judge says that when two or more people
24 combine for the purpose of committing a crime, they
25 are each responsible for the natural and probable

1 consequences of that crime.

2 An example that's sometimes given to illustrate
3 it is a bank robbery. Pretend two people decide to
4 rob a bank. One person goes inside with the gun, the
5 other stays in the car to drive the get-away car.
6 The person that goes inside the bank may decide to
7 shoot the teller. The law says that the person
8 driving that get-away car is just as guilty of that
9 teller's murder as the person who pulled the trigger.
10 Because they combined together. They agreed to
11 commit the crime together and they are each
12 responsible for all of the natural consequences of
13 taking a gun to a robbery, that someone might be
14 killed. That's why the law says the hand of one is
15 hand of all.

16 Now, the Judge will also instruct you about the
17 State's burden in this case. And it's important you
18 remember the State bears the burden of proving each
19 of these elements with respect to each of these
20 Defendants beyond a reasonable doubt. Now, there are
21 very few things in this world that we know with
22 absolute certainty. The law does not require the
23 State to prove guilt that overcomes any possible
24 doubt. Instead, the law requires the State to
25 present evidence to you that convinces you, leaves

1 you firmly convinced of the Defendants guilt.

2 The evidence in this case points to these two
3 Defendants as having been exactly two of the three
4 people who committed every single one of those
5 crimes. And it's important that you consider the
6 Defendants' guilt individually. So I will start by
7 addressing Mr. Brown specifically.

8 Now, you've heard from the Judge during the
9 course of this trial that Mr. Brown stipulated to the
10 fact that his nickname was Deuce. So to the extent
11 that you've heard witnesses refer to Deuce and that
12 you've seen evidence that references Mr. Brown as
13 Deuce, emails that refer to himself as Deuce, that's
14 who we're talking about, okay. And the evidence that
15 Mr. Brown is guilty of each of these crimes begins,
16 of course, with the most explicit witness that we've
17 seen, Mr. Damean Wideman.

18 Damean Wideman, though, he didn't want to tell
19 you this when he testified was nonetheless recorded
20 by the police telling them about a conversation that
21 he had with Deuce. Mr. Wideman described to police,
22 just six days after this murder, that he was at
23 Shemwood Crossing when the red Crown Vic came back,
24 that he watched Mr. Babb and Mr. Brown carry Connell
25 Wells into apartment [REDACTED]. And that after the police

1 left, the ambulance left that morning after taking
2 Connell Wells for his injury, that he had a
3 conversation with Mr. Brown. And he described to
4 police on December 14th, 2016, that during that
5 conversation, Mr. Brown told him that he had fired
6 shots into the window. He described having pulled
7 Mr. Pearson off of the couch onto the floor to check
8 if he was dead.

9 How could Mr. Wideman had known these details,
10 six days later, if he had not had this conversation
11 with someone involved in this crime? How could he
12 know the door had been kicked open? How could he
13 know shots were fired through the window? How could
14 he know that Mr. Pearson had been pulled off of the
15 couch onto the floor? How could he know that
16 Mr. Wells had been shot? How could he know that
17 Mr. Wells was delivered to [REDACTED] from the back seat of
18 that red Crown Vic unless he talked to someone who
19 was there and watched it himself? It's extremely
20 important when you're evaluating Mr. Wideman's
21 credibility that you consider how he has this
22 information. And also, what incentive he has today
23 to come into this court and tell you a different
24 story.

25 I'd also note that Mr. Wideman tells the police

1 about what he saw before, before this robbery was
2 committed earlier. He is able to describe for the
3 police, specifically, watching these three Defendants
4 go into a vacant apartment at Shemwood Crossing and
5 put on the colors is what he said, put on gloves and
6 get themselves their guns.

7 You heard testimony from former forensics
8 Detective Dar Shaw. He showed you what he pulled out
9 that red Crown Vic. Not only did he find hoodies,
10 but he found gloves. Damean Wideman described those
11 gloves specifically to investigators as being black
12 on the bottom and a mixed color on top. Look at the
13 photographs, look at the gloves. Are those not
14 exactly the gloves that was in that car? How would
15 Damean Wideman know that if he didn't have the
16 conversation and see what he saw exactly as he
17 described to police?

18 In considering the evidence against Mr. Brown,
19 it's also important that you consider the email that
20 he sent while he was at the detention center. In
21 that email, he refers to Damean Wideman. And he says
22 that Damean to not show up at a trial and excuse my
23 language, Shut the fuck up. This email doesn't say
24 Damean Wideman is a liar. This email doesn't say
25 Damean Wideman has made up a story about me. It's

1 tell him not to come to trial. That is not the same
2 as this person lied about me. He knows what he's
3 done, he just doesn't want the witnesses to come and
4 tell you.

5 It's also important in evaluating whether the
6 State has met its burden with respect to Mr. Brown
7 that you look at this letter. You've heard a lot of
8 testimony about this letter. This is the handwritten
9 letter about which Mr. Jack Jamieson from SLED
10 testified. He told you he was able to compare the
11 handwriting not only from some other documents, but
12 from this waiver of rights that Mr. Brown signed. We
13 know he signed it because he's on video signing it.
14 We know this is his handwriting. And Mr. Jamieson
15 was able to tell you that that's his job to compare
16 handwriting and he has no doubt in his mind that
17 William Brown wrote this letter.

18 But more than that, you can read the letter for
19 yourself and see that he refers to my name, our case.
20 And again, in the letter, since Damean Wideman wants
21 to snitch, put his name in this case. This letter
22 sent to Connell Wells doesn't say I didn't commit
23 this crime. It doesn't say you lied about the fact
24 that I was with you. It says take my name out of it.
25 And most importantly, it says, why tell on your

1 right-hand man? Why, Connell? Not you lied, this is
2 a lie, this didn't happen. Why tell? Why snitch?
3 That's important for you to consider.

4 With respect to this letter, you should also in
5 evaluating whether this letter came from Mr. Brown
6 consider that it's written on the back of paperwork
7 with Mr. Brown's name on it. Whose else would have
8 paperwork with Mr. Brown's name on it if it's not
9 his? This letter was written by him. And it was
10 designed to do exactly what you saw play out in this
11 courtroom, witnesses come in here and feel threatened
12 and pressured and intimidated to change their story
13 that they told police back in 2016 because they're
14 absolutely terrified of the consequences of having to
15 testify against these two Defendants. That's the
16 undercurrent of this entire trial. And it's so
17 important in evaluating the credibility of these
18 witnesses that you entertain what is behind each of
19 those witness's motivation to tell you what they told
20 you in court versus what they told the police back in
21 2016.

22 You also heard some testimony that Mr. Brown
23 lived in Shemwood Crossing. Ms. Kia Sims testified
24 that Mr. Brown lived in one of the rooms in her
25 apartment [REDACTED]. When the police came out hours

1 later -- remember this crime happened during the
2 early morning hours of December 8th, 2016. When
3 police came on December 9th, he was nowhere to be
4 found. They didn't find him until January 17th in
5 Baltimore. Why did he skip town?

6 Now, finally, I want to address the witness that
7 Mr. Brown put up late yesterday, Ms. Kia Sims, to
8 talk about the fact that she and Mr. Brown were in
9 that apartment and could not have committed this
10 crime. It's important that you remember -- the Judge
11 is going to give you an instruction about what alibi
12 means. That Ms. Sims did not testify that she saw
13 Mr. Brown at 3:00 a.m. on December 8th, 2016. Even
14 if you believe that she recalls seeing Mr. Brown in
15 the apartment, we know the ambulance wasn't called to
16 Shemwood Estates until 5:15 in the morning, two hours
17 later. No one, no one is able to put Mr. Brown
18 anywhere other than the crime scene at 3:00 a.m. And
19 the reason we know it is because he has that
20 conversation with Damean Wideman and he tells us
21 about what did in that letter.

22 Before I leave here, I want to remind you of
23 some testimony you heard from Investigator McCalmont
24 yesterday, too, about Ms. Sims. That when he spoke
25 to her, she told Investigator McCalmont that William

1 Brown and Connell Wells arrived at her apartment
2 together. Again, she testified that she had some
3 form of family connection to Mr. Brown. That they
4 are, at least, very good friends. We know they lived
5 together. At the very least, evaluate whether she
6 has an incentive to come here and tell you something
7 different today than what she told the police on
8 December 9th.

9 Now, I want to move now to talk about Mr. Babb
10 and, hopefully, get this moving right along. When
11 evaluating whether the State has met its burden with
12 respect to each of these charges as to Mr. Babb, I
13 would again remind you to consider what Damean
14 Wideman describes about his conversations with
15 Mr. Babb. He was very reluctant to tell you anything
16 on the stand about what he actually said, but you're
17 able to hear the recording. It's December 14th,
18 2016, again, days after this crime was committed, not
19 two and a half years later.

20 He tells you that he has been threatened. He
21 tells the police on that tape any number of times
22 that he has been threatened to his face by Curtis
23 Babb to stop talking or he'll be next. And Damean
24 Wideman tells the police that I know he's kicked the
25 door, he's going to come kick my door in if I don't

1 get your help. He tells the police he's been trying
2 to get in touch with police for days before this
3 December 14th conversation.

4 Damean Wideman told you in court that the police
5 told them what to say. He told you that he was
6 threatened by the police and even beaten. Listen to
7 the tape. Is anybody telling him what to say? As I
8 recall, the investigator says Curtis who? Who's
9 threatening you? When they ask, why is he
10 threatening you, Damean unloads all this information.
11 No one's told him what to say. No one's given him a
12 statement to sign. Again, during that conversation,
13 Damean knows details about this crime that he could
14 not have known unless he spoke to someone who
15 actually committed it.

16 That bring us to Damean's letter. Why would
17 Damean Wideman sign this in October of 2017? Is it
18 possible that he was threatened? You heard testimony
19 from Eric Goldman, the Defendant's brother, half
20 brother. Is it possible that he threatened him,
21 intimidated him to sign this letter? The Defense
22 went to great lengths to demonstrate to you that this
23 letter, not the statement to the police, but that
24 this letter is the truth. That Damean Wideman in
25 October of '17 was telling the truth.

1 This line in the letter may be the most
2 important part.

3 I also told detectives that Curtis had been with
4 me all that day and most of the night.

5 Oops. Damean Wideman supposedly telling the
6 truth, says Curtis Babb is with him in Greenville,
7 not in Pennsylvania. The problem with telling a lie
8 is that you got to keep up with your lie. And in
9 2016, a long time ago, it's hard to keep track of who
10 said what and what was going to happen. This was the
11 first effort to undermine the prosecution of this
12 case. When that first attempt at alibi didn't work,
13 they had to come up with another plan. And I'll get
14 to that in just a second.

15 Now, you heard some recordings from the
16 detention center of some phone calls between Curtis
17 Babb and his girlfriend, Kimeka Mayes, and family
18 members. The purpose of you hearing those calls was
19 to help you evaluate whether this letter from Damean
20 Wideman was legitimately the truth. You heard a call
21 from [REDACTED], which Damean Wideman said that was
22 his birthday, that Kimeka Mayes is telling Curtis
23 Babb, It's the snitch's birthday.

24 He says, Who?

25 She says, The rat.

1 And he says, Oh, he needs to sign an affidavit.
2 He's not that liar, that guy that made up a story
3 about me. He's the snitch, he's the rat, he's the
4 one that told. That's extremely important to help
5 you evaluate whether Damean Wideman's statement to
6 police on December 14th was the truth.

7 In those calls, Mr. Babb also describes how this
8 statement is his ticket out. That's all he needs.
9 As soon as that gets signed, that's his ticket. But
10 if he wasn't even in Greenville, why was that the
11 ticket out? Why is the focus on this affidavit
12 instead of what we heard this week?

13 I want to talk very briefly about Kimeka Mayes'
14 testimony. She testified this week after -- after
15 acknowledging that she and Curtis Babb had reconciled
16 in their relationship. Maybe they broke up at the
17 time but they've since reconciled and that's evidence
18 from the jail calls. That she told the police that
19 she had a conversation with Curtis just a few days
20 before. And I want to clarify, four or five days
21 ago? Yes. Just a couple days ago. She told you in
22 court it was weeks before, but that's not what she
23 said on December 15th. It was a couple days before.
24 And she says -- again, forgive me for using the
25 language, but I want to be precise.

1 Curt told me he fucked up.

2 And the police asked her, What did that mean to
3 you?

4 She said, I took it to mean that he had done
5 something really bad, like robbed or killed somebody.

6 She tried to testify and say that she actually
7 told the police that that meant he had cheated on her
8 and spoke to another woman. That's not what was on
9 the tape. We know that's not true because she's
10 recorded telling the police what she thought it
11 meant. Again, why does this witness have a reason to
12 lie to you and tell you something different today
13 then we know they told the police back in 2016?

