

VOLUME II OF II

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Charleston County

Kristi F. Curtis, Circuit Court Judge

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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

BRANDON CHRISTOPHER GRAYER,

APPELLANT.

APPELLATE CASE NO. 2020-000556

RECORD ON APPEAL

DAVID ALEXANDER
Appellate Defender

ALAN WILSON
Attorney General

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

MELODY J. BROWN
Senior Assistant Deputy Attorney General

JULIANNA E. BATTENFIELD
Assistant Attorney General
Post Office Box 11549
Columbia, SC 29211 1549
(803) 734-6305

ATTORNEY FOR APPELLANT

SCARLETT A WILSON
Solicitor, Ninth Judicial Circuit
101 Meeting Street
Charleston, SC 29401
(843) 958 1900

ATTORNEYS FOR RESPONDENT

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1 The only thing I would say about it being the
2 defendant's day in court is if it's in the context of some
3 implication that we didn't hear from him, again presuming --

4 MS. WILLIAMS: Oh, no.

5 THE COURT: -- he doesn't testify. It just --

6 MS. WILLIAMS: It's in the context of just refocusing it
7 on him rather than the co-defendants. Like, they're going to
8 have their day in court, but today is the day of The State v.
9 Brandon Grayer, and I don't think that's inappropriate.

10 THE COURT: No. Again, as long as it's not done in some
11 kind of other context that makes it sound like he should have
12 testified.

13 MS. WILLIAMS: Yeah. Noted, Your Honor, but it's not.

14 MR. SHELTON: Thank you, Your Honor. And if that does
15 come up, I'll obviously make my objection for this to be --
16 the argument to be contemporaneous to that.

17 THE COURT: Sure.

18 MR. SHELTON: Thank you, Your Honor.

19 THE COURT: Mr. Grayer, sir, if I could get you to
20 stand.

21 Once again, sir, you understand you have the
22 constitutional right to remain silent. If you choose to
23 exercise that right, no one can hold that against you, not me
24 and not the jury, and I would specifically instruct them that
25 they cannot hold that against you. They should not even

1 discuss it during their deliberations.

2 And I know we've been over this previously, but again,
3 it's your -- it's your trial, it's your right to testify.

4 Have you made a decision with respect to that?

5 THE DEFENDANT: Yes, ma'am. I've made my decision.

6 THE COURT: And are you going to testify in your case or
7 you're not going to testify?

8 THE DEFENDANT: No, ma'am. I'm not going to testify.

9 THE COURT: Okay. Do y'all need any further time to
10 discuss with him?

11 MR. SHELTON: No, Your Honor.

12 MR. KAISER: No, Your Honor.

13 THE COURT: All right.

14 MR. SHELTON: And the defense will rest and put the same
15 directed verdict motions and all that on the -- I assume we
16 can do that here. And so I --

17 THE COURT: Yeah. I hate to have the jury come in just
18 to say defendant rests. If the State will agree, we'll let
19 you go ahead and make those motions and then when we bring
20 the jury in, you can rest and then we'll immediately move
21 into closings.

22 MR. SHELTON: Yes.

23 THE COURT: Is that --

24 MS. WILLIAMS: Yes, absolutely, Your Honor.

25 THE COURT: Everyone is in agreement. Yes, sir?

1 MR. SHELTON: I just renew the same directed verdict
2 motions after the end of the State's case. Judge, I just
3 don't believe that, one, that attempted murder without the
4 victim being here or any witnesses that are testifying that
5 he was there on scene rises to the -- any standard that this
6 would even go to the jury. So a directed verdict should be
7 granted on the attempted murder.

8 And then the same arguments on the -- that I made
9 previously on the burg first, kidnapping, and possession of a
10 weapon during a violent crime and murder.

11 THE COURT: Thank you. The renewed motions are
12 respectfully denied.

13 Let's just talk about closing briefly. Since you're not
14 putting up a case, the State will -- will do the first
15 closing and then you'll do the final, and that'll be it.

16 MS. WILLIAMS: Yes, Your Honor.

17 MR. SHELTON: Yes, ma'am.

18 THE COURT: Just making sure we're all on the same page.
19 All right. We're ready for the jury.

20 (WHEREUPON, the jury entered the courtroom at 10:02
21 a.m.)

22 THE BAILIFF: All jurors are present, Your Honor.

23 THE COURT: Thank you.

24 Good morning. Okay. The State has rested.

25 Mr. Shelton?

1 MR. SHELTON: The defense rests, Your Honor.

2 THE COURT: Okay. Ladies and gentlemen, you've heard
3 all of the testimony and evidence in the case, and now we're
4 going to move into the closing arguments of the attorneys.

5 Ms. Williams?

6 MS. WILLIAMS: Thank you, Your Honor. May it please the
7 Court.

8 Mr. Shelton.

9 Mr. Kaiser.

10 CLOSING ARGUMENT ON BEHALF OF THE STATE

11 MS. WILLIAMS: Ladies and gentlemen, when we began this
12 process, Mr. Shelton told you that the State was going to try
13 to evoke compassion, prejudice, and sympathy, but that is not
14 what we did this week. The State has met its burden this
15 week by showing you over 125 pieces of evidence. You've
16 heard from 17 fact witnesses, four experts.

17 What the facts and evidence in this case show is that
18 Ivan Greene lost his life for walking across the street from
19 his house. That Pinero Gambrell lost his peace of mind
20 forever when this man and his buddies burst into his home and
21 kept him there for over an hour. That's what the evidence
22 shows.

23 In some way, this case is really just a collision of two
24 worlds. On Hassell Street, you've got Sandra Greene working
25 two jobs, trying to go to bed early that night that her

1 brother died so she can get up and go to her second job.
2 You've got Ms. Gathers, who loves her community, she loves
3 the garden, trying to have a peaceful evening when all the
4 lights go out and these guys run through her yard. You've
5 got Pinero Gambrell, who's worked for Wendy's for 19 years,
6 trying to go to bed when they burst into his trailer. And
7 you've got Ivan, whose only mistake is walking across the
8 street to go to a barbecue.

9 On the other end of the spectrum, we've got this guy.
10 He and his buddies spend the day using crack cocaine. He
11 gets into a gun battle with somebody at 1:30 in the afternoon
12 on Bailey Drive.

13 We've got Maurice Washington doing his sales in a car
14 that he takes from a poor crack addict that he owes him
15 money. Antoine Gill, back and forth to the flophouse, and
16 Randall Myers also doing drugs all day. So it's really just
17 a tragic collision of two worlds.

18 You heard a little bit about Omar and a guy named
19 Kelsey. What's that about? Don't be distracted by things
20 that have no connection to the evidence.

21 We lawyers love to argue, but that's what this is. This
22 is closing arguments. It's an argument. So look at the
23 facts in evidence. Don't be distracted by red herrings.

24 At the end of the day, the two co-defendants that
25 testified are going to have their day in court, but it's not

1 today. Today is the case of the State v. Brandon Grayer, and
2 you heard a lot of evidence, some of it I think was painful
3 and slow, but we wanted to make sure that you heard
4 everything, things that helped us, things that hurt us, all
5 of it, because I trust that you can make a sound and reasoned
6 decision.

7 Now, when we began the process, it seems like a long
8 time ago, even though it was just Monday, but I want to go
9 through some of the evidence that the State covered and some
10 of the law as well because you're dealing with a lot of
11 different statutes and a lot of different pieces of evidence.

12 Please keep in mind that the authority on the law is the
13 judge. If I say anything that conflicts with information she
14 gives you during her charge, please defer to her. That is
15 not on purpose.

16 So let's just go through it. One of the charges you're
17 going to get is murder. Ivan Greene was shot dead by Brandon
18 Grayer and his friends. We do not have to prove what bullet
19 killed Ivan Greene, and we're going to go into that in a
20 minute.

21 Murder is the unlawful killing of any person with malice
22 aforethought, either expressed or implied. You may have seen
23 on TV shows that talk about people that have to plan murders,
24 have to have a preconceived notion. That is not the law in
25 South Carolina. The law is that all we have to prove is

1 malice.

2 And what is malice? Malice is the intentional doing of
3 a wrongful act without just cause or excuse and with an
4 intent to inflict an injury or under circumstances that the
5 law will infer an evil intent. It's hatred, ill will,
6 hostility toward another person. It's an evil heart.

7 Malice aforethought does not require malice to exist at
8 any particular time or for any appreciable length of time
9 before the act is committed. It may be conceived at the very
10 moment that the act occurs.

11 The next charge you're going to consider is attempted
12 murder. Attempted murder is a specific intent crime, and
13 basically what that means is they have to have a specific
14 intent to want to kill someone.

15 I really don't know how much more evidence you could get
16 that Mr. Grayer and his friends wanted to kill Marquise
17 Bryant. They were upset with him because they attributed the
18 earlier shooting to Marquise Bryant. I don't know if
19 Marquise Bryant shot him earlier. Doesn't matter. They
20 thought he did. They hunted him down all night. They found
21 him on Hassell Street, and then they unloaded their weapons
22 on who they thought was Marquise Bryant, on the vehicle that
23 he was in.

24 Did they hit him? No. Instead, they killed Ivan
25 Greene, but they clearly had the intent to kill Marquise

1 Bryant.

2 Possession of a weapon during the commission of a
3 violent crime. All this means is that Mr. Grayer had a
4 weapon at the time he committed a violent crime. His DNA is
5 on the Springfield semiautomatic pistol. Also, Antoine Gill
6 and Maurice Washington tell you that they were all armed when
7 they left the trailer.

8 Kidnapping. This is a tricky one because we all have
9 this idea of kidnapping where you tie someone up, put them in
10 the trunk of a car, and then drive them somewhere. That is
11 not what is required for the statute of kidnapping.

12 If you look at the kidnapping statute, what it says is
13 whoever shall unlawfully seize, confine, inveigle, decoy,
14 kidnap, abduct or carry away another person. For our
15 purposes, we're talking about confining or inveigling. All
16 inveigle means is that you're trying to trick someone.

17 So when they confined Pinero Gambrell to his trailer,
18 that fits the statute. Additionally, when they tried to give
19 him money and trick him into letting them stay there, that
20 fits the statute.

21 Burglary first degree. You have to enter a dwelling
22 without permission with the intent to commit a crime in the
23 dwelling and that it happens at nighttime. The easy one is
24 nighttime. Clearly, it happened in the nighttime.

25 They burst into the trailer. They knocked on the door.

1 As soon as they saw Mr. Gambrell, they burst in. I think
2 that was the language used. They knew when they saw Mr.
3 Gambrell that they could not let him leave that trailer.

4 As soon -- they weren't even in the door, they knew they
5 couldn't let him leave the trailer because what did he do
6 after immediately they left? He called 9-1-1. And they knew
7 that. That's why they made him be quiet. That's why when
8 they called Maurice Washington, they were whispering. So
9 they weren't even in the door before they realized they had
10 to confine him in that trailer, and that's how we've met our
11 burden of burglary.

12 Reasonable doubt. Lawyers love to tell juries what
13 reasonable doubt is. So I will tell you that you will get an
14 instruction from the judge. Don't listen to anybody but her
15 about what reasonable doubt is.

16 Having said that, I'm going to tell you that part of the
17 charge that she's going to give you is that we do not have to
18 eliminate all doubt. Very few things in this world are
19 things that we know beyond all doubt, and that is not what we
20 have to prove. It is a proof -- it is proof that leaves you
21 firmly convinced.

22 And we welcome that burden. We've met that burden, but
23 I want you to listen to the charge of reasonable doubt just
24 so that you know what is required of the State.

25 This is a very important charge: transferred intent.

1 I'm going to read it first, and then I'm going to talk about
2 it.

3 The defendant with malice aforethought attempts to kill
4 another person, but by mistake injures or kills a different
5 person. The defendant still has the intent to kill. The
6 intent to kill is merely transferred from the original person
7 the defendant attempted to kill to the actual person killed
8 or injured.

9 That's a lot of words, but it's really just common sense
10 because without transferred intent, I can take a gun and go
11 shoot at someone I don't like and if I hit another person,
12 I'm not guilty. Does that make any sense to you?

13 So transferred intent obviously applies to it. They go
14 over there to shoot at Marquise Bryant, but they miss him and
15 Ivan loses his life, and that's why he's guilty of murder.