14 You heard some testimony late from a Mr. Shyheim
15 Looper. Mr. Looper was in custody. He told he was
16 serving a sentence from some completely unrelated
17 crimes. The importance of his testimony is that back
18 in December of 2016 when the police were searching
19 his house for those unrelated crimes, they found a
20 shotgun. And during their conversation with
21 Mr. Looper in December of 2016, he tells the police,
22 Curt gave me that shotgun. He told me to put it up.
23 Now, that's not what he testified to. But, again,
24 that's why the police record these interviews so we
25 know what people say back when it mattered. In that

1 moment, was it significant at all to him that Curt
2 had given him that gun? It's only significant now
3 that Mr. Looper knows that gun connects Curtis Babb
4 to this murder.

5 Again, you heard Mr. Looper testify that he has
6 a family relationship with Curtis Babb to the extent
7 that he has a child with a relative of Mr. Babb's.
8 What incentive does he have to lie now to you
9 compared to what he told the police and what we know
10 he told the police because it's on tape? He
11 expressed reservation even then about signing the
12 photograph. Just signing and recognizing that the
13 photograph is Curt. Didn't even want to do that for
14 fear. And again, that fear is the undercurrent that
15 rise through this whole trial.

16 You heard some testimony, or, at least, what was
17 in the tape to Mr. Wideman describing that he told
18 the police that in the days following this robbery,
19 Mr. Babb asked him, did the police have my picture?
20 Did they show you my picture? Did you see my
21 pictures? The next thing we hear from Curtis Babb is
22 when he was arrested in New York on January 27th,
23 2017. Why did he get out of town?

24 Now, I want to talk as briefly as I can about
25 the testimony that you heard from Kathy Taylor and

1 her employee, Ms. Perez. Again, the Defense wants
2 you to believe that Mr. Babb was in Pennsylvania at
3 the time these crimes were committed and they went to
4 great lengths to bring you paperwork that proves that
5 he was somewhere else.

6 If you recall, Ms. Taylor testified that Curtis
7 Babb was in Pennsylvania weeks before his job started
8 on November 28th of 2016. She testified about
9 sending him a letter confirming his job on
10 November 26th. Well, if Curtis Babb was already in
11 Pennsylvania weeks before this job was to begin, why
12 would she send him a letter? Does that make sense?
13 You saw some hotel receipts and there were two.
14 Although Ms. Taylor tried to explain why the dates on
15 these hotel receipts show a check-in time of
16 November 27th, 2013, I remind you to use your common
17 sense, your reason, your logic to decide whether
18 that's credible. Is that reasonable. Have you ever
19 checked into a hotel and do you know how that process
20 works? Does the hotel list your check-in time as a
21 specific 4:16 p.m. from three years before just
22 because that's when you booked the room? Is it
23 convenient that the check-in time is November 27th,
24 2013, which is supposedly exactly to the same day
25 three years later that Curtis Babb was supposed to

1 have checked in. Does that make sense?

2 Ms. Taylor testified that Mr. Babb's job was
3 supposed to be from November 27th to December 27th.
4 You've got another receipt in here for December 27th
5 to January 27th. She never testified he was still
6 working then. We know he was in New York on
7 January 27th. So what's with this receipt? So why
8 book him a room for another month if he's not doing
9 the job? These documents aren't legitimate. These
10 have been fabricated in an effort to get you to
11 believe that everyone else in the case is telling a
12 lie. That despite all the evidence that you heard,
13 Curtis Babb was somewhere else. Is it reasonable
14 that a business operating in 2016 would have
15 handwritten records as opposed to digital records?
16 It is reasonable that Ms. Perez would be able to hand
17 clocked time cards at exactly 8:00 a.m. and exactly
18 5:00 p.m. every single day? Have you ever clocked
19 into a job? Is it sometimes 7:58, 8:02? You leave
20 at 5:03, 4:58. If Mr. Perez is responsible for
21 clocking in a number of employees, how can she
22 simultaneously clock all the employees in and still
23 manage to get Mr. Babb at exactly 8:00 a.m. and
24 exactly 5:00 p.m.? These are all fabricated. That's
25 why.

1 If you recall, I ask -- or Ms. Gary asked
2 Ms. Perez about when some of this material showed up.
3 Ms. Taylor admitted that she provided it to
4 Mr. Babb's attorney in February of 2019. After this
5 alibi didn't work. Some of these documents they
6 brought with them to court Tuesday. They're bogus.
7 It's all a distraction. It's not the truth.

8 When you're evaluating whether you believe these
9 documents, whether you believe that these are legit,
10 consider all the evidence that you have heard from
11 some people who were not involved in this case that
12 Mr. Babb was here, in Shemwood, not in Pennsylvania.
13 You heard, of course, from Damean Wideman, who tells
14 investigators seven to ten times, saw him last night.
15 He threatened me last night. That would have been
16 December 13th. You heard from Kimeka Mayes, I saw
17 him four or five days ago. That would have been
18 December 11th or 12th. You heard from Shyheim
19 Looper, he gave it to me last week. That would have
20 been sometime the week of December 14th.

21 You heard from Jovante Dodd and Mr. Suber-Purry
22 late yesterday, the last witnesses that you heard.
23 You heard they're charged with a case for a totally
24 different murder that happened in Shemwood Crossing,
25 just so happened to have occurred on December 8th.

1 During their interview, they told you what they told
2 the police. You can see how confused they were.
3 They didn't know why they were here.

4 Did you tell the police where you walked around
5 that night on December 8th?

6 Yes.

7 Did tell them that you saw Curt?

8 Yeah.

9 They don't know why that detail mattered.
10 Because no one in 2016 knew that come February of
11 2019, Curtis Babb was going to try to introduce an
12 alibi. No one realized that that detail would have
13 mattered. It was as insignificant to them as having
14 gone and bought cigarettes, gone to order food.
15 That -- Russ Irvin testified that that detail was of
16 no consequence to his investigation of that totally
17 unrelated case. But it's a detail that's caught up
18 to Curtis Babb.

19 Again, the problem when you're going to lie is
20 that you have to keep track of your lies. And what
21 you've seen over and over, each one of these
22 witnesses come into this courtroom, take an oath to
23 tell the truth to you. And undisputedly, without a
24 doubt, lie to you. We know it because we have it on
25 tape. We know that some of the things they told you

1 on the stand are not possibly true. We have it
2 recorded otherwise. We have them on video. Why
3 would these witnesses lie to you? What is going on
4 between December 2016 and now to make these witnesses
5 feel like they need to change their testimony? These
6 letters, those phone calls, this statement, these
7 bogus documents. You can see through it. This is
8 not a game. This trial is not a joke. It could not
9 be more serious that these three people kicked open
10 the door and fire shots at Clinton Pearson who was
11 asleep on the couch. Sleeping at a friend's house.
12 Someone that he paid to let him stay on the couch.

13 The truth is that Connell Wells, Curtis Babb and
14 William Shane Fordham Brown decided to get together
15 to commit robbery. They put on gloves, they put on
16 hoodies, they armed themselves with a shotgun, a .40
17 caliber pistol and went to that house. William Shane
18 Fordham Brown fired shots into the window from
19 outside. Mr. Pearson was struck from below,
20 indicating he was laying down. Curtis Babb kicked
21 open the door, the three went inside and pulled
22 Mr. Pearson off the couch. Connell Wells startled
23 Curtis Babb somehow and Curtis Babb shot Connell
24 Wells in the knee with a shotgun. We know that
25 happened at 3:15 in the morning because that's when

1 Mr. Moss called 911.

2 Two hours later, 911 gets called about Connell
3 Wells being shot at Shemwood crossing. What's going
4 on during that window of time? They're scrambling.
5 They're trying to figure out what to do. And it's
6 for that reason that they wore gloves, that they
7 covered their faces, that they waited until three
8 o'clock in morning. Cases like this are only solved
9 from the inside out. Because it seem that the
10 cameras are also pointed in the wrong direction.

11 You heard the evidence that shows these
12 Defendants did exactly what the witnesses described
13 and what you've heard on these tapes. The evidence
14 is that these two Defendants are guilty of every
15 single crime with which they're charged. And I ask
16 you to return a verdict that they're guilty.

17 THE COURT: All right, Ms. Henry.

18 CLOSING STATEMENT

19 MS. HENRY: Thank you.

20 All right. It's been a long week. All right.
21 So Curtis Babb didn't do this. He was absolutely not
22 there. How do you know? Well, the State's own
23 witnesses testified that they lied about Curtis'
24 involvement. They have absolutely no forensic
25 evidence linking Curtis to any of this. And Curtis

1 has an alibi.

2 Now, I'm going to remind you again that the
3 police in this case did not witness this incident.
4 Everything that they testified to was told to them by
5 somebody else they collected after the fact and
6 something they decided was important to their version
7 of events. And it's pretty clear that they had
8 already decided before they completed their
9 investigation. And they made some pretty poor
10 decisions. I'm going to run through those with you.

11 So they decided not to collect Curtis' shoes.
12 They've got a shoe print on the door, they collected
13 the whole door. And they decided when they found
14 Curtis' shoes in his girlfriend's apartment after
15 searching it, they don't need those, that's not
16 important in this case. We're just going to leave
17 those. Because they don't match, that's why.

18 They decided not to collect the video from Cox
19 Street. They decided to record only parts of their
20 conversations with witnesses. The conversations that
21 they're completely relying on for their entire case.
22 The officers admitted, they only recorded the parts
23 they wanted to. They decided not to make an effort,
24 a reasonable effort, like the State said, in an
25 incredibly serious case to preserve all of the

1 conversations. They did not keep Nakia Sims, they
2 did not keep James Moss' conversations with the
3 police. Again, I wonder why?

4 They also decided not to listen to their own
5 eyewitness. The only person that actually saw any of
6 this that testified was James Moss. What did he say?
7 He said the person -- the only person that he saw was
8 five feet five.

9 Curtis, would you stand up for me.

10 (WHEREUPON, Mr. Babb stood.)

11 Curtis is not five feet one. Curtis is 6-foot
12 three.

13 Thank you, Curtis. You can sit down, I
14 appreciate it.

15 So they ignored their only eyewitness. They
16 decided not to test the shotgun that the State just
17 picked up. This thing right here, they decided not
18 to test it for prints, to test it for DNA. They
19 didn't even test this old thing to see if it fired.
20 You heard Mr. Looper say they got it out of his house
21 and that he was afraid to fire it because he thought
22 it would blow up on him. We don't even know if that
23 works. Why would they not do that? This is a murder
24 trial, this is a murder case. Why would they not
25 want to make sure this even worked, that it could

1 have been used?

2 All right. They also decided not to treat any
3 of the witnesses with any respect. You heard from
4 Nakia Sims. You heard she had to stand outside in
5 her underwear. You heard from Ms. Mayes, how she was
6 cornered on the side of her street and made to stand
7 in front of all those people while they searched her
8 house to found nothing. Or didn't take anything
9 anyway.

10 Now, the reason that's important is because it
11 completely, it completely backs up the statements of
12 all the other witnesses on the stand for how they
13 were treated off camera and off record. That's how
14 these officer handled this whole thing with all of
15 these witnesses. They treated them like junk. They
16 bullied them.

17 They also decided not to interview Antoine
18 Mitchell or Kchebe Reeves. Now, you heard Damean
19 Wideman talk about them on his tape and say they were
20 with me and they heard all of this from Curtis Babb
21 and yet, the police never bothered to interview them.
22 You heard the officer testify to it. They were with
23 Damean Wideman at the same time they took him into
24 custody. They didn't even bother to talk to him.
25 Why? Because they didn't need him. They had already

1 gotten Damean Wideman to say all this junk.

2 They also decided to ignore Damean Wideman's
3 letter in 2017. They had it. They didn't follow up
4 on it, anything else of this letter. They also
5 decided not to even interview my client's alibi
6 witnesses. They didn't even call them. Did not even
7 talk to them.

8 Like I said in my opening, the police are not
9 infallible, and they messed up here. They did a weak
10 and lazy investigation and they ended up with the
11 wrong guy. And that alone is reasonable doubt, that
12 all by itself. And that's just the beginning of the
13 mess that this has been.

14 Now, I'm also going to talk to you about the
15 State's witnesses. And the State's witnesses, if you
16 look at, are only Damean Wideman, Kimeka Mayes and
17 Shyheim Looper, and really just Damean Wideman. But
18 all three of them, they came to court, they put their
19 hand on the Bible in front of you under oath and
20 testified that they lied to the police and/or been
21 manipulated because they were under pressure from the
22 police to say what the police wanted them to say.
23 They also testified that those conversations with the
24 police were not the truth.

25 Wideman, in particular, told you that he had

1 been arrested and tased and beaten. And that prior
2 to that conversation that they finally taped, that he
3 had been threatened. He also came in here and
4 testified that the State had threatened him not to
5 show up. The State does not even believe their own
6 witness. Did you see them hustling to go arrest
7 anybody for the threat Damean Wideman claimed in
8 court? I didn't. It's because they know he's
9 untrustworthy.

10 And how did he get that story? He told you.
11 There were a bunch of rumors in the neighborhood and
12 that the police beat him, arrested him and tased him
13 and told him hey, you help us, we'll help you. And
14 gave them the rest of the story. You also heard that
15 the officers arrested him had previously been
16 involved in that case. That's where they got their
17 information. They had just before they searched at
18 Shemwood and then briefed by the lead investigator on
19 the case. That's where he got the information. Then
20 yes, they all testified that there are portions of
21 these conversations they did not remember. Probably
22 because they weren't the truth. It's like the State
23 said, it's hard to keep up with your lies. And it's
24 hard to remember when you've been coached by the
25 police to lie on a partial recorded conversation.

1 They all got in here and they told you under
2 oath what really happened here in court. Curtis was
3 not involved in this. And that under oath testimony
4 is very different from these conversations that you
5 have with officers. It's not sworn, it's not under
6 oath. Especially, when we know from the testimony
7 from both officers and the witnesses, the police
8 didn't take all the precautions.

9 Now, we know that the police offered the carrot
10 or the stick with almost all these witnesses. You
11 give us what we want and we will help you, but you
12 don't. The State knows that. The State wants you to
13 believe that conversation with the police with these
14 same witnesses, but not the same person's sworn
15 testimony under oath, hand on the Bible in front of
16 you in court. And these were their witnesses.
17 Their's. They called these people to the stand.
18 This is their entire case. All of their proof is
19 these witnesses. That is reasonable doubt right
20 there.

21 All right. Now, I want to talk to you about the
22 forensics -- the physical evidence that the State's
23 put in. Now, the State didn't really mention any
24 actual forensics, did they? Now, I want you to keep
25 that in mind. I want you guys to be asking yourself

1 what you would expect to see in a big murder
2 investigation as far as forensics and physical
3 evidence go.

4 So let's talk first -- so Mr. Pearson was killed
5 at ■ Cox Street. Now, let's talk about the
6 evidence that they collected from there. They got
7 some photographs. They got a video of the exterior
8 of the building. If you guys will remember that, the
9 officer that put that into evidence admitted that the
10 majority of that video was info -- like, all those
11 bullet holes, the tape, all this damage to the house,
12 all that was from another incident. Now, why would
13 the State want you to see that? It's to confuse you.
14 It's to make you think things are different than they
15 are, make you think that they have more evidence than
16 they do.

17 So they've got that video, they've got some
18 photographs of the inside of the house and they've
19 got three casings from a .40 caliber pistol. And
20 that's what killed Mr. Pearson, I don't think anybody
21 is arguing with that. Nothing from the shotgun.
22 They have not shown you anything from that house on
23 ■ Cox Street where Mr. Pearson was killed that
24 showed that a shotgun was even fired. That's just
25 from Wideman.

1 No shotgun pellets, no blood or anything else
2 like that related to a shotgun firing. No forensic
3 evidence, no photographs, no nothing that says a
4 shotgun was ever fired where Mr. Pearson was killed
5 at ■ Cox Street. That's the sum that even relates
6 to what happened at Mr. Pearson's at ■ Cox Street.

7 Now, the forensic officer also testified that
8 they did collect from that scene fingerprint, DNA,
9 blood swabs, shoe imprints. They even collected,
10 like I mentioned before, the entire door, the entire
11 couch cushion. That officer testified that if it was
12 there, that he collected it. He told you that if it
13 had been there, he would have dug it out of a wall.
14 You don't have any of that, do you? You don't have
15 any forensic results from any of that. Why? Because
16 none of it relates to Curtis Babb. It doesn't help
17 their version of events, so they didn't show it to
18 you.

19 All right. Let's look at the rest of the stuff
20 they have put into evidence. Now, you've got a bunch
21 of stuff from the car. Now, this all came from
22 Connell Wells' car. And the forensic officers
23 testified that they collected all the evidence from
24 the car and they found an ID for Connell Wells,
25 fingerprints, blood -- and they did blood swabs. And

1 that they found nothing in that car that belonged to
2 anyone other than Connell Wells. No one ever, ever
3 identified anything in that car as belonging to
4 anyone other than Connell Wells. There's no
5 conversation where they held this up and said is this
6 what you saw, did you see this, does this belong to
7 someone else? Because that whole conversation never
8 happened. They didn't even try to do that. They
9 just want to put it in here and have you assume
10 that's what it is. But that's not how this works.
11 They have to prove these things to you.

12 So for instance, we've got the red bandanna, the
13 brown ski mask. We've got this random hoodie. We've
14 got this backpack that they held up a lot. Okay.
15 None of that was connected to Curtis Babb. And if
16 there was a link to Babb, if there was any kind of
17 forensic link, you know they would have told you
18 about it. You know it would be here.

19 All right, I'm going to talk to you a little bit
20 about that gun. All right, so this also came from
21 somebody else's house. Again, never printed, never
22 swabbed for DNA, never even test fired. We don't
23 even know if the thing works. There are also no
24 forensics that connect Curtis to that gun. There are
25 also no forensics to connect that gun to [REDACTED] Cox

1 Street. Nothing.

2 Okay. Now, also, the State also made a big deal
3 about this conversation between Curtis' girlfriend
4 and his brother on the phone. All right. So nowhere
5 in any of those tapes does Curtis suggests what
6 Wideman needs to say. Nor does he ask anybody to
7 threaten Wideman. Nor does he say ask Wideman to lie
8 for me or offer him any kind of money. Just offer
9 that, none of that's in that tape.

10 Damean Wideman testified under oath that he lied
11 about Curtis. Of course, Curtis calls him names. Of
12 course, Curtis wanted with him to retract his
13 statement. Of course, he wanted the statement to be
14 notarized. Damean Wideman is a liar. He wanted to
15 protect himself. Of course, he would ask his family
16 to help him accomplish that. He's trapped in jail.
17 Of course, he would want to know that this statement
18 was the truth this time. Of course, he asked what
19 was in it. Of course, he wanted that statement to
20 come to his attorney than to go to the State. And,
21 of course, he wanted out of jail. Because he did not
22 do this. It is the most normal thing in the world
23 for him to want Damean Wideman to tell the truth and
24 to get to go home.

25 That's it. That is all the forensic and

1 physical evidence the State has that relates to
2 Curtis Babb, my client. And none of this links
3 Curtis Babb to what happened at [REDACTED] Cox Street. None
4 of it. Why? Because Curtis was not there. Curtis
5 was in Pennsylvania working, just like Kathy and
6 Cecelia testified. And again, all of that, that
7 also, all by itself is reasonable doubt.

8 All right. Finally, my client has an alibi.
9 They came all the way from Pennsylvania. They missed
10 work for almost a week to wait to tell you the truth.
11 They've got no reason to lie and they have absolutely
12 nothing to gain. The State didn't touch them on
13 cross-examination or with any other evidence. They
14 tried with those two liars. Because they were
15 telling the truth and there was nothing to say.

16 Now, they showed you Curtis' entire employee
17 file. They showed the offer letter dated and signed,
18 despite what the State says about that it was dated
19 and signed. They showed you the paycheck receipts
20 dated and signed. I know I, for one, still use paper
21 receipts. They also showed you the lodging receipts
22 from the Econo Lodge. I'm just going to take a
23 minute to address what was brought up by the State in
24 their closing. Kathy already addressed this, so --
25 what she told you and I want to make sure y'all

1 understand this. That the -- and I think that she
2 and I talked about this. But this starts in 2013.
3 Because of the way she runs her business, she keeps
4 that there because she's got other employees at other
5 times that use that room. So she has a standing room
6 there at the Lodge.

7 And what she testified to was 2013 is when she
8 first got that room so she could make sure her
9 employees showed up on time to load and unload the
10 pods. That's what this is. She's already testified
11 to it. I'm not entirely sure why the State's
12 bringing that up or why they're trying to throw dirt
13 on it or confuse you about it. But we addressed it.
14 She already explained why. And the reason that
15 Curtis is on two is because she said that it
16 overlapped into the next month. So she pays by the
17 month, so that's why there are two receipts. There's
18 nothing nefarious going on there. They were records
19 at the Econo Lodge, they were in her employee file.
20 That's why she brought them exactly as they were in
21 her employee file.

22 Now, she also has Curtis' birth certificate,
23 which is also something you would normally have in an
24 employee file. She's also got the file itself just
25 to show kind of what her filing looks like. You're

1 welcome to look at that and see that she's -- it's
2 exactly like she said, it's got the 1099 written on
3 it, how she [indiscernible], that he's rehirable, all
4 of that information that you would normally have in
5 an employee file.

6 Finally, we have his in-person stamped time
7 cards. They're stamped on time for the dates the
8 State says he was in South Carolina, December 7th and
9 December 8th. That is reasonable doubt.

10 Ladies and gentlemen, the State has to prove,
11 the State has to prove beyond a reasonable doubt that
12 he was not in Pennsylvania, that he was in South
13 Carolina, that he did all of these things. And how
14 can they? He was in Pennsylvania working in December
15 of 2017. He was not in South Carolina and he did not
16 do this. And I'm asking you to come back with a
17 verdict that reflects that and reflects the testimony
18 that you heard in court under oath, a verdict of not
19 guilty. Thank you.

20 THE COURT: All right, ladies and gentlemen,
21 we're going to take a short break. It will give
22 Mr. Robinson the opportunity to get set up and make
23 sure that his sound is working appropriately as well
24 so you will be able to hear him and the court
25 reporter will as well. So when we come back in,

1 we'll hear argument from Mr. Robinson. We'll hear
2 reply from the State if the State elects to put a
3 reply into the record, then I'll give you the charge.

4 So if you'll return to your jury room for just a
5 few minutes. Please don't discuss the case.

6 (WHEREUPON, the jury left open court at
7 approximately 10:23 a.m.)

8 THE COURT: Okay, we'll take a brief break.

9 And Mr. Robinson, if you want to set up and make
10 sure you've got everything you need, I'll give you
11 the opportunity to do that, okay.

12 (WHEREUPON, a short break was taken.)

13 THE COURT: Okay. All right, bring the jury in,
14 please.

15 (WHEREUPON, the jury came into open court at
16 approximately 10:33 a.m.)

17 THE COURT: Okay. Mr. Robinson.

18 CLOSING STATEMENT

19 MR. ROBINSON: May it please the Court, Your
20 Honor?

21 THE COURT: Yes, sir.

22 Good morning.

23 MR. ROBINSON: Good morning. Ladies and
24 gentlemen of the jury, this is actually a pretty
25 simple case to decide. Two reasons. If you go back

1 to the testimony, the person who owned or rented the
2 house, Mr. James Moss, and the coroner or medical
3 examiner, Dr. Ward, not only don't disagree with the
4 State in closing, but Mr. Moss never said multiple
5 people. Mr. Moss said one person. Mr. Moss
6 testified, and if you remember this, that
7 Mr. Pearson, the victim in this case, and his
8 assailant were arguing and running around the house.
9 That's what he said. And he testified that this
10 assailant or the person who committed that crime was
11 a short, I think it was five-one, I think is what it
12 was, dark-skinned, black male. That's what he
13 testified to. He didn't say there were multiple
14 people. He said there was one short, dark-skinned,
15 black male. Now, I'm going to have my client stand
16 up.

17 Mr. Brown, would you stand up for me, please.

18 (WHEREUPON, Mr. Brown stood.)

19 You can sit down, please.

20 Mr. Brown is 6-foot two and a half. He's not
21 short. As you can tell, he's not a dark-skinned
22 black male.

23 Mr. Moss also said -- and sequence is important,
24 he didn't say that the shots came from the outside.
25 He heard shots before the door was broken down. He

1 said the door was broken down and then he heard
2 shots. So he heard the door first and then the shots
3 came out. Then he heard the assailant say not about
4 drugs, which is what the State is trying to say there
5 was some sort of big drug cash at this house. He
6 didn't talk about drugs. He said that the assailant
7 said, Where's my money? Not drugs, money.

8 So let's think about this. He went into the
9 closet. Then again, he said he saw a short black
10 man. And he saw the assailant and Mr. Pearson
11 arguing. So we have that down. We have one
12 assailant, dark-skinned, short black male.