16 Another very important charge -- and it's really long
17 and I encourage you to listen very carefully to it. In South
18 Carolina, the hand of one is the hand of all. All that means
19 is when they unload their guns on that neighborhood, there's
20 no way to prove whether Randall Myers' bullet hit Ivan
21 Greene, whether Brandon Grayer's bullet hit him. We don't
22 know. The projectile that was retrieved from Ivan Greene's
23 body was destroyed. It doesn't matter. The hand of one is
24 the hand of all. If they all plan it and they all go to
25 execute the crime, they are all guilty of the crime.

1 The best example of that is Maurice Washington. He's in
2 the car following them. He doesn't even get a round off
3 probably. He's just as guilty of murder. Just as guilty.

4 Antoine Gill. He was the driver, didn't even have a gun
5 that night. Just as guilty. I mean if you believe that, if
6 we take those facts at face value, they are just as guilty as
7 he is because of the hand of one, and that's why they were
8 charged with murder.

9 Just to give you a reminder of the timeline of events,
10 so 1 p.m., Mr. Grayer spends his time over on Bailey Drive
11 exchanging gunfire with someone he thinks is Marquise Bryant.
12 It could be Marquise Bryant. It doesn't matter.

13 How do we know that? We know that because his DNA is on
14 the Springfield automatic pistol, semiautomatic pistol, and
15 shell casings that were matched to that pistol are on or in
16 the vehicle from Bailey Drive. They were retrieved from that
17 crime scene. They were also retrieved from Hassell. So keep
18 that in mind. Both shell casings matched that gun and his
19 DNA is on there.

20 So he's at Bailey Drive at one, doing his typical thing,
21 shooting at people. He goes to the hospital, and you heard
22 the detective say that they categorize injuries. He's got a
23 category three injury. Clearly, he's been shot. Yes, he's
24 been injured, but he's in and out of the hospital in time to
25 get back to the trailer and rally the troops to go find

1 Marquise Bryant.

2 By the time he gets back, I'm not really sure what else
3 they do during the day. Maurice Washington comes back.
4 Everybody reconvenes and it's about 10 o'clock and they start
5 searching for Marquise Bryant, and I think it's Mr.
6 Washington that figures out, well, he's got this car. We've
7 seen it on Facebook. It's a red Altima with Tennessee
8 plates, and he knows the girl that is somehow associated with
9 Marquise that lives in some apartments on Rivers Avenue.

10 So they go over to Rivers to look for him. Don't see
11 him there. Look back at the picture on Facebook and see that
12 he's in front of the house on Hassell Avenue. So then they
13 go over there. They shoot up that street, kill Ivan.

14 Then they run through the woods to Pinero's house. Keep
15 him there. Probably get to Pinero's house -- that 9-1-1 call
16 goes out at Hassell at about 11:25. They probably get over
17 there about -- I don't know -- 11:45, 11:50, because they've
18 wrecked the Navigator. And the 9-1-1 call from Pinero goes
19 out at 12:50. So that tells you how long they kept Pinero in
20 that trailer.

21 Some of the witnesses you heard from. Sandra Greene.
22 She's home from work. At 10:30, she sees Ivan on the phone.
23 While she's in bed, she hears shooting, and this is an
24 important part of her testimony. It's a minor point, but
25 it's important. She said she hears a lot of gunshots and

1 then it stops and then she hears more gunshots. So what
2 she's hearing is all those guys from the Navigator shooting
3 up the neighborhood and then what you hear is the people
4 shooting back.

5 And she then is on the floor calling for her brother.
6 She is crawling on the floor before someone comes to the door
7 to get her to bring her out into the yard in her nightgown so
8 she can look at her brother.

9 You heard from Carlton David Weiteers. He was with Ivan
10 that day. They were walking across the street to the gazebo
11 where they play checkers and drink beer. He said Ivan is
12 shot under the tree. And that's important information that
13 we're going to talk about because of the location of his
14 body.

15 You heard the pathologist say that as soon as he was
16 shot, he would have been paralyzed; so he would have dropped.
17 That's how we know that he didn't get shot in the street and
18 walked to the tree. Where he got shot was where he dropped.
19 And you heard Mr. Weiteers talk about where that was. He's
20 holding Ivan when his sister comes over there.

21 Mrs. Gathers. She tells you it's mostly older people in
22 the neighborhood and, at some point in the evening, all the
23 lights go out in the neighborhood because these guys wrecked
24 the Navigator and shot up the neighborhood. She heard the
25 gunshots and then she hears several people running through

1 her yard, presumably to Ezekiel Avenue to Mr. Pinero's house.

2 I think some of the most important information in this
3 case is the weapons. So here you have the Springfield, and
4 it's located in the backseat behind Antoine Gill, which is
5 where Antoine Gill says that Mr. Grayer is sitting.

6 I think there is some discrepancy in the testimony.
7 Maurice Washington thinks he remembers him behind the
8 passenger side. You know, I don't know whether Maurice
9 Washington is remembering it wrong or not. That's his
10 testimony and you have to take it for what it is. But
11 Antoine Gill is in the car. He's in the best position to
12 know where Mr. Grayer is, and this is where that weapon is
13 found.

14 There's also testimony that Nathan Burnett, better known
15 as Drama, also has a weapon, but that weapon is not
16 recovered.

17 What's so important about this? Again, shell casings
18 from this weapon are found at both scenes, which corroborates
19 what the co-defendants are telling you. You don't have to
20 believe them. They're not good people. You don't have to
21 believe them at face value.

22 Look at the evidence that corroborates what they said.
23 That's how you can evaluate their testimony. I mean you
24 don't have to think that they're, you know, righteous law-
25 abiding citizens. Look at the evidence. They say that

1 that's where he was sitting. That's where the gun is. His
2 DNA is on that gun and shell casings from that gun are at
3 both scenes.

4 Here we have -- oh, I'm sorry. Let me go back.

5 This is not the -- this is the ATI Fatboy because that's
6 the console; so that is the passenger-side of the vehicle. I
7 apologize. So this is the -- this is the weapon that Randall
8 Myers has, who is known as Thugga.

9 And Antoine Gill doesn't remember. He honestly says he
10 doesn't remember which weapon Mr. Grayer had, but he does
11 remember that this is Randall Myers' favorite gun, and it's
12 called a Fatboy ATI and it is on the floor. It's found on
13 the floor right -- or it's found on the seat right next to
14 the console. It's kind of hard to see in this picture, but
15 you're going to get this picture back in the jury room and
16 you can study them. So that is the Fatboy in the front seat
17 passenger side.

18 This is the Springfield and, again, Grayer's DNA is
19 found on the trigger pull and on the grip, and we've
20 discussed the shell casings and where they are found. So
21 that's kind of behind Antoine Gill's seat in the rear
22 passenger seat.

23 You heard from Detective Desheers. Now, when Mr.
24 Shelton talks about us just trying to put up smoke and
25 mirrors with passion and prejudice and sympathy, is that what

1 you heard from Desheers? Or was he measured and thorough and
2 painstaking? I mean he went through all of this
3 investigation so painstakingly. It took him years to solve
4 all of the co-defendants. He stuck with it. Phone records,
5 Facebook posts, collecting evidence, conferring with other
6 people, finding out about the earlier incident. I don't know
7 if we could have asked for a more thorough investigation.

8 He told you about training and experience. He's with
9 the FBI task force. He looks for corroborative evidence. I
10 mean one of the silliest things you heard about was this
11 O'Reilly's receipt. Why is that so important? Because it's
12 one thing that corroborates what Maurice Washington says, and
13 that's important. You know, we have to know whether these
14 people are telling us the truth. So he went to O'Reilly's.
15 He gave them a lineup. They identified Maurice Washington.

16 He looked at the phones and he also -- he also made this
17 crime scene diagram, and you're going to have this in the
18 jury room to look at. And I think it's important for you to
19 study this because when you look at it, you can see where
20 Ivan Greene's body is behind all of the shooters that are
21 shooting in self-defense, and you can also see a bullet here
22 and a bullet here, which is exactly in the path that,
23 unfortunately, Ivan was in. So please look at these diagrams
24 when you go back into the -- into the jury room.

25 Detective Desheers also told you about how they

1 categorize injuries. Ivan was obviously a category one. Mr.
2 Grayer was a category three. He was in and out of the
3 hospital rather quickly. Apparently, he was very lucky
4 during his shooting. He had a graze wound to the head and
5 he, you know, got out of the hospital within a few hours.

6 You heard a lot of very, very complicated testimony
7 about the cell phone analysis. You heard about which numbers
8 were attributed to Randall Myers, Maurice Washington, and
9 Omar Lozano. The reason why these phones are important is
10 because Omar Lozano says that he gave the phone -- and this
11 came in from Maurice Washington -- to Thugga at some point.

12 We know Thugga and Grayer are together because later
13 Maurice Washington gets a phone call. First he says he gets
14 a call from a number he doesn't recognize. Well, that's
15 Pinero's phone because the detective told you that when they
16 looked at Pinero's phone, they saw a call to Maurice's
17 number, and that's how they get the search warrant for
18 Maurice's phone. That's how they start to get Maurice.

19 Well, then Maurice Washington tells you that he gets a
20 call from Omar's phone, and who is on the other end of the
21 phone whispering, trying to get him to pick -- pick them up?
22 So that's important because now we know Omar's phone is with
23 Randall and Brandon Grayer. Okay?

24 We obviously know Randall has got his phone, and Maurice
25 Washington has testified that he's following them; right? Or

1 they're following him to Rivers and then they switch.

2 Well, what the cell phone analysis tells us is that at
3 least to the extent that it corroborates the co-defendants;
4 right? Because it shows that those three phones are at the
5 trailer where Nathan Burnett lives, goes to Rivers, goes down
6 to the Hassell Street area, and I don't know if you picked up
7 on this, but notice that the one phone number that belongs to
8 Randall Myers, the 214 number, never leaves the Hassell
9 Street area. Why is that? Because they found it in the
10 Navigator. So that phone -- that's why that phone never
11 leaves that area.

12 Omar's phone goes over to Ezekiel, and Maurice's phone
13 leaves and goes somewhere else past Montague. Then later,
14 just when Maurice says he comes back, Maurice's phone comes
15 back to Ezekiel and then you see the two phones together
16 again. And where do they go? Exactly where Maurice says,
17 back to the trailer that Nathan Burnett owns.

18 So this is really important evidence because sometimes
19 it's hard to evaluate the credibility of witnesses, but now
20 you have something concrete, something forensic, to
21 corroborate what they said.

22 The firearms expert. This was a lot of stuff at that
23 crime scene, but I think, you know, you're going to have this
24 diagram and it has a key in it to show you, like, you know,
25 which weapons are attributable to each shell casing. But the

1 important takeaways from the firearm expert is what we've
2 discussed, which is that the Springfield matches both scenes
3 and goes back to Brandon Grayer.

4 Clearly, they have not found even a fraction of the
5 bullets that are at the scene because you have, I think she
6 said, over 50 shell casings and you've got, like, seven or
7 eight bullets. So, you know, they didn't find all of the
8 bullets. That's something to keep in mind.

9 This is Pinero's trailer where he still lives. You saw
10 his trains. What did we learn from Pinero Gambrell? He said
11 they burst in. They're not invited. No consent, and that's
12 important for that burglary statute. They come in to evade
13 police, and they kept him in there and confined him. They
14 may have turned the lights out. They tried to give him
15 money. They took his cell phone, took the battery away from
16 the cell phone so that he couldn't use it.

17 He did not feel like he could leave. He told you that
18 from the stand. They didn't have to hurt him. You know, his
19 demeanor in this courtroom tells you everything you need to
20 know about Pinero. It would not have been hard to figure out
21 that he's a pretty easy guy to get to do what you want to do.

22 So think about his demeanor in the courtroom when you
23 evaluate what would've happened that night, but clearly, he
24 was not able to leave and they went in there to confine him
25 to evade police and did not have permission to be in there.

1 DNA. We've heard a lot of complicated information about
2 DNA, but I think it was 30 zeros. The probability that this
3 man's DNA is on that weapon is 11 nonillion times. That's 11
4 and 30 zeros. That's a pretty good probability.