13 Okay, now, let's look at Dr. Ward's report.
14 Dr. Ward was the medical examiner in this case and
15 you heard him. He said the shots were upward. That
16 they went up, not right at up. Now, think to
17 yourself this, you have a 5-11, I think Dr. Ward
18 testified that Mr. Pearson was 5-11. So he would be
19 about ten inches taller than the short, dark-skinned
20 black man that he saw argue with the victim,
21 Mr. Pearson. And think to yourself as far as common
22 sense goes, because remember, in the beginning of
23 this trial, this is not anything but common sense.
24 Because y'all come here, we chose you, the State and
25 the Defense, chose you because we felt you could be

1 fair, open minded and use our common sense.

2 So how does it make sense -- let's think about
3 this. How does it make sense for a 6-foot, two and a
4 half guy, to shoot someone going -- with the bullet
5 going upward? And look at the pictures, too. Look
6 at the pictures of the house. It's impossible. What
7 makes more sense, and this is what I submit to you,
8 what makes more sense -- because the police said when
9 they went to this scene and did their analysis and so
10 forth, they didn't find anything. They didn't
11 find -- and this is really, really important, I want
12 you to think about this.

13 The State says that Mr. Brown is 6-foot, two and
14 a half, shot upwards at this guy on the couch. But
15 think about this, though. There was no testimony --
16 I mean, again, use our common sense. There's no
17 glass. There's no glass fragments lying around,
18 nothing. There no fragments around. And Dr. Ward
19 never testified that there were any pellets or pieces
20 of glass or something around these wounds, he never
21 testified to that. So think about that.

22 Then you've got to think about this. The
23 officers said that there had been a prior incident or
24 incidents at Cox Street. And they said that there
25 had been bullets shot at this home. They had said

1 that there were shots through the windows, all over
2 the place, shots. But they couldn't do this, they
3 couldn't do this. Let me tell you what they couldn't
4 do. They couldn't tell you -- and this would be -- I
5 think it was -- it wasn't Mr. Officer Weeks, it was
6 Mr. Kretschmar, it began with a K. He said that he
7 could not tell the age of these cartridges that they
8 found outside. He couldn't tell you how long they
9 had been there. If they were even connected to this,
10 they couldn't say. And he also couldn't tell you
11 anything about the broken glass or the little hole
12 that was in glass. He said, I have no idea how old
13 that is.

14 I would submit to you what makes more sense in
15 this case is that Mr. Moss viewed Mr. Pearson arguing
16 with the assailant, going around the apartment. You
17 saw -- you heard from one of the officers that one of
18 the doors was broken or something was broken. They
19 had an argument, they were running around the
20 apartment or the house. The assailant goes outside
21 at some point to get his gun, the short 5-foot one,
22 dark-skinned black guy goes outside to get his gun
23 because he wants money. He busted the door down,
24 comes in, he says, where's my money to Mr. Pearson.
25 Mr. Pearson at 5-foot 11 is towering above him

1 standing and he shoots him three times.

2 Now, you think to yourself about guns. There
3 are several different types of gun that don't have
4 shells. Or he could have collected the shells, who
5 knows. But that makes more sense than a 6-foot
6 2-inch guy shooting upwards at someone lying down.
7 That makes absolutely -- think about this, men and
8 women of this jury. What sense does that make? It's
9 impossible for a 6-foot 2-inch guy to shoot upwards
10 at a 5-foot one-inch person. Think about that. And
11 how in the heck does a shot go upward on a couch, if
12 he's laying on the couch? How does that happen? And
13 Dr. Ward, while he couldn't 100 percent say this, he
14 said possibly that the victim, Mr. Pearson, could
15 have been standing. That makes more sense than lying
16 down. And if you look at the pictures of the house
17 and so forth like that, I would just -- how would a
18 6-foot, two-inch guy shoot upwards in this case?

19 But that goes to the whole problem of this mess
20 that they have here. What they have is a mess like
21 she talks about. They've got no forensics, no blood,
22 nothing that points to Mr. Brown. Nothing.
23 Absolutely nothing.

24 But what they do in this case is extremely
25 disturbing. And the Judge when he does his charge

1 will charge you this. There's a concept of
2 spoliation. Spoliation. I'm sure all of you get on
3 the internet or your cell phone, the smart phones and
4 computers, spoliation. What that means is this, it
5 means when evidence is spoiled. And think what the
6 police did. They have a camera across the street.
7 What did they do? He makes the decision, I don't
8 like it, I don't think this is going to help me at
9 all. That's spoliation -- excuse me, that's when
10 they spoil the evidence.

11 And secondly, you heard the investigator in this
12 case, it meant that the sheriff's department lost the
13 audio of Ms. Nakia Sims, the alibi witness in this
14 case. How in the world do they lose a piece of
15 evidence that would be crucial in this case? How in
16 world do they do that? Six hundred people work at
17 the sheriff's department. And that is called
18 spoliation. Because we can't -- we don't have it
19 because they lost it.

20 And think about this, think about the treatment
21 of Ms. Sims, our alibi witness in this case, that has
22 testified to you that he was there with her at the
23 apartment at [REDACTED], Shemwood Crossing at the same time
24 this all happened. They go over there, what do they
25 do? They make this little girl, this little woman

1 with kids, they say get outside. In her bra and her
2 panties. Think about that. Think about that
3 behavior when you go back there. Think about that.
4 What kind people spoil evidence and do things like
5 that?

6 And think about this, too, when you go back
7 there. This is going to come from Officer Weeks.
8 When Mr. Wells stumbled through the apartment, the
9 door of the townhouse, you heard in the beginning, he
10 knocked on that door because he was bleeding from a
11 shot. What happens? Mr. Brown calls 911. He's
12 there when the police are there. He's there when EMS
13 is there. And you heard Ms. Sims say not only that
14 Damean Wideman wasn't there and she didn't see him,
15 but that he's nuts. That he's crazy.

16 And that, ladies and gentlemen, is what the
17 whole case is about. The whole entire State's case
18 is about a liar, and a criminal. And the State says,
19 well, what possible reason would he have to lie?
20 Where did he get all this information from? Well,
21 I'll tell you where he got the information from. He
22 told you that there were rumors out there. He had
23 six days to come up with his story. Six days in
24 which he had spoken to the police. Six days that he
25 was there with them to see if he could work off his

1 charges and so forth. Six days he had to do that.
2 He had a ton of motivation. But they didn't bring
3 one single witness in here to stay oh, yeah, we can
4 corroborate what this crazy guy is saying. Nothing.
5 No one came in to do that.

6 Now, they made an issue of my client's letters
7 that he did. Well, I tell you, what would you do if
8 you were accused of something that you didn't do?
9 What would you do? You would do your best to make
10 sure that they told the truth. That's what you would
11 do. And that's what he did. He's not an old man,
12 he's a young man. May not be the most artful wording
13 that he used in this case, but he's a young guy who
14 was accused of something he didn't do. He wasn't
15 there at the time. He was not there. And why in the
16 world do they not have anything? Just like Ms. Henry
17 said, none of this is connected to Mr. Brown, none.
18 No fingerprints, nothing. They go to his townhouse,
19 nothing is found there. Nothing.

20 The police tried. When they could not find this
21 short black man that shot Mr. Pearson, they had to
22 find somebody else to blame this on. And that's what
23 they did. And it's a mess. It is a messy
24 investigation. You can see it, you can see this
25 investigation, there's nothing.

1 Now, you know, when you woke up this morning --
2 actually, when you got up on Monday morning, you may
3 have gotten on your cell phone, smart phone, watched
4 TV, maybe CNN or some local channel and you may have
5 seen that the police had arrested somebody. They
6 arrested somebody for something. And you may have
7 assumed that they got the right person. It's a
8 natural assumption to assume that. But when you came
9 to this court on Monday morning or Monday afternoon
10 and you took your oath, you took the oath to apply
11 the law in this case and the presumption of
12 innocence.

13 And that the case -- the State must prove their
14 case to you beyond a reasonable doubt. It's not may
15 be, possibly, should have, y'all don't like this guy,
16 he said some crazy things, or I don't like the way he
17 looks, that's not evidence. That's not what you base
18 your decision on. What you base your decision on is
19 there evidence. And if there's no evidence, you've
20 got to find the person innocent. This is not a
21 beauty contest. This is not a question of who's best
22 looking, who smartest, it's not. It's about whether
23 or not the State's proven to your satisfaction, using
24 all your experiences, have they proven their case,
25 that's the whole case.

1 And I would submit to you based on a complete
2 lack of evidence, and the testimony of a liar that
3 Mr. Brown is innocent. And I am confident that you
4 will use all your collective common sense and review
5 this lack of evidence in this case, look at
6 spoliation by the police, and restore this man and
7 his family. That's what I'm asking you for. All I'm
8 asking you to do is apply the law, use your common
9 sense, apply the law. The answer in this case is
10 that Mr. Brown, Mr. William Shane Fordham Brown, is
11 innocent of these charges. Do your duty, ladies and
12 gentlemen. Do what the Court charges you to do.
13 Thank you.

14 THE COURT: All right, Ms. Owens, would you like
15 to reply?

16 MS. OWENS: Your Honor, the State has no comment
17 in reply.

18 JURY CHARGE

19 THE COURT: All right.

20 Ladies and gentlemen, so, when we started this
21 case, of course, I told you that you had certain
22 roles and functions to perform. That I have certain
23 roles and functions to perform. So my job, of
24 course, is to be the judge of the law. And in
25 keeping with that responsibility, I'm required to

1 charge you the law that's relevant to the evidence
2 that's been presented in this case.

3 Now, under your oath, you swore to accept the
4 law as I give it to you. So you must accept the law
5 as I give it to you. If you come into this courtroom
6 and you have some preconceived notion or opinion or
7 predisposition about what the law is or about what
8 the law should be, I charge you now to disregard
9 that. Because under your oath, you must accept the
10 law as I give it to you.

11 Now, ladies and gentlemen, we'll start with the
12 proposition that I gave you at the very beginning of
13 the case when we started jury selection in this case.
14 And that is that the Defendants in this case enjoy
15 the presumption of innocence. That is a
16 constitutional privilege. And they maintain that
17 presumption of innocence until such time as 12
18 deliberating jurors determine that the State has met
19 its burden of proving each and every element of each
20 and every offense beyond a reasonable doubt.
21 Understand that the Defendants retain that
22 presumption of innocence until such time, again, as
23 you decide that the State has met its burden of
24 proof. So I told you, imagine that the Defendants
25 are wearing a robe just like mine and that robe

1 signifies innocents. Well, they retain that robe
2 right now and they retain that robe until such time
3 as, again, you're satisfied that the State has met
4 its burden of proof.

5 Now, it's also important to point out in this
6 case that the Defendants have failed to testify.
7 They elected not to testify. Again, that's a
8 constitutional right that they enjoy. I told you at
9 the very beginning, the burden of proof in this case
10 is on the State. So, the Defense does not have the
11 obligation to do or say or prove anything. So you
12 can't hold it against the Defendants that they
13 elected to exercise a Constitutional right. That is
14 a sacred right under the Constitution. So not only
15 can you not hold it against them, but it's
16 inappropriate that you even consider it in any of
17 your deliberations in the jury room.

18 Now, you know in this case you have multiple
19 charges and you have two Defendants. Understand,
20 understand that when you are considering this case,
21 you must consider the Defendants separately and
22 independently and also consider the charges
23 separately and independently. So what you're going
24 to do is you're going to look at each Defendant and
25 then you're going to look at each individual charge.

1 And you're going to decide based on the evidence
2 that's presented whether the State has met its burden
3 of proof of each and every element beyond a
4 reasonable doubt.

5 So when I say that, what I mean is if, in your
6 deliberations, you were to find that one of the
7 Defendants not guilty of an offense, that doesn't
8 necessarily mean that you must find the other
9 Defendant not guilty of an offense. Or if you were
10 to find one of them guilty doesn't mean that you are
11 obliged or compelled to find the other one guilty of
12 that offense. The same is true with the separate
13 offenses. That is, if you find the Defendant not
14 guilty of one offense, it doesn't mean that you have
15 to find him not guilty of another offense. You
16 consider them all separately and you consider them
17 all independent of one another.

18 Now, ladies and gentlemen, we bandied around
19 this term reasonable doubt. Reasonable doubt has
20 been defined as the type of doubt which would cause a
21 reasonable person to hesitate to act. Or another
22 definition is proof beyond a reasonable doubt is
23 proof that leaves you firmly convinced of the
24 Defendants' guilt. Now, there's nothing on the face
25 of the earth that can be proven with absolute

1 certainty and the law doesn't require that the State
2 prove its case beyond any possible doubt. However,
3 if after your review of the evidence, you are firmly
4 convinced of the Defendants' guilt, then under your
5 oath, you would find the Defendant guilty. However,
6 if after your review of the evidence, you feel that
7 there is a real possibility that the Defendant is not
8 guilty, then under your oath, you would be obliged
9 and compelled to find the Defendant not guilty of the
10 offense.

11 Now, when you're determining whether the State
12 has met its burden of proof, you bring some very
13 valuable tools to the courtroom, including your
14 common sense. And in evaluating testimony, you're
15 going to use intuitive tools that you use everyday.
16 Everyday when you're having conversations with
17 people, everyday when you're watching the news,
18 everyday when you're on the phone. Just intuitive
19 skills. And that's why 12 jurors are impaneled to
20 determine these matters.

21 One of the things you're going to use, your
22 tools, your intuitive skills to determine is who to
23 believe and who not to believe. You determine the
24 credibility of witnesses. And you look at those
25 witnesses, you hear their testimony. You look at

1 what they said, how they've expressed themselves.
2 You look at their body language, their facial
3 expressions. You look and determine whether they
4 have something to gain or something to lose as a
5 consequence of their testimony, regardless of who it
6 may have been. And you determine from that who to
7 believe and who not to believe. It is entirely in
8 your discretion to decide who to believe and who not
9 to believe. You can take portions of a witness's
10 testimony and believe it and discard the rest. You
11 can believe all, you can believe none. It's entirely
12 within your discretion.

13 The same, of course, is true with all of the
14 evidence that you receive in a case. You're going to
15 evaluate it. You're going to weigh it. And you're
16 going to decide what's important and what's not
17 important. You can take portions of testimony and
18 decide what's important and critical to your
19 determination, discard the rest, take it all as
20 important or take none of it. It's entirely up to
21 you. That's your role, that's your function. And
22 understand that it's your exclusive authority.

23 So I told you before when we started the case,
24 if there's anything I've said or done as judge of the
25 law in this case that gives you any indication, any

1 inclination, any suggestion that I have any opinion
2 about what the evidence shows, what the facts are in
3 the case or what your ultimate opinion should be or
4 your ultimate decision should be, disregard that.
5 Because, honestly, I have no opinion in that regard
6 whatsoever.

7 Now, ladies and gentlemen, you heard from
8 witnesses who may have had prior records. Now,
9 understand that simply because somebody may have a
10 prior record, it doesn't disqualify them from
11 testifying. You can consider that prior record, if
12 at all, in determining whether a witness should be
13 believed or not believed entirely in your discretion.
14 You also heard in this case that there may have been
15 some prior inconsistent statements. I'm not
16 suggesting to you that there were. I'm saying that
17 you may determine if there were prior inconsistent
18 statements. Understand that you may use this
19 evidence to decide whether to believe the witness.
20 You may also use the evidence of the earlier
21 contradictory statements to determine the truth of
22 those statements. It's up to you to believe whether
23 you believe the earlier testimony or the testimony at
24 trial. It's entirely up to you. You can reject all
25 the testimony of that witness or you can accept it in

1 your evaluation of the evidence that was presented in
2 this case.

3 Now, ladies and gentlemen, in each and every
4 case that comes before the court, evidence is going
5 to take one of two forms. Doesn't matter whether
6 it's a civil trial, doesn't matter whether it's a
7 criminal trial, the evidence is either going to be
8 direct evidence or it's going to be circumstantial
9 evidence. Okay. And you probably heard both of
10 those on TV or in some other -- in some other venue.

11 But direct evidence is evidence which
12 immediately establishes a fact to be proven.
13 Circumstantial evidence is evidence of a chain of
14 facts or collateral facts and when taken together
15 prove the main fact to be proven. That's a very
16 simple definition. I think it's fairly clear, but
17 sometimes it's kind of hard to conceptualize. So I'm
18 going to give you an example, hopefully, that will
19 help you conceptualize the notion of direct and
20 circumstantial evidence.

21 So let's say it's a January evening and you are
22 going to bed. You walk past your front door or your
23 front window and you look out in front of your house
24 or apartment and you see on the ground there's no
25 snow, no precipitation, nothing. You go to bed, you

1 wake up the next morning. You look out that very
2 same window or door and you see a blanket of snow on
3 the ground. In that snow, you see footsteps which
4 lead to your door and lead away.

5 Now, under that scenario, you have direct
6 evidence that it snowed that night. Because the snow
7 is there. You can touch it, you can feel it, it's
8 readily ascertainable. You also have circumstantial
9 evidence that someone must have come to your door and
10 left early that morning or that night. And you know
11 that from the presence of the footsteps in the snow
12 and the timing of the snowfall. You can't see that
13 person, you can't touch them, you can't have a
14 conversation with them. But you know because, again,
15 footsteps and the timing of the snowfall someone must
16 have come to your door and gone away. That's
17 circumstantial evidence.

18 Now, ladies and gentlemen, the law does not
19 prefer direct evidence over circumstantial evidence
20 or circumstantial evidence over direct evidence. You
21 decide what's important in your own estimation,
22 regardless of whether it's classified as direct or
23 circumstantial evidence. Just remember that to the
24 extent that the State relies upon circumstantial
25 evidence in its case, all of those circumstances when

1 taken together, must point exclusively to the guilt
2 of the accused beyond a reasonable doubt. It cannot
3 merely create a suspicion.

4 All right. Ladies and gentlemen, also in this
5 case, there's some allegations of spoliation or a
6 loss of evidence. The State not only has the burden
7 of prove of guilt, but also has the burden of
8 proving -- producing evidence which would establish
9 the innocence of the Defendant. When innocence [sic]
10 is lost or destroyed by a party, you may infer that
11 evidence lost or destroyed by that party would have
12 been adverse to that party. If you first find that
13 evidence was spoiled or destroyed and if you further
14 find that the evidence could help establish the
15 innocence of the Defendant, you may then consider
16 those facts in deciding whether or not the State has
17 met its burden of proof. Again, entirely in your
18 discretion. You'll decide if the evidence was lost
19 or destroyed and you'll determine what meaning that
20 has.

21 Ladies and gentlemen, I'm going to go through
22 now the charges that are before the Court. Now, we
23 have five charges for each Defendant. There will be
24 a verdict form for each charge for each Defendant.
25 So you have ten verdict forms in here that I'm going

1 to give you to consider. Now, I'm going sit down
2 because I don't like reading to you much. Because it
3 either suggests that I don't know the law or too lazy
4 to learn it. A lot of people might suggest that both
5 are true. But it's important that when I'm giving
6 you very precise definitions that I'm giving it to
7 you very precisely. So I'm going to read some to
8 you. I apologize to you for that in advance because
9 that's a little bit dry and boring. But it's, again,
10 important that I get these definitions right. So I'm
11 going to sit down where I did when we first began the
12 case on the witness stand and I'm going to read these
13 for you.

14 So, I'm giving you these definitions in
15 alphabetical order. They're in no particular order
16 except the order they appear in the alphabet. So the
17 first charge that is before the Court for your
18 consideration is attempted armed robbery. Now, it's
19 important that I tell you first what an attempt is.
20 An attempt is an effort to accomplish a crime which
21 does not succeed. An attempt includes a specific
22 intent to do a particular criminal act along with an
23 act fallen short of the act intended. The State must
24 show more than a mere preparation and intent. There
25 must be some overt act committed in the effort to

1 commit the crime. Intent means intending the result
2 which actually occurs, not accidentally or
3 involuntarily. Intent may be shown by acts and
4 conduct of the Defendant and other circumstances from
5 which you may naturally and reasonably infer intent.

6 Now, ladies and gentlemen, I'll define for you
7 now armed robbery. The Defendant is charged with
8 armed robbery. In order to prove this offense, the
9 State must first prove beyond a reasonable doubt that
10 the Defendant took personal property from the person
11 or presence of another. Property is in the presence
12 of a person if it is within the person's reach,
13 inspection, observation or control so that the person
14 could, if not overcome with violence or presented by
15 fear, keep possession of the property. The State
16 must also prove beyond a reasonable doubt that the
17 Defendant carried away the property intending to
18 permanently deprive the owner of the property and
19 keep the property for the Defendant's own use. The
20 slightest removal of the property or the complete
21 possession of the property, even for a instant by the
22 Defendant, is a sufficient to show the taking and
23 caring away of the property. The taking and carrying
24 away of the property must have been done with
25 violence or by putting the owner of the property in

1 fear of violence. Finally, the State must prove
2 beyond a reasonable doubt that the Defendant was
3 armed with a deadly weapon during the robbery. A
4 deadly weapon is any article, instrument or substance
5 which is likely to cause death or great bodily harm.

6 Ladies and gentlemen, the next charge that is
7 before the Court is first degree burglary. The State
8 must prove beyond a reasonable doubt that the
9 Defendant entered a dwelling without consistent. A
10 dwelling is a building or portion of a building in
11 which a person ordinarily sleeps. A building
12 constructed as a dwelling that has never been
13 occupied cannot be considered a dwelling for purpose
14 of burglary. But a building is a dwelling even if
15 the residents are temporary absent from the building.

16 Next, the State must prove beyond a reasonable
17 doubt that the Defendant intended to commit a crime,
18 either a felony or a misdemeanor at the time of
19 entry. The mere entry into a dwelling without
20 consent is not burglary. If the intent to commit a
21 crime is formed after the entry, it is not burglary.
22 On the other hand, if the Defendant intended to
23 commit a crime at the time of the entry, it is
24 burglary even if the intent was abandoned after the
25 entry. It does not matter that the intended crime

1 was not completed. Intent may be shown by acts and
2 conduct of the Defendant and other circumstances from
3 which you may naturally and reasonably infer intent.

4 Finally, ladies and gentlemen, for a charge of
5 burglary in the first degree, the State must prove
6 beyond a reasonable doubt one of the following: When
7 entering, while in the dwelling or when fleeing, the
8 Defendant or accomplice was armed with a deadly
9 weapon or explosive or when entering, while in the
10 dwelling or when fleeing, the Defendant or an
11 accomplice caused physical injury to anyone not
12 participating in the crime. Or when entering, while
13 in the dwelling or when fleeing, the Defendant or
14 accomplice used or threatened to use a dangerous
15 object or when entering, while in the dwelling, or
16 when fleeing, the Defendant or accomplice displayed
17 what was or what appeared to be a knife, pistol,
18 revolver, rifle, shotgun, machine gun or other
19 firearm. Or ladies and gentlemen, that the Defendant
20 enter or remained in the dwelling in the nighttime.
21 Nighttime is the period between sunset and sunrise
22 during which there is not enough daylight to
23 recognize a person's face except by artificial light
24 or moonlight.

25 Okay. The next charge before you is conspiracy.

1 I just want to stop and pause for a second. I'm
2 giving you some definitions. There are a lot of
3 elements to these crimes. I recognize that you may
4 not be able to remember all those, okay. So when you
5 get back into your deliberation room, if you need me
6 to either redefine them for you on the record or if
7 you want a copy of these definitions that I have read
8 to you, then let me know. Send me a note and let me
9 know. When you do that, understand, I'll talk to the
10 attorneys, we'll look at these charges and we'll make
11 sure that what I've given you is what I've read to
12 you on the record and it doesn't contain anything
13 inappropriate or extraneous. Then we'll send it back
14 to you. Or if we can't come to an agreement, I'll
15 bring you back out here and I'll just recharge you on
16 it. Okay. So right now, don't think that I'm
17 expecting you to remember every single part of this,
18 okay. All right.

19 So, ladies and gentlemen, the Defendant is
20 charged with conspiracy. The State must prove beyond
21 a reasonable doubt that the Defendant combined with
22 one or more persons for the purpose of committing an
23 unlawful act or committing a lawful act by unlawful
24 means. There must be a mutual understanding,
25 agreement or common intention or plan. Mere passive

1 knowledge of or consent to the criminal conduct of
2 another is not enough to make the person a
3 conspirator. There must be guilty knowledge and
4 participation. Similarly, the mere fact that the
5 Defendant may have associated with another person or
6 met with another person and discussed common aims and
7 interests does not necessarily establish proof of the
8 existence of a conspiracy or that the Defendant was
9 involved in a conspiracy.

10 On the other hand, it is not necessary that the
11 agreement be a formal one, that it be in writing or
12 that the persons hold a meeting and expressly state
13 the terms of the common plan or that the agreement be
14 stated in words between them. The agreement of a
15 criminal conspiracy may come into being through an
16 implied mutual understanding. The willful,
17 intentional and knowing adoption by two or more
18 persons of a common plan is sufficient. No overt
19 acts need to be shown to establish a conspiracy.

20 A conspiracy may be shown by circumstantial
21 evidence and the conduct of the parties. In order to
22 convict the Defendant of conspiracy, the State must
23 prove beyond a reasonable doubt not only that the
24 Defendant knew of the unlawful conduct, but that the
25 Defendant agreed to combine with the other persons or

1 person for the purpose of accomplishing the unlawful
2 conduct.