5 It's important to note that Grayer and Myers are
6 together. We know they're together because of the phone
7 situation. We know they're together because the witnesses
8 say they're together. And Randall Myers' DNA is on a lot of
9 things because he's shot accidentally by somebody in the
10 backseat. Nobody can figure out who.

11 So he bleeds on the car, and where is the blood found?
12 Right in the place where Antoine Gill says he's sitting, the
13 passenger -- inside passenger side of the door. So that's
14 another clue that Antoine Gill is telling you the truth.

15 For some reason, nobody seems to know why, he takes off
16 all his clothes at Pinero Gambrell's house, which is a nice
17 clue for the police because his DNA is on all those clothes.
18 So we know he's there. So that also corroborates Maurice
19 Washington saying he picked them up from that trailer. His
20 DNA is on the Fatboy, the gun that Antoine says that he liked
21 to use.

22 Antoine Gill is a difficult -- well, he was a difficult
23 witness, but what's he do? Well, first of all, we could
24 hardly understand him. He's not a good person. You know,
25 that's not what the analysis is though. You have to analyze

1 whether he's telling the truth, and I've been through some of
2 this, but he -- the things that you have to look at is what
3 is corroborated.

4 He tells everything. The gun he says Myers is using has
5 the DNA on it. The route he says they took is corroborated
6 by the cell phone towers. Where he says Randall is sitting,
7 there's blood. Where he says Grayer is sitting, there's a
8 gun there with Grayer's DNA on it.

9 He incriminates himself. I mean at this point in the
10 game, he's pretty much telling everything. He's telling that
11 he did drugs. He's telling that they wanted to shoot
12 Marquise. Another important fact is he never saw Grayer in
13 that Navigator before that night, and that's important
14 because how do you explain his fingerprint on the Navigator?

15 The most important thing he tells you is they're looking
16 for Marquise Bryant in order to shoot him. They have no
17 qualms about it. What were you going to do when you found
18 Marquise Bryant? We were going to shoot him.

19 They don't even think about the damage they've done to
20 the people on Hassell Street. They are so focused on their
21 goal of getting revenge on this guy that that's all they
22 really care about.

23 Maurice Washington. He told you everything. The things
24 he said can be verified. He talked about the O'Reillys
25 receipt, the cell phone tower records, Randall having no

1 clothes on. He talks to you about the phone calls to his
2 phone, which I just went through in detail.

3 He tells you a lot of stuff that incriminates him. He
4 calls the Navigator his sales vehicle. He takes it from that
5 guy Omar that owes him money so he can make his cocaine
6 sales. And he never saw Brandon Grayer in the Navigator
7 prior to that night.

8 Again, I'm not going to beat a dead horse, but the
9 corroboration is the DNA, the fingerprints, Randall's clothes
10 at Pinero's, the receipt, the cell phone tower records, the
11 phone calls. The Springfield shell casings at both scenes
12 because they both say that that's what they're talking about
13 in the trailer when G Baby gets back from the hospital. You
14 know, oh, he's shot at and we're going to go out, we're going
15 to go find him and we're going to get him, and they're all
16 planning that and that's why they pile into those two cars.

17 The jail call was really hard to understand, and you're
18 going to have it back there and I would encourage you to
19 listen to it. I'm going to tell you what that jail call
20 tells you. Aside from the fact that Randall Myers and
21 Brandon Grayer are discussing the evidence against them,
22 think about this.

23 If Randall Myers calls someone who wasn't at the scene
24 and says our fingerprints are there, our stuff is all over,
25 what are we going to do now, and you weren't there, wouldn't

1 you say, "Why would my fingerprints be there? Why would my
2 DNA be there?"

3 That's not what Brandon Grayer says. He's like, "Oh,
4 no, it's just a probability, it's just a probability. You
5 know, it's not. It's all good."

6 And then Randall Myers comes back and says, "Well,
7 they've got experts. You know, this isn't good for us."

8 I am going to do something that may be quite painful for
9 you. I'm going to apologize in advance. I am going to read
10 the transcript of the call, a short call, and then I'm going
11 to play it because it might help you understand it. This
12 doesn't preclude you --

13 MR. SHELTON: Objection, Your Honor.

14 THE COURT: Can I get y'all to approach just a moment?

15 (WHEREUPON, a bench conference was held in the presence
16 of the jury but out of the hearing of the jury off the
17 record, after which the proceedings resumed as follows.)

18 MS. WILLIAMS: Just to be clear, this is not a
19 transcript from a court reporter. This is just a transcript
20 from me listening to the call and writing down what I -- what
21 I'm hearing.

22 So if you listen to the call and you hear something
23 different, obviously, you need -- you are smart people. You
24 can trust your ability to hear something, but I think it
25 would be helpful just to hear it and then play it. Again,

1 it's going to be painful to listen to me say these words, but
2 I'm going to read it to you.

3 So there's a little bit of chatter and then someone
4 says, "Hey, G Baby," and he comes over.

5 Randall says, "I could look in dog eye and tell dog."

6 And then Brandon says, "Yo, yo. Hey, bro, what's up, my
7 nigga. What's up, my nigga?"

8 "Hey, listen, hey, them things came back, you know, them
9 things I'm talking about. Prints on all them shit.
10 Everybody's prints on all them shit."

11 Brandon says, "When's the last time you talked to them?"

12 Randall says, "Yesterday."

13 Brandon says, "That boy came and see me the other day."

14 Randall says, "What are you talking about?"

15 "That boy. Yes. It's just probability and shit like
16 that."

17 Randall says, "Man, you gotta look at the math behind
18 that shit. That shit is one out of a decimillion or dumb
19 shit -- some dumb shit like that."

20 Brandon says, "Yeah."

21 Randall says, "I'm just letting you know because I don't
22 know if he pulled that out for you yet, but he gave me some
23 paperwork and shit, and them shit -- everybody's shit is all
24 over that shit. You know what I'm saying?"

25 Brandon says, "Yeah. He's been like -- he ain't really

1 say not everybody. You know, he ain't just been like -- no."
2 Randall says, "Man, everybody who's in the situation,
3 I'm telling you, my nigga, everybody who's been in the
4 situation, they mings [sic] on all them shit. You feel me?
5 Like, I'm trying to figure out how the fuck my shit got on
6 some of that shit. I don't even remember touching that shit.
7 You feel me? I supposed to be picking that stuff up in
8 September, man, but my lawyer been saying that if the
9 ballistics don't come back, if they don't have the full
10 ballistics report, then they might dismiss the M. You know
11 what I'm saying? But there's still that other shit."

12 And then Brandon says, "Right, right, right."

13 Randall says, "Yeah."

14 And Brandon says, "I can't even call. I can't even call
15 nobody. I can't even jump on no horn or nothing like that
16 right now. Shit's fucked up. Man, that boy come see me and
17 he been like that little high decimal shit or whatever."

18 "Yeah."

19 Brandon says, "I been like shit. You know what I'm
20 saying? Y'all did that? I tell them that shit's a
21 probability. You feel what I'm saying? He said it's just a
22 probability. I say so a probability is a shadow of a doubt.
23 You feel what I'm saying?"

24 And Randall says, "Yeah, but listen, listen, bro. You
25 hear me? When they go, they got experts. When they put up

1 at trial, they got experts who's going to come and testify.
2 That shit, he ain't clear that shit up with you right away.
3 You know what I'm saying? Because I had my people look that
4 shit up. You know what I'm saying? And that shit ain't --
5 that probability shit is bullshit. You know what I'm saying?
6 I ain't going to say it's pure bullshit, but when they start
7 reading that shit, just tell your people to look that shit
8 up. You'll get a clear understanding for yourself."

9 And they talk about him calling Randall's sister, and he
10 says, "Keep your head up. I love you, man."

11 And he says, "All right. I love you too, nigga."

12 So now I'm going to play the call.

13 (WHEREUPON, State's Exhibit No. 133, the jail call on
14 disk, was played. Not transcribed herein.)

15 MS. WILLIAMS: Okay. And again, you can listen to that
16 back there if you need to.

17 So what do we have in this case? What's the bottom line
18 here?

19 We've got witnesses that see this man shooting at
20 Marquise at the scene. We've got his DNA on the gun. We've
21 got his shell casings from the gun that his DNA is on at both
22 scenes. We've got the phone records that show the route
23 that's corroborated by the co-defendants.

24 We've got the motive for retaliation. Of everybody, all
25 six of these guys in these cars, he's the one with the

1 motive. He was the one that was shot earlier in the day by
2 someone he thinks is Marquise Bryant.

3 He's hiding at Pinero's house. Why do they need to hide
4 if they didn't do anything wrong? The police are there.
5 They could've just gone to the police for help.

6 The jail call. Again, it's a subtle point, but I think
7 it's an important point, and I encourage you to listen to it.

8 The phone call to Maurice. Who is calling Maurice from
9 Pinero's trailer? This guy. And the fingerprints on the
10 Navigator.

11 What happens this night, the night that the Greene
12 family wishes never happened? You have the Navigator coming
13 down the street, followed by the pickup truck. They see
14 Marquise Bryant's car. They start shooting. The people in
15 the yard start shooting back.

16 Right after they start shooting, Ivan falls. These
17 people start shooting back. The Navigator somehow turns
18 around. They say it does a U-turn. They keep shooting
19 because we know they keep shooting because there's
20 9-millimeter shell casings found on the road up the way that
21 match shell casings that are found in the Navigator.

22 And what do we have left? What do we have left? Ivan
23 Greene dying in the dirt, 20 yards from his house. Him and
24 his buddies were already on the way to their next victim when
25 this poor man is dying 20 yards from his house. That's what

1 happened.

2 I am asking you to look at this evidence carefully and
3 have the courage of your convictions. If you know he's
4 guilty, stick to your guns. If you need to hear something
5 else that you're unsure of, ask to listen to it. Ask to see
6 more evidence, but stick to your guns. You're the backbone
7 of this system. You're the conscience of this system. Hold
8 him responsible for what he did, not because of passion,
9 prejudice or sympathy, but because the evidence supports it.

10 This is the peaceful neighborhood that these people went
11 to, the neighborhood where people work hard, where they just
12 want to live in peace. And if you can load up your buddies
13 into two vehicles, arm yourself to the hilt, go down to a
14 neighborhood like this, shoot at everything indiscriminately
15 and that's not murder, then what is?

16 THE COURT: Mr. Shelton?

17 MR. SHELTON: Thank you, Your Honor. May it please the
18 Court.

19 THE COURT: Yes, sir.

20 CLOSING ARGUMENT ON BEHALF OF THE DEFENDANT

21 MR. SHELTON: There's a lot to go through. I have my
22 notes, but the State just said 117 pieces of evidence that
23 they provided you. You've also heard that there's a lot more
24 evidence that they didn't put in, that was taken from this
25 incident that they didn't put into evidence. I'll get into

1 that too.

2 Two things that they have up here that have any
3 connection to Brandon. Two out of 117 is less than two
4 percent. Less than two percent of this evidence that they
5 have, all this right here, is Brandon: a fingerprint that
6 can't be date-stamped and DNA that can't be date stamped.

7 "They" was their whole closing. They. These guys.
8 They. They. Maurice. Antoine. They. They were talking.
9 They. They.

10 Mere association. Mere association. That is not
11 enough. The State is -- the judge is going to give you the
12 law. Surprisingly or not, the State didn't put everything in
13 the law of the hand of one, hand of all in her slide because
14 part of the law of the hand of one, hand of all is that it
15 has to be more than mere association, more than mere
16 presence. The judge is going to give you that.

17 They. That was their whole case. They. They. They.
18 Less than two percent Brandon that they presented to you, the
19 evidence that they gave you, that the State gave you.

20 So what is reasonable doubt? Right? So she said don't
21 listen to me. That's what the State doesn't want you to
22 listen to, my definition of reasonable doubt. They don't
23 want me to tell you guys my reasonable doubt. She said don't
24 listen to anybody else but the judge.

25 Why? Because there's a reasonable doubt. Reasonable

1 doubt is a doubt that would cause a reasonable person to
2 hesitate to act. It's the hesitation. That is reasonable
3 doubt.

4 So what does that mean in this case? A reasonable
5 person is going to hesitate to act when they are told to
6 believe that a person that is of Brandon's height and stature
7 --

8 Brandon, stand up.

9 -- of Brandon's height and his stature was able to climb
10 a six-foot barbed wire fence. Just hours before was shot in
11 the head and the chest and in a sling. That's reasonable
12 doubt. That's hesitate to act. That's what they want you to
13 believe, that Brandon ran from that car and jumped and
14 climbed a fence after being shot in the chest at 1:30.

15 The State wants to say this is a gun battle. Is there
16 any evidence there was a gun battle? There's no evidence of
17 a gun battle. The only evidence was that Brandon was shot.
18 There's nothing saying that Brandon shot back, nothing saying
19 that there was a gun battle.

20 They found two casings that matched that Springfield.
21 They didn't find the gun. They took the Jeep Cherokee into
22 evidence. They processed the Jeep Cherokee to find those
23 shell casings. They didn't find a gun.

24 Brandon went to the hospital. The ER was called -- or
25 EMS was called and he went to the ER. Where's the medical

1 records? They want to say that he was out in a couple hours
2 and they're not going to present you evidence that he was out
3 in a couple of hours. The power of the State, they can't
4 subpoena medical records? Did they bring you anything to say
5 that he was out in a couple hours? What medications he was
6 on? Why are they not bringing that? Are they worried about
7 it? Are they worried about what time he got out?

8 The only evidence is Maurice and Antoine. That's it.
9 Maurice and Antoine. Maurice also testified that there was
10 his plan. I submit to you he said a lot on that stand. His
11 plan was to climb the fence.

12 Once again, Brandon was shot at 1:30. That is evidence.
13 The officer came and testified he saw a projectile in his
14 left chest, but now their plan afterward was to climb the
15 fence with barbed wire. But now the plan before was to climb
16 the fence.

17 It doesn't make sense that Brandon was there. It does
18 not make sense. Why would he have a plan for one of the
19 people with him to climb a fence in a sling?

20 Gambrell testified the three men who entered the trailer
21 were in there for almost an hour. It's a small trailer. I
22 feel bad for Mr. Gambrell. I feel bad for Ivan. He didn't
23 deserve it. I would agree that he didn't deserve to be shot.

24 But he's there for over -- they were there for over an
25 hour, these three men that went in his place. He didn't

1 notice a sling, a bandage around his head. I mean, okay, he
2 can't pick him out of a lineup, but maybe you could give some
3 type of description. I submit if that was a description, I
4 can tell you they would've got up there and said that, and
5 they didn't. The large beard. No description.

6 But he did pick out Maurice Washington. He said Maurice
7 Washington was the one of the three men who entered his home,
8 but the State -- they don't want you to believe that
9 Washington was there. It goes against their theory. And
10 Maurice -- he needs you to believe that somebody else was
11 there.

12 A reasonable person is going to hesitate to act when
13 they are asked to believe that one single fingerprint from
14 the middle finger on the left hand on the outside of a window
15 of a Lincoln Navigator is evidence that person was at the
16 scene at that time. A reasonable person is going to hesitate
17 to act. Brandon is in a sling, left hand, Lincoln Navigator,
18 Brandon's height, the car is higher. He'd have to reach up.
19 He'd have to.

20 You heard that Antoine was testifying Brandon was
21 sitting in the driver's rear side. How would he -- driver's
22 side rear side. Your window is right there and you're in a
23 sling and you're reaching across shooting? Does that make
24 sense?

25 A reasonable person is going to hesitate to act when

1 they are asked to believe a drug dealer and a drug user. The
2 State wants you to believe a drug dealer and a drug user.
3 They want you to find them credible and believable. That's
4 what it comes down to.

5 They swap things all the time. Drug dealers get things
6 from drug users for drugs. Everyone shares the phones,
7 shares cars, shares weapons, shares stories.

8 Antoine Gill. State's 1. Antoine Gill said the car
9 rolled. The power went out. The car rolled. You're going
10 to have more evidence. You'll have this back there, but, you
11 know, more evidence that Detective Desheers testified broke
12 up some cinderblocks, hit that electric outlet, knocked out
13 the lights through the whole area, but he just rolled and he
14 jumped out. He jumped out before as it was rolling to a
15 stop. That's a hit.

16 Maurice Washington. You heard him say, yes, no, maybe I
17 saw a crash, but he knew it crashed. How does Maurice
18 Washington know it crashed, but Antoine Gill says it rolled.

19 Antoine Gill said they left at 9 p.m. to look for
20 Marquise Bryant. That's what Antoine Gill said. Well, you
21 know that's not true. The O'Reillys receipt says 9:10.
22 You'll have that. You have it. Or is that true? Did
23 Maurice Washington with his brother, Kelsey Washington, and
24 Omar, his cousin, go and get that car fixed before he went
25 and started looking for Marquise? Is that true?

1 Why is that not a possibility? Because that doesn't sit
2 through the State's theory? We have to believe. We have to
3 believe Maurice Washington. We have to believe Antoine Gill
4 that this is the route that he was going because that's the
5 only evidence that they presented to you guys. It's the only
6 evidence.

7 So if we believe Maurice Washington that Kelsey, his
8 brother, and his cousin, Omar, were in the car that day, why
9 weren't their fingerprints and DNA submitted and checked?
10 Desheers did a thorough job.

11 Well, let's check out this part of the story about
12 Kelsey and Omar, but then if their DNA comes back in the
13 mixture on that gun as one of those people, oh, that's going
14 to throw it all off. So let's just ignore them. Ignore that
15 part of that. Let's not look into this because I've got my
16 theory and I've got Maurice and I've got Antoine to say what
17 I wanted them to say. They deny, deny, deny, but I got them.
18 I got them to say what I needed to say. That prosecutor got
19 them with that proffer, and they still lied.

20 The State wants you to believe -- let's see. The State
21 wants you to believe Maurice Washington's fingerprints that
22 were found in the car and outside of the car, and you see in
23 fingerprint powder from that night a clear palm print.
24 Maurice Washington's palm print comes back, hands come back
25 on the driver's side exterior, and you'll see where they --

1 where they did that in the evidence.

2 And they want you to believe that Maurice's fingerprints
3 got on the car earlier in the day, but they weren't there
4 during the shooting. But Brandon's fingerprints, oh, because
5 it was there, that was there during the shooting. That's
6 what they want you to believe. You -- y'all believe based
7 off what I want you to believe, not what the evidence shows.
8 That's what they want.

9 If we believe that Antoine Gill was driving that car,
10 why aren't his fingerprints and DNA found? No one testified
11 to when the fingerprints or the DNA were found on that car,
12 when they got placed on that car or got on anything.

13 You heard Maurice and Antoine were in the same area at
14 the jail. They talked. They discussed. Drug dealer and
15 drug user. The drug dealer needed something. Maurice -- he
16 needed something from Antoine. Antoine needed something from
17 Maurice. Both said they weren't there.

18 In the initial statements, both of them said they
19 weren't there, but they needed to get out of jail. That's
20 what they needed. So they gave out information to get out of
21 jail. They're both here, not in jail. Their charges are
22 still pending; so they need to do what they need to do to
23 stay out of jail.

24 Both gave three to four versions, lies about what
25 happened that night. The State wants you to believe this

1 version. Why this version? Why? Because it fits their
2 theory. Why believe this version and not the others? They
3 have to tell you the same story now. They have to, but they
4 didn't. But they have to.

5 The State wants you to believe someone who goes to court
6 in the morning facing charges, realizes that he's in court
7 for charges. They want you to believe that guy that just
8 went through that is now out doing drugs or selling drugs,
9 doing the same things that he's in court for. They want you
10 to believe that person. He didn't learn from being charged
11 with anything, coming to roll call, having to see -- coming
12 to court. He continued to just deal drugs.

13 So why did they lie? Right? That's a good question.
14 Why did they lie? That's the big question.

15 You heard Maurice testify Brandon refused to get him a
16 street lawyer. He refused to put money in.

17 You heard from Antoine, not the theory that Desheers
18 looked into or that he looked into about Marquise. Antoine
19 wanted to get out of jail.

20 And Marquise. You heard from Maurice that Marquise
21 robbed Antoine's family member just that day. Antoine went
22 and talked to him, according to Maurice. Antoine didn't say
23 that. He kept going. He was going here and he was going
24 there. Was one of those "there" to go talk to Marquise?
25 Maurice Washington knows.

1 A reasonable person is going to hesitate to act when
2 they're asked to follow a police investigation that's based
3 upon a person that is only going to protect himself. Nothing
4 that Desheers testified to was anything new to you all.
5 Everything he testified to came straight from Maurice
6 Washington. He didn't bring any new evidence. He didn't
7 bring any witnesses from Bailey Street.

8 They have the burden. The State has the burden. They
9 have to prove this case. They're not giving you the tools.
10 They're not giving it to you. They didn't have those people
11 come testify. It's not your job to investigate. It's not
12 your job.

13 The State said in their closing you can ask for more
14 evidence. You can't ask for more evidence. This is the
15 State's evidence. It's not your job to investigate what the
16 State gave you. This is it. They haven't provided you
17 enough. Someone's life and liberty are on the line. You
18 cannot base your decision on guesses or assumptions, on
19 sympathy, on mere association. You can't. It's the State's
20 burden. They haven't done it in this case.

21 Every time Desheers testified "based on my
22 investigation", code word Maurice Washington. So if you
23 believe his investigation, you believe Maurice Washington.

24 The cell phone is a huge red flag for that because the
25 cell phone guy got up here and testified that he learned from

1 the investigation that the 678 was Brandon. It's not. It's
2 Omar's. That was what the testimony was. The only testimony
3 that it was Brandon that had that phone was Maurice
4 Washington. That's the only testimony that Brandon had that
5 phone. In fact, his earlier testimony was that Randall Myers
6 and Nathan Burnett took Omar's phone and his keys. Nathan
7 Burnett. Where's his name?

8 And the State just told you in closing that I was going
9 to tell you in the evidence Randall Myers left his phone in
10 that car. That was that 214 number, but he had Omar's phone.
11 Omar is a drug user. He shares phones, his phones, forced to
12 take phones.

13 If there is more, the State would have provided it to
14 you. It's not here. Those people did not testify. There's
15 no other testimony. Testified that all the other people that
16 are charged with the crime, Maurice, Brandon, Antoine Gill,
17 Nathan Burnett, Randall Myers. What about Vinny? He didn't
18 say Vinny. He didn't say Vinny was charged.

19 They want you to believe Maurice's testimony that Vinny
20 was driving to get out there, that Vinny went back and helped
21 him pick them up. So Vinny did more, if you want to believe
22 Maurice's testimony, than Maurice, but the State just said
23 Maurice is guilty. Where's Vinny? Is it because they don't
24 have enough evidence against Vinny, but they want you to
25 believe Maurice's?

1 Antoine said Nate Burnett was sitting behind Randall
2 Myers; so sitting in the back passenger. That's what Antoine
3 said. And shot him in the neck, shot Randall. So Nate shot
4 Randall.

5 Maurice Washington said Brandon was sitting behind
6 Randall Myers and shot him in the neck. Why do we believe
7 either one of them? It could've been Kelsey. It could have
8 been Omar. Why do we believe them that Brandon was there?
9 That's all based off their testimony. Did that happen? Who
10 knows? You've seen this exhibit with all the gunshots.
11 What's not to say one of those hit Thugga, Randall Myers?

12 And they stayed in the same dorm together, but they
13 still don't have their stories straight. A reasonable person
14 is going to hesitate to act when they are asked to believe
15 habitual liars and asked to ignore what is really being said.

16 Gambrell said Maurice Washington was one who entered his
17 home. They want you to ignore that. They want you to ignore
18 that.

19 Desheers testified there was not enough evidence to
20 charge Marquise Bryant in his attempted murder of Brandon
21 from earlier in the day. Right? There wasn't enough
22 evidence. But they want you to believe Marquise and Antoine
23 that they were all talking about that shooting and it was
24 Marquise that did it. They want you to believe that. They
25 want you to believe it happened, but then Desheers says

1 there's not enough evidence to charge.

2 Maurice testified that Antoine's family member was
3 robbed by Marquise. That's another motive. Let's ignore
4 that because it doesn't work with their theory.

5 Maurice testified that Antoine went and talked to
6 Marquise that day. Ignore that. It doesn't work with their
7 theory.

8 Did Antoine set everybody up? He's, according to
9 Maurice, the one who went off script and went down a dead-end
10 road. There was talk about ambush. Antoine's fingerprints
11 or DNA is not in the car. Ignore that.