3 Ladies and gentlemen, the next charge for your
4 consideration is murder. The State must prove beyond
5 a reasonable doubt that the Defendant killed another
6 person with malice aforethought. Malice aforethought
7 is hatred, ill will or hostility towards another
8 person. It's the intentional doing of a wrongful act
9 without just cause or excuse and with an intent to
10 inflict an injury or under circumstances that the law
11 will infer an evil intent. Malice aforethought does
12 not require that malice exists for any particular
13 time before the contact is committed, but malice must
14 exist in the mind of the Defendant just before and at
15 the time the act is committed. Therefore, there must
16 be a combination of the previous evil intent and the
17 act.

18 Malice aforethought can be expressed or it can
19 be inferred. These terms expressed and inferred do
20 not mean different kinds of malice, but merely the
21 manner in which it may be shown to exist. That is
22 either by direct evidence or by inference from the
23 facts and circumstances which are proved. Expressed
24 malice is shown when a person speaks words which
25 express hatred or ill will for another person. Or

1 when a person prepared beforehand to do the act which
2 was later accomplished. For example, laying in wait
3 for a person or any other act of preparation going to
4 show that the deed was within the Defendant's mind
5 would be expressed malice. Ladies and gentlemen,
6 malice, otherwise, can be inferred from the act and
7 the conduct of the Defendant from which you can
8 reasonably infer hatred and/or ill will.

9 Ladies and gentlemen, the Defendant also is
10 charged with the possession of a weapon during the
11 commission of or attempt to commit a violent crime.
12 The State must prove beyond a reasonable doubt that
13 the Defendant was in the possession of a firearm or
14 visibly displayed what appeared to be a firearm
15 during the commission of a violent crime. A firearm
16 means any machine gun, automatic rifle, revolver,
17 pistol, or any weapon which will, is designed to and
18 may be readily converted to expel a projectile. In
19 order to find the Defendant guilty of a weapon --
20 possession of a weapon during the commission of a
21 violent crime, you must find that the Defendant is
22 guilty of a violent crime.

23 Ladies and gentlemen, I charge you that under
24 the law, murder, burglary first and attempted armed
25 robbery are violent crimes. Ladies and gentlemen,

1 it's also important and you must know that the State
2 must prove beyond a reasonable doubt that the weapon
3 further advanced or helped in the commission of the
4 crime.

5 Now, ladies and gentlemen, the State proposes a
6 theory of accomplice liability. That is the hand of
7 one is the hand of all. I'll read you the law
8 regarding the hand of one. A crime is committed by
9 two or more people -- if a crime is committed by two
10 or more people who are acting together in committing
11 the crime, the act of one is the act of all. A
12 person who joins with another to commit an unlawful
13 act is criminally responsible for everything done by
14 the other person which happens as a probable or
15 natural consequence of the acts done in carrying out
16 the common plan and purpose. For example, two people
17 can be guilty of killing another person when only one
18 of the two had a gun, there was only one bullet and
19 of the two fired the shot that caused the death.
20 When two or more people acting together, assisting
21 each other in committing the offense, the act of one
22 is the act of all. Or as sometimes said, the hand of
23 one is the hand of all.

24 Prior knowledge that a crime is going to be
25 committed without more is not sufficient to make a

1 person guilty of that crime. Mere knowledge that
2 another person is going to commit a crime, even if
3 the Defendant is present when the crime is committed
4 is not sufficient to convict the Defendant as a
5 principle. Guilt as a principle is shown by actual
6 or constructive presence at the scene as a result of
7 prior arrangement. Therefore, a finding of prior
8 arranged plan or common scheme is necessary for a
9 finding of guilt as a principle. The State must
10 prove beyond a reasonable doubt by competent evidence
11 the theory of the hand of one is the hand of all.

12 Ladies and gentlemen, the Defense has presented
13 the defense of alibi in this case. In order to
14 establish alibi, it must be shown that the Defendant
15 was at another specified place at the time the crime
16 was committed and that it was, therefore, impossible
17 for the Defendant to have been at the scene of the
18 crime. Mere denial of presence at that scene of a
19 crime does not constitute an alibi. There is no
20 burden on the Defendant to prove an alibi. The
21 burden is on the State to prove beyond a reasonable
22 doubt that the Defendant was actually present at the
23 scene of the crime, actually participated in it and
24 was not somewhere else. In other words, the State
25 has the burden of disproving the Defendant's alibi

1 defense.

2 All right, ladies and gentlemen, I'm going to go
3 over the verdict forms with you. Before I do that, I
4 want to make sure when I was going through the
5 definitions and anything that I said in that charge,
6 I was not commenting in any way, shape or form upon
7 the facts of this case. I don't take any position
8 with respect to the facts of this case. Any examples
9 that I may have offered are completely irrelevant to
10 the conduct of the parties in this case. They were
11 merely examples that I used to illustrate the legal
12 theories that I was explaining to you in the case.

13 So, all right, I have ten jury verdict forms for
14 you. Now, I'm going to show one of them to you. I'm
15 just showing you one by way of example and make some
16 comments to you to be made to you at this juncture.
17 You'll see it has the caption of the case on the
18 verdict form. It just says verdict. It says, we,
19 the jury, by unanimous agreement find the
20 Defendant -- now, before we go any further, let's
21 make sure we, it says unanimous agreement. Your
22 decision as to each and every count and as to both
23 Defendants must be unanimous. It can't be 11 to one,
24 it can't be ten to two, it must be a unanimous
25 verdict. Understand as well that that verdict must

1 be based upon the evidence that was presented at
2 trial and the law that I've given you in this case.
3 It can't be based on sympathy, it can't be based on
4 prejudice or bias or caprice. It must be based -- it
5 must be a reasonable decision calculated in
6 consideration of the law and the evidence which has
7 been presented in the case. Okay.

8 Okay. All right. So you'll see the first one
9 says, we, the jury, by unanimous agreement find the
10 Defendant, the first option is not guilty of
11 attempted armed robbery. So if after your
12 consideration, you determine that the State has not
13 met its burden of proof proving each and every
14 element of the crime of attempted armed robbery
15 beyond a reasonable doubt, Ms. Pinsonneault, you
16 would either X there or your initial. I don't really
17 mind which one, just so it's clear to me what your
18 intention is, okay. If on the other hand, the jury
19 does find after deliberations that the State has met
20 its burden of proof, Ms. Pinsonneault, if you would
21 check or initial guilty, the second option of the
22 attempted armed robbery. Once you come to a
23 unanimous verdict, you would sign and then date.
24 Then you would move to the next charge. In whatever
25 order you want to address it is entirely up to you.

1 Now, understand that I prepared these verdict
2 forms. So the choices are not in any particular
3 order. I don't want you to think I'm sending you
4 messages or signals or trying to influence you in
5 some way. There are two choices, they've got to come
6 in some order, right. So this is just an arbitrary
7 order, don't take any signals from it, okay.

8 So I'm going to send you back to your jury room
9 in a second. I don't want you to begin your
10 deliberations yet, okay. Because this is an
11 opportunity for the attorneys to do a quality control
12 check on my charge and take exceptions to what I've
13 said. Because it's possible that I misstated
14 something or it's possible that I may have left
15 something out that I needed to include. If I did
16 then I'll bring you back in and I'll correct that on
17 the record. Okay.

18 Also, when we go out, we're going to do --
19 before you get these verdict forms, we're going to do
20 an inventory of these exhibits. Okay. So we're
21 going to send all the exhibits that were admitted
22 into the record back to your jury room with you.
23 Now, there are some tapes, audio and video tapes that
24 I'm not sending back. That's because we were very
25 careful about redacting those. Maybe, and I don't

1 know because I haven't seen the whole tape, but maybe
2 there's something on there you don't need to see. So
3 if you want to watch those, and I'm not suggesting
4 that you should, I'm not suggesting that you will,
5 I'm saying if you want to watch them, let me know and
6 we'll bring you back out here and we'll queue them up
7 and you can watch them in the courtroom. Okay.

8 If y'all have any questions during
9 deliberations, Ms. Pinsonneault, you simply write
10 them down and you send them to me. I'll give you a
11 little heads up before you send me questions, okay.
12 I can't answer questions that bear upon evidence. If
13 you ask me what happened then or where is this
14 evidence or what does this mean? That is, what does
15 this evidence mean to me? I'm going to send you a
16 fairly short answer back that says you've received
17 all the evidence in this case and I can't comment on
18 that. Or I'm going to tell you, I'm not allowed to,
19 you know, enter into your deliberations about what a
20 piece of evidence may mean. So I'm going to send
21 that back to you. Don't take offense at it because I
22 just can't -- I told you I can't answer those
23 questions. If you have a question about the law,
24 then I'll answer that question, okay. Like I said,
25 what I hope to be able to do is send you back some

1 written definitions so that you have them there and
2 you will be armed with them.

3 So you're going to know that it's time to begin
4 your deliberations when you get this folder. And
5 I'll send them back to you with the bailiff. Then,
6 we'll make sure that all of these exhibits are just
7 the exhibits that need to go back to you and you'll
8 get those as well. Okay.

9 So ladies and gentlemen, if you'll return to
10 your jury room. I hope I don't have to bring you
11 back out, but if I do, it should be very short.

12 (WHEREUPON, the jury left open court at
13 approximately 11:24 a.m.)

14 THE COURT: All right. Okay, exceptions to
15 charge?

16 MS. OWENS: Nothing from the State, Your Honor.

17 THE COURT: From the Defense?

18 MS. HENRY: Your Honor, just briefly, renew my
19 objection to the hand of one is the hand of all.

20 THE COURT: Yes, ma'am.

21 MS. HENRY: I did want to ask number three for
22 alibi.

23 THE COURT: Yes, ma'am.

24 MS. HENRY: I don't think you charged this, If
25 the Defendant offers evidence that generates a

1 reasonable doubt in the minds of the jury that he was
2 not at the scene of the crime when it was committed,
3 he should be acquitted.

4 I think that was part of our request and I don't
5 think you charged it and I would ask you to.

6 THE COURT: Yes, ma'am. I think I gave the
7 appropriate law in the State of South Carolina on
8 alibi. And if I -- understand, I don't disagree that
9 that's not appropriate. What I don't want to do is
10 bring the jury back out and charge them just on that
11 point because that would be prejudicial to the State.

12 MS. HENRY: I think that's all I have.

13 THE COURT: Mr. Robinson?

14 MR. ROBINSON: None.

15 THE COURT: Okay, thank you, I do appreciate it.

16 So y'all do the inventory. And I know in that
17 stack, there is some things that were just in there
18 for identification, so y'all need to be very careful
19 about that, but I trust that you will be. I'm going
20 to take the two alternates and I'm going to dismiss
21 them informally from chambers. When I hear
22 something, I will certainly let you know. Stay
23 close.

24 (WHEREUPON, deliberations began at 11:47 a.m.)

25 (WHEREUPON, court was in recess awaiting a

1 verdict.)

2 (WHEREUPON, Court's Exhibit No. 3 was marked for
3 identification only.)

4 (WHEREUPON, Court's Exhibit No. 3 was marked for
5 identification.)

6 THE COURT: Okay, I have been advised that the
7 jury has reached a unanimous verdict. Is the State
8 prepared to receive the verdict?

9 MS. OWENS: Yes, sir, Your Honor.

10 THE COURT: Ms. Henry, is the Defendant prepared
11 to receive the verdict?

12 MS. HENRY: Yes, sir, Your Honor.

13 THE COURT: Okay, Mr. Robinson?

14 MR. ROBINSON: Yes, sir.

15 THE COURT: Okay, bring our jury in, please.

16 While the juries coming in, ladies and
17 gentlemen, I would like to tell you that I recognize
18 that for everyone in the courtroom that this is an
19 emotional and very sensitive time. I expect everyone
20 to conduct themselves civilly. I don't expect any
21 outburst. I don't expect any boisterous activity.
22 You may have certain emotions that you want to
23 express, but what I'd ask you very kindly is that
24 express those emotions away from the courthouse.
25 Okay. All right. Thank you.

VERDICT

(WHEREUPON, the jury came into open court at approximately 2:17 p.m.)

THE COURT: All right, Ms. Pinsonneault, has the jury reached a unanimous verdict, ma'am?

THE FORELADY: Yes, Judge.

THE COURT: Would you pass the verdict forms to the bailiff, please?

Thank you, sir.

You may publish the verdicts, please, ma'am.

THE CLERK: In the case of 2017-GS-23-6746, The State vs. Curtis Allen Babb, Jr., we, the jury, by unanimous agreement find the Defendant guilty of armed robbery, guilty of burglary first degree, guilty of conspiracy, guilty of murder and guilty of possession of weapon during the commission of a violent crime.

In the case of 2017-GS-23-6747, The State vs. William Shane Fordham Brown, we, the jury, by unanimous agreement find the Defendant guilty of conspiracy, guilty of burglary first degree, guilty of attempted armed robbery, guilty of murder and guilty of possession of a weapon during the commission of a violent crime.

Ladies and gentlemen, if this is the verdict you

1 came to in the deliberation room, please raise your
2 right hand.

3 (WHEREUPON, all members of the jury raised their
4 right hand.)

5 THE COURT: Okay, anything further of this jury
6 from the State?

7 MS. OWENS: Nothing from the State, Your Honor.

8 THE COURT: From the Defense?

9 MS. HENRY: No, Your Honor.

10 THE COURT: Mr. Robinson?

11 MR. ROBINSON: No.

12 THE COURT: Any posttrial motions that you would
13 like to put on the record at this time?

14 MS. HENRY: Not at this time, Your Honor. I do
15 have, but not at this time.

16 THE COURT: All right, I'll allow you ten days
17 under the rule to file any post-trial motions.

18 Mr. Robinson, anything you'd like to put on the
19 record at this time?

20 MR. ROBINSON: Go with that, Your Honor, yeah.

21 THE COURT: All right. So I'll -- I will grant
22 you ten days from today's date to file any post-trial
23 motions, but I do intend to proceed to sentencing at
24 this point.

25 SENTENCING

1 So please, Mr. Babb, Mr. Brown, if you would
2 stand along with your counsel and we can proceed to
3 sentencing.

4 Ms. Owens, are you getting sentence sheets
5 ready?

6 MS. OWENS: Yes, Your Honor.

7 THE COURT: All right. All right, Ms. Owens, is
8 there anything additional that you would like to put
9 on the record with respect to sentencing, ma'am?

10 MS. OWENS: Well, Your Honor, if it pleases the
11 Court, I'd be happy to specifically enumerate the
12 Defendants' prior criminal history.

13 THE COURT: Yes, ma'am.

14 MS. OWENS: Would you like to hear that now?

15 THE COURT: I would.

16 MS. OWENS: Your Honor, the State in this case
17 with respect to Mr. Babb has filed notice of our
18 intent to seek the sentence of life without the
19 possibility of parole based on Mr. Babb's prior
20 convictions for four counts of attempted criminal
21 homicide, as well as some additional charges that are
22 not -- as South Carolina would define most serious
23 strikes. But those convictions are the basis of our
24 notice to seek life without parole.

25 So to the extent that notice has been properly

1 served on both Mr. Babb and Ms. Henry, we're prepared
2 to ask the Court at this time to impose a life
3 without parole sentence with the exception, of
4 course, as to the possession of a weapon during the
5 commission of a violent crime.

6 THE COURT: Okay. Is it the State's position
7 that the imposition of an LWOP, life without the
8 possibility of parole, not within the discretion of
9 the Court, but mandatory based on prior convictions?

10 MS. OWENS: Yes, Your Honor, that's the State's
11 position and that's what's stated in our notice of
12 intent to seek a life without parole sentence.

13 THE COURT: Ms. Henry, do you take exception to
14 either having received the notice or to the veracity
15 of the prior convictions upon which the State would
16 seek life without the possibility of parole?

17 MS. HENRY: No, Your Honor, I received the
18 notice of intention to seek life without parole.
19 It's also my understanding that those are accurate.
20 They've given me a copy of those convictions and I
21 think those convictions are accurate. If you can
22 give me one second, Your Honor, I apologize.

23 THE COURT: Yes, ma'am.

24 MS. HENRY: As far as that issue goes, that's
25 all I have.

1 THE COURT: Okay. Is there anything you would
2 like to put on the record as far as mitigation? It
3 may be entirely academic at this point, but I'll
4 certainly give you the opportunity to put something
5 on the record if you think that's appropriate.

6 MS. HENRY: Thank you, Your Honor. I'll be
7 brief.

8 THE COURT: Okay.

9 MS. HENRY: So when Curtis got his original
10 conviction he was only 18. It's my understanding he
11 went to jail in Pennsylvania when he was only 18
12 years old. I believe starting in 1993, got out in
13 2016. He spent a lot of time educating himself while
14 he was in prison. He got his GED in Pennsylvania.
15 And then while he was in prison, he got his
16 accounting degree, a four-year degree, an economics
17 degree, also, a four-year degree, a political science
18 degree, also a four-year degree, then two separate
19 degrees in African-American history and American
20 history. I believe he spent eight years total on
21 both of those. As I said, I think the State has made
22 it clear he spent 22 years there. He spent a lot of
23 that time in positive ways.

24 After he was released, he spent some time in
25 Pennsylvania with his family. He does have -- he has

1 two children there and three grandchildren. He was
2 in close contact with them. He -- since he's been --
3 since he was out and prior to his incarceration, he
4 worked. He was in Greenville working for a heating
5 and air company. Of course, as you've heard, he was
6 also in Pennsylvania working with Kathy Taylor,
7 loading and unloading.

8 He has a granddaughter and a lot of family in
9 Greenville. His father lives in Greenville. The
10 entire side of his -- the paternal side of his family
11 lives here and then also his mother. He has a big
12 family in New York as well. He has ties to
13 Greenville. He lived here starting when he was five
14 until he was 12. Moved back to New York between 12
15 and 17. Then you kind of heard the rest of his
16 story. He's been in jail ever since he was arrested
17 for this. Again, we would share with the Court that
18 [indiscernible] statutory requirement. And I
19 appreciate you letting me put that on the record.

20 THE COURT: Yes, ma'am.

21 Mr. Babb, is there anything you'd like to say on
22 the record, sir? You're certainly not required to,
23 but you're welcome to if you'd like to.

24 MR. BABB: (Mr. Babb shook his head.)

25 THE COURT: Okay. All right.

1 Ms. Owens, let me ask you, you served the LWOP
2 notice on murder, the burglary first and the armed
3 robbery?

4 MS. OWENS: Yes, Your Honor. I will be happy to
5 provide you copies.

6 THE COURT: Right now, I'm just thinking about
7 how I'm going to fill out the sentence sheets. Then
8 with respect to the conspiracy, that's not an LWOP.

9 MS. OWENS: Of course not, Your Honor.

10 THE COURT: Then the possession of a weapon
11 during the commission of a violent crime is five
12 years, correct?

13 MS. OWENS: It is, Your Honor. But based on
14 what I believe an extremely recent Supreme Court
15 opinion, I don't know how I can advise the Court to
16 fill out the sentence other than --

17 THE COURT: I'll take care of that. It may be
18 entirely academic.

19 MS. OWENS: I understand, yes, sir.

20 THE COURT: I just wanted to make sure that I
21 know those specific charges on which you noticed and
22 sought life --

23 MS. OWENS: Yes, sir, the notice reads murder or
24 robbery or burglary.

25 THE COURT: All right. So anything you would

1 like to put on the record with respect to Mr. Brown?

2 MS. OWENS: Yes, Your Honor. I'll share with
3 you his prior criminal history, includes a 2011
4 conviction for auto break-in, a 2010 conviction for
5 shoplifting, a 2011 conviction for burglary in the
6 second degree, two counts of cruelty to children in
7 2016 and 2017 petit larceny, which stems from a
8 November 2016 arrest.

9 With respect to the State's position as to
10 sentencing on Mr. Brown, as you've heard through the
11 course of this trial, the State's position and the
12 State's theory of the case is that Mr. Brown is the
13 person who actually fired the gun that killed
14 Mr. Pearson. The evidence presented was that it is
15 Mr. Brown who was armed with the .40 caliber firearm.
16 Given the circumstances of this case, not only that
17 action, but the actions that followed to intimidate
18 witnesses in the case, to discourage individuals from
19 speaking with police, I'd ask you to sentence
20 Mr. Brown to a life sentence.

21 THE COURT: Mr. Robinson, I'd be happy to hear
22 from you.

23 MR. ROBINSON: I respectfully disagree, Your
24 Honor. His record is almost exclusively a juvenile
25 record from what I understand. And we respectfully

1 ask for the minimum sentence if the Court sees fit.
2 He does have a very large extended family, as I made
3 the Court aware in the beginning. His father and
4 grandmother are here and the rest of his family is in
5 the Baltimore, as I said. But he's been in jail now
6 for two years, I believe, and -- but I'd ask the
7 Court for the minimum sentence, something near the
8 minimum sentence because the record is a juvenile
9 record in this case.

10 THE COURT: All right, thank you.

11 Mr. Brown, is there anything that you would like
12 to put on the record, sir?

13 MR. BROWN: Nothing other than I didn't
14 participate in this crime. It's unfortunate that the
15 jury found me guilty.

16 THE COURT: All right. Thank you, Mr. Brown.

17 I want to make sure that I'm correct on my time.
18 So murder, of course, is 30 to life, correct?

19 MS. OWENS: Yes, Your Honor.

20 THE COURT: And burglary first degree is 30 to
21 life, correct?

22 MS. OWENS: Fifteen to life.

23 THE COURT: Fifteen to life. The attempted
24 armed robbery is 20?

25 MS. OWENS: Yes, Your Honor, zero to 20.

1 THE COURT: Then five and five?

2 MS. OWENS: Yes, sir, Your Honor. It's my
3 understanding the weapons charge must be
4 consecutively unless the sentence of the Court is a
5 life sentence.

6 THE COURT: So Mr. Babb, as you heard on the
7 record, with respect to three of these charges, the
8 Court doesn't have any discretion with respect to the
9 sentence to be handed down. I'm mandated under the
10 law. For the offenses of murder, for the offense of
11 burglary first degree and attempted armed robbery,
12 the sentence of the Court is that you be committed to
13 the Department of Corrections for the remainder of
14 your natural life without the possibility of parole.
15 For possession of a weapon during the commission of a
16 violent crime, five years in the Department of
17 Corrections, and for conspiracy, five years in the
18 Department of Corrections. All those are concurrent,
19 credit for any time served.

20 Deputy, you can take Mr. Babb back to the
21 holding cell.

22 Yes, ma'am?

23 MS. HENRY: Your Honor, my client has asked, his
24 long-time girlfriend is here. Can he say goodbye to
25 her?

1 THE COURT: You can just say goodbye as you're
2 walking out. And it's not that I don't feel for you,
3 Mr. Babb, it really isn't. It's a security concern
4 and I --

5 (WHEREUPON, the deputies were escorting Mr. Babb
6 out of the courtroom.)

7 THE COURT: All right. Mr. Brown, on the charge
8 of murder, the sentence of the Court, sir, is that
9 you be committed to the Department of Corrections for
10 a period of 40 years. Concurrent, credit for time
11 served. For the charge of burglary first degree, the
12 sentence of the Court is you be committed to the
13 Department of Corrections for a period of 40 years,
14 concurrent, credit for time served. For attempted
15 armed robbery, you're committed to the Department of
16 Corrections for 20 years, concurrent, credit for time
17 served. For the possession of a weapon during the
18 commission of a violent crime, that is five years in
19 the Department of Corrections, consecutive, credit
20 for time served. With respect to conspiracy, the
21 sentence of the Court is you be committed to the
22 Department of Corrections for five years, concurrent,
23 credit for time served.

24 I want to make sure of something. Because the
25 consecutive sentence on possession of firearm during

1 the commission of a violent crime was not gratuitous
2 on my part. I think the law requires that.

3 Is that the State's understanding?

4 MS. OWENS: Yes, Your Honor, it is.

5 THE COURT: Mr. Robinson, your understanding as
6 well?

7 MR. ROBINSON: My understanding, correct.

8 THE COURT: I just want to make sure, again,
9 that everybody recognized that was not a gratuitous
10 sentence, that's what I'm required to do under the
11 law.

12 Okay, Mr. Brown, good luck to you, sir.

13 All right, ladies and gentlemen, thank you for
14 your service on the jury. I know you're going to go
15 back to your jury room and collect all your cell
16 phones. I'll come back there and I'll dismiss you
17 informally. I'll give you the opportunity to ask me
18 any questions that you may have, to tell me anything
19 that you may want to tell me, to offer complaints,
20 criticisms, anything that you want to get off your
21 chest. I'll be back in just a few minutes, but it's
22 not my intent to keep you in this courthouse any
23 longer than you absolutely, positively have to be
24 here. But I just want to make sure that I give you a
25 genuine thank you for your service and give you the

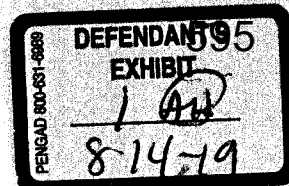
1 opportunity to tell me anything that you might want
2 to tell me or ask me anything you might want to ask
3 me, okay. I'll be back in second.

4 (WHEREUPON, the jury left open court at
5 approximately 2:34 p.m.)

6 THE COURT: Okay. All right, counsel, if y'all
7 come back just very briefly. I just want to say a
8 short little word to you, okay.

9 (WHEREUPON, the proceedings were concluded.)