12 And then Antoine -- they got him because he finally
13 admitted it. He finally admitted it for our theory. He
14 denied it for a long time. He finally admitted it for our
15 theory. The State wants you to believe that Maurice
16 Washington's DNA that was found in the hat -- right? It was
17 found in the hat along with Randall Myers, but it could
18 happen at any time of the day. It could have happened weeks
19 prior because we don't know when DNA gets on something.

20 They want you to believe that part of the DNA evidence
21 because it doesn't work with their theory, but they don't
22 want you to believe the part that a mixture of DNA on a gun
23 could have come at any point in time. They don't want you to
24 believe that. That happened the night of the shooting. So I
25 only want you to believe that because it affects my theory,

1 but I don't want you to believe what goes against my theory.
2 That's what the State wants.

3 The State wants you to believe that Washington's
4 fingerprints in the Navigator -- we went over that. The
5 Navigator was familiar with them because it was a car that
6 was used as payment for drugs.

7 It's not enough if Brandon is at Nate's trailer. It's
8 not enough. Mere presence, mere association is not enough.

9 The State wants you to ignore the identification cards
10 that were found in the car. They didn't put that into
11 evidence. They want you to ignore Omar's identification
12 found in the car. That's what they want you to ignore. Omar
13 Garcia Lozano, identification found in the car right next to
14 that gun, an ID, the gun that supposedly is the one Brandon
15 had. Omar's ID. They want you to ignore that, ignore this
16 evidence, ignore it.

17 They want you to ignore that Maurice said that Brandon
18 was behind Thugga, Randall Myers, that he was in the
19 passenger back seat. They want you to ignore that. You know
20 why? Because the gun was found on the other side. The gun
21 they want to link to Brandon was found on the other side; so
22 they want you to ignore that.

23 They want you to ignore that Maurice said that Randall/
24 Thugga, Drama/Nate, took the Navigator keys and Omar's phone.
25 They. They. They. They. They took it. They went in.

1 They used the phone. They. They. They. Not Brandon.
2 They. That's what the State wants you to find Brandon guilty
3 for. They. Being associated.

4 The State wants you to ignore their own expert. I kind
5 of felt bad for her, the SLED DNA expert. She's trying to --
6 trying to give her opinion. Just give it. Give me what I
7 want. Give me what I want.

8 She couldn't give her what she wanted because it's a
9 probability. It's a probability DNA is on there. Is it a
10 lot of zeros? Yes, but you also heard her testify and I
11 asked her what's the likelihood ratio, how is that
12 calculated. It's taking those proportions and multiplying
13 it. So you've got one proportion, you've got one proportion,
14 and you multiply it. That's how they got all those numbers.

15 Nothing on there told you how much, just that it was a
16 probability that DNA was on it. It was a mixture of at least
17 three. I submit to you it's a mixture of four, that she
18 messed up. That's what I submit to you. Didn't have the
19 numbers to back it up later on. Oh, I don't have a
20 calculator with me. I submit to you there's at least four.

21 But she doesn't tell you how much, what percentage is
22 Brandon's, what percentage is Randall's, what percentage is a
23 third, and what that would do if there was a fourth. She can
24 only say the probability. The State wanted more. She
25 wouldn't give it because that's not what that computer system

1 does. It runs 4 million -- 4 million guesses.

2 The State wants you to ignore their own expert that was
3 saying there was only a match to two casings for the
4 Springfield and six casings to the Fatboy. They wanted you
5 to ignore the fact that their own witness would not stake
6 their reputation on what essentially Desheers put in here.

7 This is linking those guns. I submit to you this is
8 linking those guns, and that expert would not stake her
9 reputation on it, but that's what they need. They need a
10 link.

11 The State wants you to believe it's a good neighborhood,
12 that people are just having fish fries. They had -- from
13 this it says three guns. The State's expert says there was
14 seven guns. So four guns would make seven from their three
15 that they're linking to "they". All those rounds on that
16 side of the street, something else is going on. They were
17 ready. They were prepared with all of those rounds.

18 You see all of these rounds on this side? The State
19 wants you to think that it was a whole plan to go shoot up
20 these -- these guys, these guys that were ready with the
21 other ones on the other side they get barely anything off.
22 That's what the State wants you to believe. There's
23 something else going on.

24 It doesn't matter who the State has to throw under the
25 bus, whether it be SLED DNA experts, the SLED firearm

1 experts, Maurice, Antoine. Don't believe what they're
2 actually saying, only what I want you to hear.

3 Missing DNA. What about those headphones right here by
4 the gun? It goes in your ears. It'd be a great place for
5 DNA. Sweat on the back of your neck. Great place for DNA.

6 It takes seconds, mere minutes to run that DNA. They
7 couldn't do it for you, not even giving you the tools. No
8 samples from Kelsey. No samples from Omar, the other Omar.

9 And then transfer DNA. The SLED expert really couldn't
10 testify about it. She admitted, yes, that happens. There's
11 studies that show that transfer DNA.

12 We're all talking about the coronavirus. Everybody up
13 here, radio, nothing but the coronavirus, and what's that
14 about? Why do they have a big group of people not wanting to
15 be around? Because you transfer it. It's transferred. It's
16 scary. Somebody could transfer that that doesn't even have
17 it just by touch.

18 The same thing with this DNA. It's not blood. Randall
19 Myers' blood was found in that car. But it's transfer DNA.
20 They didn't give you the percentages. They didn't tell you
21 if Brandon was a low percentage, a middle percentage, a high
22 percentage. They didn't tell you that. Transfer. It
23 transfers.

24 I told you in opening I'm not going to argue he doesn't
25 know these people, but they haven't proven that he's there.

1 They haven't shown that, and they have to. A reasonable
2 person hesitates to act when they are told to believe
3 something that is not provided to them. They want you to
4 believe stuff that they are not providing.

5 The State talked about fingerprints at Gambrell's house.
6 Where are those? Where are the results? I submit to you
7 that if there's a question on evidence, it's not Brandon, or
8 else they would have brought it to you.

9 They only gave you two, two pieces of evidence out of
10 all of that. You don't think that they would want 10, 20,
11 30, 40, 50, 100? Where are those fingerprints?

12 My calculation is that not all the shell casings were
13 put into evidence, but you guys can read through all that if
14 you want to. Where are the other guns? They have all these
15 theories about the guns. Supposedly, three people left the
16 SUV. Antoine left someplace else. Where are the guns?

17 Antoine and Maurice are working with them. Where are
18 the guns? There was three people that left and went. They
19 went to Gambrell's house. No talk about a gun. No seeing a
20 gun. Two were found in the Navigator. Where are the guns?

21 What about -- what about all the people that shot here?
22 Did you hear one -- one witness of all the people that shot
23 here? All of these shell casings. Where are those guns?
24 Where are those people?

25 Marquise Bryant didn't even testify. Where is he? They

1 want you to find him -- Brandon guilty of attempted murder of
2 Marquise Bryant, a person that didn't even come and testify.
3 There's no evidence that he was even there other than Maurice
4 and Antoine saying that they -- maybe there was a Facebook
5 thing, no, not really, he's known to be there.

6 They saw a car. A car. It's dark. Was that a car that
7 had Tennessee plates? A red car. Marquise didn't come
8 testify. No one else that -- Mr. Greene's family and friends
9 did not see Marquise. They didn't say that they saw a red
10 car.

11 The jail call that the State told you he was on there,
12 that's up to you guys to hear that. Okay? You make your
13 decision, but the only thing we have that that was even
14 Brandon on that jail call was Antoine. But if you paid
15 really close attention, which I don't know, my notes, your
16 notes, it's what you guys heard, but he said it was Nathan
17 Burnett and Randall Myers first. Then he was like, oh, yeah,
18 no, it was Brandon.

19 So the only person we know that came here to tell us
20 that that was Brandon on that phone call was Antoine. They
21 couldn't link it to his PIN number. They couldn't link it to
22 that phone number that it was called on, that the three-way
23 phone call went through, they couldn't link it that way. No.
24 Antoine got up there and said it was him.

25 Believe Antoine. Which one was Brandon? The State is

1 telling you this is Brandon, this is Randall. Antoine didn't
2 tell you who was saying what. So we're going to believe the
3 State? There's nothing in evidence that's before you that
4 verifies that, that corroborates that, nothing.

5 And what they say and what I say here in closings is not
6 evidence. So when she said this is Brandon saying that, this
7 is Randall saying that, it's not evidence. They didn't
8 present the evidence to you, and that's their burden, their
9 job.

10 Gambrell didn't identify Brandon. He didn't identify
11 him. He didn't tell you that Brandon was there.

12 So I gave you the definition of reasonable doubt, and I
13 know the State told you not to listen to me. Okay? So take
14 it for what it's worth, but my example I like to provide.

15 In the morning you get your bowl of cereal, set it on
16 the table. You pour that bowl -- that cereal into that bowl,
17 fill it all the way up. You're ready. You go into the --
18 into the fridge, grab the milk. You happen to glance at the
19 expiration date and realize, man, that was five days ago.
20 You start questioning. So what do you do? You open it up
21 and you smell it. You hesitate. You hesitated to act.

22 It doesn't matter if in that same situation Joe would've
23 thrown out the milk and cereal. It doesn't matter the
24 result. It doesn't matter that he would've thrown it out and
25 it doesn't matter that I maybe would've poured it into the

1 bowl. That doesn't matter, the end result of what happens.
2 It's that hesitation. That hesitation to act is reasonable
3 doubt. It's reasonable doubt.

4 Don't let the State shift that burden. They have to
5 prove. They are the ones that have to present evidence. The
6 judge is going to tell you that Brandon doesn't. He can't
7 prove he's innocent. It's extremely difficult to prove
8 somebody innocent.

9 I gave you the example about the speeding ticket in
10 opening. It's extremely difficult to prove somebody
11 innocent. It's not Brandon's burden. It's not our burden.
12 It's not your job to investigate the facts. That's not your
13 burden to investigate the case. That's not your burden.

14 It's to decide if the State has presented to you enough
15 evidence, and they haven't done it. The State has not done
16 it. There's no evidence or testimony that Brandon Grayer was
17 even out there or at Gambrell's house on the night of
18 September 23rd, 2016, except the testimony of two drug -- a
19 drug dealer and a drug user that were looking to gain what
20 they want. They want to stay out of jail.

21 The State provided no other evidence, no other
22 witnesses, nothing. You cannot believe the credibility of
23 Maurice and Antoine.

24 The judge is going to give you an instruction on
25 credibility and believability. The State is telling you that

1 Brandon is guilty because he knows these people. That's not
2 enough. The judge is going to tell you mere association,
3 mere presence is not enough. They have to show that he
4 acted, that he was there. They have not done that beyond a
5 reasonable doubt. They haven't kept you from hesitating.
6 You must find Brandon not guilty.

7 Thank you.

8 THE COURT: Thank you.

9 Okay. Ladies and gentlemen, we're going to take about a
10 10-minute break before we move into my instructions to you on
11 the law, and then we will turn it over to you to begin your
12 deliberations. Again, please don't discuss the case during
13 the break. We'll be back in about 10 minutes.

14 (WHEREUPON, the jury exited the courtroom at 11:34 a.m.)

15 (WHEREUPON, there was a break in the proceedings from
16 11:35 a.m. until 11:44 a.m., after which the proceedings
17 resumed as follows.)

18 (WHEREUPON, the jury entered the courtroom at 11:45
19 a.m.)

20 THE BAILIFF: All jurors are present, Your Honor.

21 THE COURT: Thank you.

22 CHARGE ON THE LAW

23 THE COURT: Okay. Ladies and gentlemen, you've heard
24 all the testimony and the evidence in this case, and it's now
25 my duty to instruct you on the law that applies.

1 The indictments in this case allege several different
2 offenses against the defendant. The charges are murder,
3 possession of a weapon during the commission of a violent
4 crime, kidnapping, burglary first degree, and attempted
5 murder. Each indictment charges a separate and distinct
6 offense.

7 You must decide each indictment separately on the
8 evidence and the law applicable to it, uninfluenced by your
9 decision as to any other indictment. The defendant may be
10 convicted or acquitted on any or all of the offenses charged.
11 You'll be asked to write a separate verdict of guilty or not
12 guilty for each indictment.