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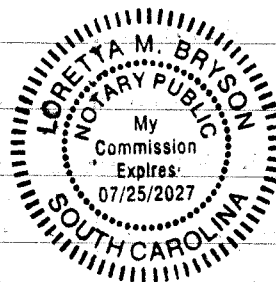


I Damean Wideman was pulled over during a regular routine traffic stop. I was charged with Driving under suspension and was told by detectives that I was also under the investigation for a murder. I Damean Wideman told the detectives that I have never been involved in a murder or that I didn't know of a murder. I was told by ~~Detective~~ Detective Jones that if I would agree to the statement they had about Curtis Babb that I would be released of all charges. I Damean Wideman told the Detective that if everything that was told was the same as I heard. I also told Detectives that Curtis had been with me all that day and most of the night. The Detectives told me what they wanted me to say and later went against what they told me and told me that they were going to lock him away. I Damean Wideman recant my previous statements because I fully know Curtis Babb had nothing to do with the murder. I was just trying to use the Detective bribe to free myself out of my own situation.

witness

Eva Dabbs & Kunka Mage Damean Wideman

Sworn to and Subscribed Before Me, on
This 16th Day of October, 17
Signed: Loretta M. Bryson
Notary Public of South Carolina
My Commission Expires: 07/25/2027



OK, YEAH. THE OFFICER YOU TALKED 2 IN THE HOSPITAL WAS "OFF. C. M'CAULMONT" (UNIT #22). YOU TOLD HIM WAS THERE AND "TRAVIS WALKER" AKA Dave WAS THE SISTER. FIRST, MY NAME ISNT TRAVIS WALKER BUT THEY KNOW YOU WERE TALKIN ABOUT ME BCUZ YOU POINTED ME OUT IN A LINEUP.

BUT YOU NEED 2 REPLACE MY NAME ON SOME REAL SHIT. AND THAT WHITE BITCH FROM THE MANOR THAT YOU BS TALKIN 2 BE TELLIN THE CLOVES THAT YOU SAID YOU'RE NOT SNITCHING & WE SNITCHED ON YOU. YOU NOT PLANNIN HANG MY NAME FORKED UP IN THE STREETS, I WAS GONNA POST THESE STATEMENTS ON FACEBOOK BUT IM TRYNA WORK THIS SHIT OUT WITH YOU, FOR MY DEATH, & THE WHOLE HOOD WANT 2 READ THIS SHIT. BUT IM GIVIN YOU A CHANCE. DON WANT NOBODY DOING SHIT 2 YR FAMILY, THAT WONT HELP ME @ ALL & THIS NOT THEIR FAULT. YEAH, I SEEN IN MY EVIDENCE TDDOT THE LETTER SOMEONE WROTE YOU, ANYWAYS YOU

NEED 2 REPLACE MY NAME WITH SOMEONE ELSE. 4 EXAMPLE, YOU REMEMBER THAT NIGGA "D" WITH THE LIGHT BLUE MAXIMA, KANDICE'S SISTER BARRY PADDY? WELL THAT NIGGA ALL UP IN OUR CASE

BASICALLY BARRON

SAVIN HE CAUGHT A BOOY, SMH. I GOT SOMETHIN 4 HIS BITCH ASS. BUT "D" REAL NAME IS "DAMEIN WIDEMAN". SINCE HE WANN A SNITCH PUT HIS DICK ASS IN IT INSTEAD OF ME. OR REMEMBER THAT NIGGA YOU WAS BEEPING WITH THAT SCLD YOU THAT "NOT RECOGNIZR? WE DONT HAVE 2 SAY HIS NAME BUT WHY NOT SAY HIS NAME? WHY TELL ON YOUR RIGHT HAND MAN? NIGGA IF YOU WOULD A BEEN SOLID ~~WAS~~ I COULDVE BEEN GAVE A LAWYER BUT ~~STOO~~ TO GET U A BOND EARLIER THIS YEAR ~~FOR~~ I WOULDVE BEEN FREE. OR YOU COULDVE NOT SAID SHIT IN THE FIRST PLACE! THE COULNT PLACE U @ THE CRIME SCENE. THE EVIDENCE SAYS U DONT HAVE ANY BLOOD @ THE CRIME SCENE!! SMH, U TOLD 4 NOTHING. U NEED TO TALK 2 YOUR LAWYER, →

THE INVESTIGATORS, & THE SOLICITOR & TELL THEM I
 AINT HAVIN' NOTHIN 2 DO WITH IT. IF THEY ASK U
 Y U PUT MY NAME IN IT JUST SAY BUS I CALLED
 911 (AMBULANCE) INSTEAD OF DRIVING YOU OUT OF
 TOWN TO A FAR AWAY HOSPITAL BECS I THOUGHT
 U WOULD DIE B4 WE MADE IT, JUST AS LIKE
 YOU WERE MAD @ ME 4 CALLING THE POLICE. I
 GOT MY WHOLE MOTION SO I KNOW EVERY LOOPHOLE
 IN OUR CASE. I EVEN KNOW HOW 2 MAKE SURE U
 DONT GET CHARGED WITH MURDER AND GET OFF,
 I BEEN SPENDING \$\$\$ ON LAW BOOKS AND ALL.
 ASK YOUR COUSIN ZELL. HE KNOW WASSUP. EITHER
 WAY IM GETTIN OFF EVENTUALLY BECAUSE THE
ONLY EVIDENCE AGAINST ME ARE YOUR STATEMENTS.
 • THATS IT, ITS UP 2 YOU NOW NIGGA. WAT U
 GONNA DO ??? NOT 2 LATE 2 FIX THIS SHIT
 B4 IT GETS REAL UGLY & U KNOW WAT I
 MEAN BKA. ! MEAN, WAT WOULD YOU DO IF I
 SNITCHED ON YOU? ION WANT MY PEOPLE 2 TAKE
 IT THERE THOUGHT BUT YOU LEAVING ME NO CHOICE
 BKA. HIT ME BACK ASAP !!! * ~~THE~~ LAWYER NAME
 IS JOHN ADDALIA *

RE: kuzzo

Reference #: 34,820,786

From: WILLIAM FORDHAM BROWN (Inmate: 0247474)

To: Andre Wagner (Public: Andre91)

Sent: 02/28/2019 4:14 PM

Status: Recipient Read

me either lmao....aye txt this to the other dre (8644171272) and to (8646261526) its important fam:::::*****"Deuce said that he saw Butta today in a holding cell and Butta said hes going to trial Monday morning...

"D" (Damien Wideman) is gonna testify and take the stand at trial..Deuce told me to tell you to get in touch wit Benji's sister ASAP and find out what D's number is and call him..tell D not to show up at trial and to shut the fuck up..Deuce said its important so get it done for him quick..frfr!!!!"*****

Justin Scott
8-12-19



DOCKET NO. 2017-GS-23-006746

KBS

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

September TERM 2017

THE STATE

vs.

CURTIS ALLEN BABB, JR

ARREST WARRANT NUMBER(s)

2016A2330211693, 2016A2330211694,
2016A2330211695, 2016A2330211696,
2016A2330211697ACTION OF GRAND JURY
TRUE BILLClay Tuttle
FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Indictment(s) for
0116 / 0079 / 0026 / 0549 / 0049MURDER, BURGLARY 1ST DEGREE, ATTEMPTED
ARMED ROBBERY, POSSESSION OF A WEAPON
DURING THE COMMISSION OF A VIOLENT CRIME,
AND CONSPIRACY

Foreperson of Petit Jury

Date:

VIOLATION(s) § 16-03-0010, § 16-11-0311,
§16-11-0330, § 16-23-0490, and § 16-17-0410ENTERED
CLERK

COUNT III – ATTEMPTED ARMED ROBBERY

That CURTIS ALLEN BABB, JR did in Greenville County, on or about the 8th day of December, 2016, while armed with a deadly weapon, or while alleging either by action or words or both that he was armed, while using a representation of a deadly weapon or any object which a person present during the commission of the robbery would reasonably believe to be a deadly weapon, attempt to take by means of force or intimidation, goods or monies from the person or presence of CLINTON PEARSON and/or JAMES MOSS. This is in violation of §16-11-0330 of the South Carolina Code of Laws (1976) as amended.

COUNT IV- POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME

That CURTIS ALLEN BABB, JR did in Greenville County, on or about the 8th day of December, 2016, possess or visibly display a firearm during the commission or attempted commission of a violent crime, to wit: Murder and/or Burglary 1st Degree and/or Attempted Armed Robbery. This is in violation of §16-23-0490 of the South Carolina Code of Laws (1976) as amended.

COUNT V – CONSPIRACY

That CURTIS ALLEN BABB, JR did in Greenville County, on or about the 8th day of December 2016, willfully and unlawfully combine with WILLIAM SHANE FORDHAM BROWN and/or CONNELL SHAUNTAVEIS WELLS, JR for the purpose of accomplishing an unlawful object or a lawful object by unlawful means, to wit: Murder and/or Burglary and/or Armed Robbery. This is in violation of §16-17-0410 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.


 SOLICITOR BAR # ~~73989~~ 7436
 DCT

DOCKET NO. 2017-GS-23-006746
KBS
The State of South Carolina
County of Greenville

COURT OF GENERAL SESSIONS

TERM 2017

THE STATE

vs.

CURTIS ALLEN BABB, JR

WITNESSES

C McCalmont

Greenville County Sheriffs Office

5/23/2017

ARREST WARRANT NUMBER(s)
2016A2330211693, 2016A2330211694,
2016A2330211695, 2016A2330211696,
2016A2330211697

ACTION OF GRAND JURY
TRUE BILL

Clay Tuttle
FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

MURDER, BURGLARY 1ST DEGREE, ATTEMPTED
ARMED ROBBERY, POSSESSION OF A WEAPON
DURING THE COMMISSION OF A VIOLENT CRIME,
AND CONSPIRACY

VIOLATION(s) § 16-03-0010, § 16-11-0311,
§16-11-0330, § 16-23-0490, and § 16-17-0410

Foreperson of Petit Jury
Date:

[illegible]

INDICTMENT(s) FOR
MURDER, BURGLARY 1ST DEGREE, ATTEMPTED ARMED
ROBBERY, POSSESSION OF A WEAPON DURING THE
COMMISSION OF A VIOLENT CRIME, AND CONSPIRACY

At a Court of General Sessions, convened on

SEP 25 2018

the Grand Jurors of Greenville

County present upon their oath:

COUNT I - MURDER

That CURTIS ALLEN BABB, JR did in Greenville County, on or about the 8th day of December, 2016, unlawfully and with malice aforethought kill CLINTON PEARSON by means of shooting him with a firearm, and that CLINTON PEARSON died as a proximate result thereof. This is in violation of §16-03-0010 of the South Carolina Code of Laws (1976) as amended.

COUNT II – BURGLARY 1st DEGREE

That CURTIS ALLEN BABB, JR did in Greenville County, on or about the 8th day of December 2016, willfully and unlawfully enter the dwelling of CLINTON PEARSON and/or JAMES MOSS, located at [REDACTED] Cox Street, Greenville, without consent and with the intent to commit a crime therein, and the burglary was accompanied by circumstances of aggravation, to wit: armed with a deadly weapon and/or caused physical injury to a person who is not a participant in the crime and/or used or threatened the use of a dangerous instrument and/or displayed what is or appears to be a pistol, revolver, rifle, shotgun, machine gun, or other firearm and/or the entering and/or remaining did occur during the night time hours. This is in violation of §16-11-0311 of the South Carolina Code of Laws (1976) as amended.

CERTIFICATE OF COUNSEL FOR APPELLANT

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

Respectfully Submitted,

RECEIVED

Apr 09 2021

SC Court of Appeals



Adam Sinclair Ruffin
Appellate Defender

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

ATTORNEY FOR APPELLANT

This 9th day of April, 2021.

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED

Apr 09 2021

SC Court of Appeals

Appeal from Greenville County
Honorable Robin B. Stilwell, Circuit Court Judge

THE STATE,

RESPONDENT,

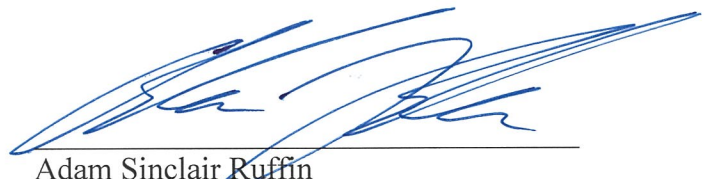
V.

CURTIS ALLEN BABB,

APPELLANT

CERTIFICATE OF SERVICE

Pursuant to the Supreme Court's Order "RE: Operation of the Appellate Courts During the Coronavirus Emergency," dated March 20, 2020, the undersigned hereby certifies a true copy of the Record on Appeal in the above referenced case has been served upon William F. Schumacher, IV, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS) this 9th day of April, 2021.



Adam Sinclair Ruffin
Appellate Defender