13 I remind you that the fact that the defendant was
14 arrested, charged, and indicted in this case is not evidence
15 and cannot be considered by you as evidence of guilt, nor
16 does it create any presumption or inference of guilt. This
17 document is simply the formal written instrument which
18 contains the charges made against the defendant. It's the
19 formal document by which this case is brought into court.

20 The defendant has pled not guilty to this indictment,
21 and that plea puts the burden on the State to prove the
22 defendant guilty. A person charged with committing a
23 criminal offense in South Carolina is never required to prove
24 himself innocent, regardless of the charge.

25 I charge you that it is an important rule of law that

1 the defendant in a criminal trial, no matter what the
2 seriousness of the charge may be, will always be presumed to
3 be innocent of the crime for which the indictment was issued
4 unless guilt has been proven by evidence satisfying you of
5 that guilt beyond a reasonable doubt.

6 This presumption of innocence does not end when you
7 begin your deliberations, but it accompanies the defendant
8 throughout the trial unless or until you reach a verdict of
9 guilt based on evidence satisfying you of that guilt beyond a
10 reasonable doubt.

11 The presumption of innocence is not mere legal theory or
12 a legal phrase that we throw around. It is a substantial
13 right to which every defendant is entitled unless you, the
14 jury, are satisfied from the evidence of the defendant's
15 guilt beyond a reasonable doubt.

16 Now, what is a reasonable doubt in the law? It's the
17 kind of doubt for which you can give a reason. It's also
18 described as the kind of doubt that would cause a reasonable
19 person to hesitate to act. Proof beyond a reasonable doubt
20 is proof that leaves you firmly convinced of the defendant's
21 guilt.

22 There are very few things in this world that we know
23 with absolute certainty, and in criminal cases the law does
24 not require proof that overcomes every possible doubt. If,
25 based on your consideration of the evidence, you are firmly

1 convinced that the defendant is guilty of the crime charged,
2 you must find the defendant guilty. If, on the other hand,
3 you think there is a real possibility that the defendant is
4 not guilty, you must give the defendant the benefit of the
5 doubt and find him not guilty.

6 I remind you that during this trial you and I have
7 separate duties to perform. As the trial judge, it's my
8 responsibility to preside over the trial of this case, and I
9 also have the duty to rule on the admissibility of the
10 evidence offered during this trial. You are to consider only
11 the competent evidence before you. You are to consider only
12 the testimony which has been presented from the witness stand
13 and any exhibits which have been made a part of the record in
14 this case.

15 I have the additional duty to charge you the law
16 applicable to this case. As the presiding judge, I am the
17 sole judge of the law of the case, and it's your duty as
18 jurors to accept the law and apply it as I now state it to
19 you.

20 If you already had any idea as to what the law is or
21 what the law ought to be and it does not agree with what I
22 now tell you the law is, you must abandon your previous idea
23 because you're sworn to accept the law and apply the law
24 exactly as I state it to you now.

25 In every case tried before a jury, the jury becomes the

1 sole and exclusive judges of the facts. A trial judge cannot
2 comment on or make any statement to a trial jury about the
3 facts in a case.

4 Since you, the jury, are the sole judges of the facts,
5 you're not to infer from what I've said during the progress
6 of this trial in ruling upon the admissibility of evidence or
7 otherwise or anything that I say now during the course of
8 this instruction to you that I have any opinion about the
9 facts in the case. The law does not allow me to have an
10 opinion. This is a matter solely for you, the jury, to
11 determine.

12 As jurors, it's your duty to determine the effect,
13 value, weight, and truth of the evidence presented during the
14 trial. There are two types of evidence which are generally
15 introduced during a trial: direct evidence and
16 circumstantial evidence.

17 Direct evidence directly proves the existence of a fact
18 and does not require deduction. Direct evidence is the
19 testimony of a person who claims to have actual knowledge of
20 a fact, such as an eyewitness.

21 Circumstantial evidence is proof of a chain of facts and
22 circumstances indicating the existence of a fact. Crimes may
23 be proven by circumstantial evidence. The law makes no
24 distinction between the weight or value to be given to either
25 direct or circumstantial evidence, nor is a greater degree of

1 certainty required of circumstantial evidence than of direct
2 evidence. You should weigh all of the evidence in the case.

3 However, to the extent the State relies on
4 circumstantial evidence, all of the circumstances must be --
5 must be consistent with each other and when taken together
6 point conclusively to the guilt of the accused beyond a
7 reasonable doubt. If these circumstances merely portray the
8 defendant's behavior as suspicious, the proof has failed.
9 After weighing all of the evidence, if you are not convinced
10 of the guilt of the defendant beyond a reasonable doubt, you
11 must find the defendant not guilty.

12 The State has the burden of proving the defendant guilty
13 beyond a reasonable doubt, and this burden rests with the
14 State regardless of whether the State relies on direct
15 evidence, circumstantial evidence, or some combination of the
16 two.

17 Necessarily, you must determine the credibility of the
18 witnesses who have testified in this case and, of course,
19 credibility simply means believability. It's your duty as
20 jurors to analyze and evaluate the evidence and determine
21 which evidence convinces you of its truth.

22 In determining the believability of witnesses who have
23 testified in this case, you can believe one witness over
24 several witnesses or several witnesses over one. You may
25 believe a part of the testimony of a witness and reject the

1 remaining part of the testimony of that same witness. You
2 may believe the testimony of a witness in its entirety or you
3 may reject the testimony of a witness in its entirety.

4 You can consider whether any witness has exhibited to
5 you any interest, any bias or prejudice or other motive in
6 the case. You can consider the appearance and manner of the
7 witness, what their demeanor was while on the witness stand.

8 I instruct you and emphasize that the fact that the
9 defendant did not testify in this case is not a factor to be
10 considered by you in any way in your deliberations and in
11 your consideration on the question of the guilt or innocence
12 of the defendant. It must not be considered by you in any
13 manner whatsoever. A defendant has the constitutional right
14 to remain silent, and the assertion of this -- this right
15 must not be considered by you in your deliberations.

16 I repeat, under your oath, you are to draw no conclusion
17 whatsoever from the fact that the defendant in this case did
18 not testify. The fact that he did not testify should not
19 even be discussed in the jury room. The burden of proof, as
20 I've stated to you, is on the State. The defendant is not
21 required to prove his innocence. The burden of proof remains
22 on the State to prove guilt beyond a reasonable doubt.

23 Now, in this case, a statement alleged to have been made
24 by the defendant has been admitted into evidence. While the
25 Court has determined that the statement is admissible, I

1 instruct you that you make the ultimate decision of whether
2 or not the defendant made the statement. If you determine
3 the defendant did not make the statement, then you should not
4 consider it at all. If you determine that the State has
5 proven beyond a reasonable doubt that the defendant did make
6 the statement, then you must decide what weight, if any,
7 should be given to the statement.

8 The rules of evidence ordinarily do not permit witnesses
9 to testify to opinions or conclusions, but an exception to
10 this rule exists for witnesses we call expert witnesses.
11 This is a witness by education or experience or a combination
12 has become expert in some art, science, profession or
13 calling, and they may state an opinion as to relevant and
14 material matter in which the person claims to be an expert
15 and may also state the reasons for the opinion.

16 In this trial, you've heard expert testimony in the
17 fields of fingerprint and latent print analysis, firearms
18 identification, forensic pathology, cellular telephone data
19 analysis, and forensic science and DNA analysis. You should
20 consider any expert opinion received in evidence in this case
21 and, like any other evidence, give it the weight you think it
22 deserves.

23 If you decide that the opinion of an expert witness is
24 not based on sufficient education and experience or if you
25 conclude that the reasons given in support of the opinion are

1 not sound or that the opinion is outweighed by other
2 evidence, you may disregard the opinion entirely. An expert
3 witness -- an expert witness's testimony is to be given no
4 greater weight than that of any other witness simply because
5 the person is an expert. Further, you're not required to
6 accept an expert's opinion, even though it is uncontradicted.

7 There's been evidence presented to you during the course
8 of the trial that witnesses have made prior statements which
9 are not consistent with the witness's present testimony. You
10 may use this evidence to decide whether or not to believe the
11 witness. You may also use evidence of the earlier
12 contradictory statements to determine the truth of those
13 statements. It's up to you to decide whether to believe the
14 earlier statements or the testimony given at trial.

15 If a witness is shown to have knowingly testified
16 untruthfully concerning any material matter, you may consider
17 this in determining whether to trust the witness's testimony
18 as to other matters. You may -- you may reject all testimony
19 of that witness or give all or part of the testimony the
20 weight that you think it deserves.

21 A person who has a past criminal record is competent to
22 testify during a trial. A past record does not affect the
23 ability of that witness to testify. The past record may only
24 be considered by you, if at all, in determining the witness's
25 believability. Remember, you are the sole judges of the

1 facts in the case and of the believability of any and all of
2 the witnesses.

3 I charge you that insanity caused by the use of drugs or
4 alcohol may be a defense if the insanity is permanent and
5 destroys the defendant's ability to know right from wrong.
6 However, when voluntary intoxication has not produced
7 permanent insanity, it is not a defense to a crime. A person
8 who voluntarily becomes intoxicated is just as responsible
9 for the acts committed while intoxicated as when the person
10 is not intoxicated.

11 I further charge you that if a crime is committed by two
12 or more people who are acting together in committing a crime,
13 the act of one is the act of all. A person who joins with
14 another to commit an unlawful act is criminally responsible
15 for everything done by the other person which happens as a
16 probable and natural consequence of the acts done in carrying
17 out the common plan and purpose.

18 If two -- two or more people are together, acting
19 together, assisting each other in committing the offense, the
20 act of one is the act of all or, as sometimes said, the hand
21 of one is the hand of all.

22 Prior knowledge that a crime is going to be committed
23 without more is not sufficient to make a person guilty of
24 that crime. Mere knowledge that another person is going to
25 commit a crime, even if the defendant is present when the

1 crime is committed, is not sufficient to convict the
2 defendant as a -- as a principal. Guilt as a principal is
3 shown by actual or constructive presence at the scene as a
4 result of a prior arrangement. Therefore, a finding of a
5 prior arranged plan or common scheme is necessary for a
6 finding of guilt as a principal.

7 The State must prove beyond a reasonable doubt by
8 competent evidence the theory of the hand of one is the hand
9 of all. A principal in a crime is one who either actually
10 commits the crime or who is present aiding, abetting or
11 assisting in committing the crime. When a person does an act
12 in the presence of and with the assistance of another, the
13 act is done by both.

14 Where two or more acting with a common plan or intent
15 are present at the commission of a crime, it does not matter
16 who actually commits the crime. All are guilty. The hand of
17 one is the hand of all.

18 Present at the commission of a crime means to be
19 sufficiently near to aid and abet and assist in the
20 commission of the crime. However, mere presence at the scene
21 of a crime is not sufficient to convict one as a principal on
22 that theory of aiding and abetting. A defendant's presence
23 where a crime is committed or mere association with a person
24 who commits a crime does not make a defendant an accomplice
25 or an aider and abettor of the person committing the crime.

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

9 Intent is also a necessary element, for there must have
10 been a common design or intent to commit the crime and the
11 crime must've been committed pursuant to that common design
12 or intent with the person aiding and abetting by some overt
13 act.

14 Intent means intending the result which actually occurs,
15 not accidentally or involuntary. Intent may be shown by acts
16 and conduct of the defendant and other circumstances from
17 which you may naturally and reasonably infer intent. The
18 State, again, must prove these elements beyond a reasonable
19 doubt.

20 The defendant is charged with murder. The State must
21 prove beyond a reasonable doubt that the defendant killed
22 another person with malice aforethought.

23 Malice is hatred, ill will or hostility toward another
24 person. It is the intentional doing of a wrongful act
25 without just cause or excuse and with an intent to inflict an

1 injury or under circumstances that the law will infer an evil
2 intent.

3 Malice aforethought does not require that malice exist
4 for any particular time before the act is committed, but
5 malice must exist in the mind of the defendant just before
6 and at the time of the act -- excuse me -- at the time the
7 act is committed. Therefore, there must be a combination of
8 the previous evil intent and the act.

9 Malice aforethought may be expressed or inferred. These
10 terms, expressed and inferred, do not mean different kinds of
11 malice, but merely the manner in which the malice may be
12 shown to exist. That either -- is either by direct evidence
13 or by inference from the facts and circumstances which are
14 proved.

15 Expressed malice is when a person speaks words which
16 express hatred or ill will for another or when the person
17 prepared beforehand to do the act which was later
18 accomplished. For example, lying in wait for a person or any
19 other acts of preparation going to show that the deed was
20 within the defendant's mind would be expressed malice.

21 Malice may be inferred from conduct showing a total
22 disregard for human life. If facts are proved beyond a
23 reasonable doubt sufficient to raise an inference of malice
24 to your satisfaction, this inference would simply be an
25 evidentiary fact to be considered by you, the jury, along

1 with the other evidence in the case, and you may give it the
2 weight you decide it should receive.

3 If the defendant with malice aforethought attempts to
4 kill another person but by mistake injures or kills a
5 different person, the defendant still has the intent to kill.
6 The intent to kill is merely transferred from the original
7 person the defendant attempted to kill to the actual person
8 killed or injured. The defendant would be guilty of murder
9 just as if the attempt had resulted in the death or injury of
10 the person the defendant intended to kill.

11 The defendant is also charged with attempted murder. In
12 order to prove this crime, the State must prove the defendant
13 acted with a specific intent to kill another person, and the
14 defendant attempted to kill another person with expressed
15 malice aforethought.

16 Malice, again, is hatred, ill will or hostility toward
17 another person. It's the intentional doing of a wrongful act
18 without just cause or excuse and with an intent to inflict an
19 injury or under circumstances that the law will infer an evil
20 intent.

21 Malice aforethought does not require that malice exist
22 for any particular time before the act is committed, but
23 malice must exist in the mind of the defendant just before
24 and at the time the act is committed. Therefore, again,
25 there must be a combination of the previous evil intent and

1 the act.

2 Malice aforethought may be shown either by direct
3 evidence or by inference from the facts and circumstances
4 which are proved. Expressed malice is shown when a person
5 speaks words which express hatred or ill will for another or
6 when the person prepared beforehand to do the act which was
7 later accomplished. Again, for example, lying in wait for a
8 person or any other acts of preparation going to show that
9 the deed was within the defendant's mind would be expressed
10 malice.

11 A specific intent to kill is an element of attempted
12 murder. Intent means intending the result which actually
13 occurs, not accidentally or involuntarily -- involuntary.
14 Intent may be shown by acts and conduct of the defendant and
15 other circumstances from which you may naturally and
16 reasonably infer intent.

17 Evidence of the character of the act, the character of
18 the instrument used, the manner in which it was used, the
19 purpose to be accomplished, and the resulting wounds or
20 injuries may be considered in determining the intent with
21 which the act was committed. Intent may also be inferred
22 when it's demonstrated that the defendant voluntarily and
23 willfully commits an act, the natural tendency of which is to
24 destroy another's life.

25 The defendant is charged with first-degree burglary.

1 The defendant -- excuse me. The State must first prove
2 beyond a reasonable doubt that the defendant entered a
3 dwelling without consent. A dwelling is any building or
4 portion of a building in which a person ordinarily sleeps. A
5 building constructed as a dwelling that has never been
6 occupied cannot be considered a dwelling for purposes of
7 burglary, but a building is a dwelling even if the residents
8 are temporarily absent from the building.

9 In order to prove that the defendant entered the
10 dwelling, the State does not have to show that the
11 defendant's entire body entered the dwelling. The smallest
12 entry is sufficient. It may be any part of the body, such as
13 a hand or foot or even an instrument, such as a hook. In
14 addition, the State does not have to prove that force was
15 used to gain entry. If a person enters a building by using
16 deception, artifice, trick or misrepresentation to get
17 consent to enter, this is an entry without consent.

18 Next, the State must prove beyond a reasonable doubt
19 that the defendant intended to commit a crime, either a
20 felony or a misdemeanor, at the time of the entry. The mere
21 entry into a dwelling without consent is not burglary. If
22 the intent to commit a crime is formed after the entry, it's
23 not burglary.

24 On the other hand, if the defendant intended to commit a
25 crime at the time of the entry, it is burglary, even if the

1 intent was abandoned after the entry. It does not matter
2 that the intended crime was not completed. Intent may be
3 shown by acts and conduct of the defendant and other
4 circumstances from which you may naturally and reasonably
5 infer intent.

6 Finally, the State must prove beyond a reasonable doubt
7 that the defendant entered or remained in the dwelling in the
8 nighttime. Nighttime is the period between sunset and
9 sunrise during which there's not enough daylight to recognize
10 a person's face except by artificial light or moonlight.

11 The defendant is charged with kidnapping. The State
12 must prove beyond a reasonable doubt that the defendant
13 knowingly and unlawfully seized, confined, inveigled,
14 decoyed, kidnapped, abducted or carried away another person
15 without authority of law.

16 To do a thing unlawfully is to do it willfully against
17 the law.

18 Knowingly means with knowledge, consciously, not
19 accidentally.

20 Seized means to take hold of suddenly or forcibly.

21 Confine means to limit, restrict or enclose within
22 bounds, imprison or shut or keep in.

23 Inveigle means to lure, entice or lead astray by false
24 representations, promises or other deceitful means.

25 Decoy means to lure by or as if by decoy. A decoy is

1 something to entice a person into a trap.

2 Kidnap is to remove a person against his will by
3 unlawful force or by fraud.

4 Abduct means to carry off secretly or by force for an
5 illegal purpose. Carry away means to remove.

6 The State does not have to prove that the defendant did
7 all of these things. Instead, if you find beyond a
8 reasonable doubt that the defendant did any of these things,
9 you may find the defendant guilty of kidnapping.

10 Something done without authority of law is something
11 which the law does not sanction, permit, allow, condone or
12 provide justification for. The kidnapping does not have to
13 be for any personal or monetary gain, for any illegal
14 purpose, but may be for any reason whatsoever.

15 The defendant is charged with possession of a weapon
16 during the commission of or attempt to commit a violent
17 crime. The State must prove beyond a reasonable doubt that
18 the defendant was in possession of a firearm or visibly
19 displayed what appeared to be a firearm during the commission
20 of a violent crime. A firearm means any machine-gun,
21 automatic rifle, revolver, pistol or any weapon which will or
22 is designed to or may be readily converted to expel a
23 projectile.

24 In order to find the defendant guilty of possession of a
25 weapon during the commission of a violent crime, you must

1 first find the defendant guilty of either committing a
2 violent crime or attempting to commit a violent crime. Under
3 South Carolina law, murder, attempted murder, burglary in the
4 first degree, and kidnapping are all classified as violent
5 crimes. The State must prove beyond a reasonable doubt that
6 the weapon furthered, advanced or helped in the commission of
7 the crime.

8 Ladies and gentlemen, I'm going to ask that you select a
9 foreperson from the twelve jurors. Our two alternates are
10 not eligible to serve as the foreperson, but otherwise you
11 don't need any special training or experience or anything
12 like that to serve as the foreperson.

13 The foreperson will preside over the deliberations and
14 will record the jury's verdict for each verdict form. If
15 there's anything that needs to be brought to my attention
16 during your deliberations or any question, the foreperson
17 will jot that down and give it to the bailiff, and the
18 bailiff will bring it to my attention. So I will ask that
19 you select a foreperson when you are excused to begin your
20 deliberations.

21 We're going to send you back with five verdict forms;
22 each represents one of the charges against the defendant. At
23 the top, you'll see the caption for the case, the title and
24 the case number, and in no particular order, this first one
25 is for the charge of murder and it states:

1 As to the charge of murder, we, the jury, unanimously
2 find the defendant -- and there's a space for guilty or not
3 guilty. Again, please don't read anything into the order in
4 which these two alternatives appear. One's got to be first
5 and one's got to be second.

6 Once you've reached a unanimous verdict, you'll check
7 the box and your jury foreperson will sign at the bottom.
8 You'll do this for each of the offenses, for murder, for
9 attempted murder, for burglary, and for kidnapping.

10 We ask that you save the deliberations for possession of
11 a weapon during the commission of a violent crime last
12 because you cannot find the defendant guilty of this offense
13 if you have found him not guilty of the prior four offenses.
14 And there's a note to that effect on here that states you
15 should only deliberate on this charge if you have found the
16 defendant guilty of either murder, attempted murder,
17 kidnapping or burglary in the first degree.

18 If you have found the defendant not guilty as to each of
19 these charges, then you do not need to deliberate further and
20 you would just return this blank.

21 Ladies and gentlemen, your verdict as to each of these
22 offenses must be unanimous.

23 Anything further from the State or the defense before we
24 release the jury to begin deliberations?

25 MS. WILLIAMS: Not from the State, Your Honor.

1 MR. SHELTON: None from the defense, Your Honor.

2 THE COURT: Okay. Ladies and gentlemen, I'm going to go
3 ahead and dismiss everyone except our two alternates. If
4 you'll just remain in the courtroom with us.

5 The remaining twelve jurors, is everyone prepared to
6 begin deliberations? Everyone's good to go?

7 Okay. Then I'll go ahead and release you. If you'll
8 give us just a few minutes to get the exhibits gathered
9 together for you, we'll bring you the exhibits and the jury
10 verdict forms. Thank you.

11 (WHEREUPON, the jury exited the courtroom at 12:12 p.m.)

12 THE COURT: Ladies, I want to thank you very much.
13 You've been so faithful in attendance and have been really
14 paying careful attention to all the testimony this week.

15 We have all had trials where we have gone through jurors
16 getting sick. I've had a juror get arrested. Family
17 emergencies. Any number of things where we've had to use
18 one, sometimes both alternates. I've been through all of the
19 alternates previously and had to declare a mistrial because
20 we ran out of jurors.

21 So we never know quite what's going to happen. So we
22 appreciate very much you being here. I'm going to go ahead
23 and excuse you. You are welcome if you want to come around
24 and stay. You're certainly welcome to, but your duties here
25 are concluded and that concludes your jury service for the

1 week as well. So again, thank you so much.

2 (WHEREUPON, the alternate jurors were released at 2:13
3 p.m.)

4 THE COURT: And if I can get y'all to just come up and
5 let's go through the exhibits and make sure that we have
6 everything that should go back and nothing that should not.

7 MS. WILLIAMS: Yes, Your Honor.

8 (WHEREUPON, there was a pause in the proceedings to
9 check the evidence, after which the proceedings resumed
10 as follows.)

11 (WHEREUPON, the jury deliberations began at 12:23 p.m.)

12 (WHEREUPON, there was a break in the proceedings from
13 12:23 p.m. until 1:01 p.m., after which the proceedings
14 resumed as follows.)

15 (WHEREUPON, the jury note was marked as Court's Exhibit
16 No. 2.)

17 THE COURT: Okay. Are we all right to go back on the
18 record?

19 MR. SHELTON: Yes, ma'am.

20 THE COURT: Do we need to -- there's no need to wait for
21 Mr. Kaiser?

22 MR. SHELTON: Mr. Kaiser had other things that he needed
23 to take care of.

24 THE COURT: Okay. We have a note from the jury I've
25 marked as Court's Exhibit 2. It states: "Definition of

1 burglary?" And it's signed by our foreperson, who is Kevin
2 Santos, Juror Number 322.

3 So would you like for me to bring them out here and give
4 them the charge on burglary first degree? I have
5 occasionally printed it out for them and sent it back to the
6 jury room. I'm happy to do either one.

7 MS. WILLIAMS: I think that either we send the whole
8 charge back -- that's just my preference -- or bring them
9 back in. I'm fine with sending the whole charge back, if Mr.
10 Shelton is okay with it. It's just a lot of information to
11 digest.

12 THE COURT: Uh-huh.

13 MS. WILLIAMS: That might preempt some future questions
14 or, if the Court prefers not to do that, maybe just bring
15 them in and read it. My experience has been then they'll
16 come back and ask for another one because there's so many
17 charges, but whatever the Court's preference is.

18 THE COURT: Any objection?

19 MR. SHELTON: I tend to agree with that one, Your Honor,
20 either one, either sending it all back or bringing them back
21 in and just that one.

22 THE COURT: My only problem with sending the whole thing
23 back in is that sometimes they then get bogged down into a
24 myriad of --

25 MS. WILLIAMS: Yeah. That could cause, like, meetings

1 that go on forever.

2 THE COURT: Yeah. So let's bring them back in. I'm
3 just going to give them this charge on first-degree burglary,
4 and we'll go from there.

5 MR. SHELTON: Okay.

6 MS. WILLIAMS: Thank you, Your Honor. Are you ready for
7 them now?

8 THE COURT: Yes.

9 MS. WILLIAMS: Okay.

10 (WHEREUPON, the jury entered the courtroom at 1:05 p.m.)

11 THE BAILIFF: All jurors present, Your Honor.

12 THE COURT: Thank you.

13 Okay. Ladies and gentlemen, I see that you have
14 selected Mr. Santos as your foreperson, and we have a
15 question asking for the definition of burglary; so I'm going
16 to give you that information.

17 The defendant is charged with first-degree burglary.
18 The State must first prove beyond a reasonable doubt that the
19 defendant entered a dwelling without consent. A dwelling is
20 any building or portion of a building in which a person
21 ordinarily sleeps. A building constructed as a dwelling that
22 has never been occupied cannot be considered a dwelling for
23 purposes of burglary, but a building is a dwelling even if
24 the residents are temporarily absent from the building.

25 In order to prove that the defendant entered the

1 dwelling, the State does not have to show that the
2 defendant's entire body entered the dwelling. The smallest
3 entry is sufficient. It may be any part of the body, such as
4 a hand or foot, or even an instrument, such as a hook.

5 In addition, the State does not have to prove that force
6 was used to gain entry. If a person enters a building by
7 using deception, artifice, trick or misrepresentation to get
8 consent to enter, this is an entry without consent.

9 Next, the State must prove beyond a reasonable doubt
10 that the defendant intended to commit a crime, either a
11 felony or a misdemeanor, at the time of the entry. The mere
12 entry into a dwelling without consent is not burglary. If
13 the intent to commit a crime is formed after the entry, it is
14 not burglary.

15 On the other hand, if the defendant intended to commit a
16 crime at the time of the entry, it is a burglary even if the
17 intent was abandoned after the entry. It does not matter
18 that the intended crime was not completed. Intent may be
19 shown by acts and conduct of the defendant and other
20 circumstances from which you may naturally and reasonably
21 infer intent.

22 Finally, the State must prove beyond a reasonable doubt
23 that the defendant entered or remained in the dwelling in the
24 nighttime. Nighttime is the period between sunset and
25 sunrise during which there's not enough daylight to recognize

1 a person's face except by artificial light or moonlight.

2 Okay. That is the charge on burglary in the first
3 degree. Okay. I'll let y'all resume your deliberations.

4 (WHEREUPON, the jury exited the courtroom at 1:07 p.m.)

5 THE COURT: Okay. We'll see how long that will hold
6 them.

7 MS. WILLIAMS: Thank you, Your Honor.

8 MR. SHELTON: Thank you.

9 (WHEREUPON, there was a break in the proceedings from
10 1:08 p.m. until 2:02 p.m., after which the proceedings
11 resumed as follows.)

12 (WHEREUPON, the jury note was marked as Court's Exhibit
13 No. 3.)

14 THE COURT: Okay. We have another question. We've
15 marked this as State's -- or Court's Exhibit 3.

16 It says, "Number one, need definition of hand of one.
17 We can take a printout if possible."

18 So I made the exact wrong call last time.

19 "Number two, does the defendant need to be present at
20 the scene for the hand of one law to apply?"

21 So I'm fine to send them back the entire charge.

22 MS. WILLIAMS: Okay.

23 THE COURT: If you think that's appropriate.

24 MS. WILLIAMS: I think that's fine, Your Honor.

25 MR. SHELTON: That's fine.

1 THE COURT: Okay.

2 (WHEREUPON, there was a pause in the proceedings, after
3 which the proceedings resumed as follows.)

4 THE COURT: Do you all want to take a look at this
5 before I send it back just to make sure we haven't missed
6 anything?

7 (WHEREUPON, there was a pause in the proceedings, after
8 which the proceedings resumed as follows.)

9 MS. WILLIAMS: Thank you, Your Honor.

10 MS. SMITH: Thank you.

11 THE COURT: Okay. We'll be at ease.

12 (WHEREUPON, there was a break in the proceedings from
13 2:08 p.m. until 2:41 p.m., after which the proceedings
14 resumed as follows.)

15 THE COURT: We received another jury note, that we'll
16 Mark as Court's Exhibit 4. It says: "Need testimony from
17 SLED firearms specialist." It's signed by our foreperson.

18 So if y'all will just be at ease, it's going to take her
19 a few minutes to get that.

20 (WHEREUPON, the jury note was marked as Court's Exhibit
21 No. 4.)

22 (WHEREUPON, there was a break in the proceedings from
23 2:42 p.m. until 2:51 p.m., after which the proceedings
24 resumed as follows.)

25 THE COURT: We have another note that has come in the

1 interim here, and this note states: "Can we listen/get the
2 jail phone call. We have the CD. Need a player."

3 So what I would suggest is if we're bringing them in
4 anyway to let them hear the SLED firearms lady's testimony --
5 is that Michelle Eichenhorn? Eichenmiller?

6 MS. WILLIAMS: Eichenmiller.

7 THE COURT: Let them listen to both in the courtroom.

8 MS. WILLIAMS: Well, actually, Your Honor, there's a
9 difference because that's one of the pieces of evidence, and
10 we would ask that we give them a player so that they can, you
11 know, listen to parts of it if they want. They can -- you
12 know, they should be able to explore that piece of evidence
13 fully and listen to it as many times. It's a little
14 different than just testimony.

15 Typically, we can give them a player. I don't know if
16 that's possible, but that would be our request, please,
17 because just sitting here and listening to that jail call
18 again is going to be hard. They may want to stop it and then
19 go back, and I mean that's their right.

20 THE COURT: We've got the capability to --

21 THE CLERK: Yes, ma'am.

22 THE COURT: -- take a player back there?

23 MR. SHELTON: It is. It is a piece of evidence. So I
24 can't argue against that.

25 THE COURT: Okay. Well, let me see if we're set up yet

1 to --

2 THE COURT REPORTER: It's ready.

3 THE COURT: You're good?

4 THE COURT REPORTER: Uh-huh.

5 THE COURT: Okay. If you'll go ahead and bring the jury
6 in. And if we can just mark this as a Court's exhibit.

7 (WHEREUPON, the jury note was marked as Court's Exhibit
8 Number 5.)

9 (WHEREUPON, the jury entered the courtroom at 2:54 p.m.)

10 THE BAILIFF: All jurors present, Your Honor.

11 THE COURT: Thank you.

12 Okay. Ladies and gentlemen, we are in the process of
13 queuing up that testimony from Michelle Eichenmiller, who was
14 the firearms examiner.

15 (WHEREUPON, the testimony of Michelle Eichenmiller was
16 played, after which the proceedings resumed as follows.)

17 THE COURT: Okay. Ladies and gentlemen, I'm going to
18 excuse you back to the jury room. We are going to bring a
19 player into your jury room so that you can listen to the
20 telephone call from the jail. You'll be able to listen to
21 that in the jury room. Thank you.

22 (WHEREUPON, the jury exited the courtroom at 3:21 p.m.)

23 THE COURT: Okay. We'll be at ease again.

24 (WHEREUPON, there was a break in the proceedings from
25 3:22 p.m. until 3:52 p.m., after which the proceedings

1 resumed as follows.)

2 THE COURT: Okay. We're ready for the jury.

3 THE BAILIFF: Yes, ma'am.

4 (WHEREUPON, the jury entered the courtroom at 3:56 p.m.)

5 THE BAILIFF: All jurors present, Your Honor.

6 THE COURT: Thank you.

7 I understand, Mr. Santos, that the jury has reached a

8 verdict.

9 THE FOREPERSON: Yes, we have, Your Honor.

10 THE COURT: Okay. If you'll please give your verdict

11 forms to the bailiff.

12 VERDICT

13 THE CLERK: State of South Carolina, County of

14 Charleston, in the Court of General Sessions, Ninth Judicial

15 Court, Indictment Number 2019-GS-10-05441, the State of South

16 Carolina versus Brandon Christopher Grayer.

17 As to the charge of murder, we, the jury, unanimously

18 find the defendant guilty. Signed foreperson, March 12th,

19 2020.

20 As to the charge of attempted murder, we, the jury,

21 unanimously find the defendant guilty. Signed foreperson,

22 dated March 12th, 2020.

23 As to the charge of burglary first degree, we, the jury,

24 unanimously find the defendant not guilty. Signed

25 foreperson, March 12th, 2020.

1 As to the charge of kidnapping, we, the jury,
2 unanimously find the defendant not guilty. Signed
3 foreperson, March 12th, 2020.

4 As to the charge of possession of a weapon during the
5 commission of a violent crime, we, the jurors -- we, the jury
6 -- excuse me -- unanimously find the defendant guilty.
7 Signed foreperson, March 12th, 2020.

8 THE COURT: Ladies and gentlemen, let me just get you to
9 confirm is this your verdict?

10 THE FOREPERSON: Yes.

11 THE COURT: Anything further from the defendant?

12 MR. SHELTON: Yes, Your Honor. I'd ask that the jury be
13 polled.

14 THE COURT: Okay. Ms. Dickerson?

15 THE CLERK: Ladies and gentlemen of the jury, I'm going
16 to ask you two questions. The first question will be is this
17 your verdict. The second question will be is this still your
18 verdict.

19 Starting with Juror Number 168, is this your verdict?

20 JUROR NUMBER 168: Yes.

21 THE CLERK: Is this still your verdict?

22 JUROR NUMBER 168: Yes.

23 THE CLERK: Juror Number 260, is this your verdict?

24 JUROR NUMBER 260: Yes.

25 THE CLERK: Is this still your verdict?

1 JUROR NUMBER 260: Yes.

2 THE CLERK: Juror Number 357, is this your verdict?

3 JUROR NUMBER 357: Yes.

4 THE CLERK: Is this still your verdict?

5 JUROR NUMBER 357: Yes.

6 THE CLERK: Juror Number 322, is this your verdict?

7 JUROR NUMBER 322: Yes.

8 THE CLERK: Is this still your verdict?

9 JUROR NUMBER 322: Yes.

10 THE CLERK: Juror Number 392, is this your verdict?

11 JUROR NUMBER 392: Yes.

12 THE CLERK: Is this still your verdict?

13 JUROR NUMBER 392: Yes.

14 THE CLERK: Juror Number 56, is this your verdict?

15 JUROR NUMBER 56: Yes.

16 THE CLERK: Is this still your verdict?

17 JUROR NUMBER 56: Yes.

18 THE CLERK: Juror Number 162, is this your verdict?

19 JUROR NUMBER 162: Yes.

20 THE CLERK: Is this still your verdict?

21 JUROR NUMBER 162: Yes.

22 THE CLERK: Juror Number 120, is this your verdict?

23 JUROR NUMBER 120: Yes.

24 THE CLERK: Is this still your verdict?

25 JUROR NUMBER 120: Yes.

1 THE CLERK: Juror Number 62, is this your verdict?

2 JUROR NUMBER 62: Yes.

3 THE CLERK: Is this still your verdict?

4 JUROR NUMBER 62: Yes.

5 THE CLERK: Juror Number 235, is this your verdict?

6 JUROR NUMBER 235: Yes, ma'am.

7 THE CLERK: Is this still your verdict?

8 JUROR NUMBER 235: Yes, ma'am.

9 THE CLERK: Juror Number 215, is this your verdict?

10 JUROR NUMBER 215: Yes.

11 THE CLERK: Is this still your verdict?

12 JUROR NUMBER 215: Yes.

13 THE CLERK: Juror Number 283, is this your verdict?

14 JUROR NUMBER 283: Yes.

15 THE CLERK: Is this still your verdict?

16 JUROR NUMBER 283: Yes.

17 THE CLERK: Judge, the jury has been polled.

18 THE COURT: Thank you.

19 Anything further before I dismiss the jury panel?

20 MS. WILLIAMS: No, Your Honor.

21 THE COURT: Ladies and gentlemen, I want to thank you

22 very much. I know it's been a long week. We appreciate very
23 much your service to the community.

24 This is an exemption that you can use for three years.

25 So if you get a jury summons to be back in Charleston Common

1 man, because I'm sure you have people in your family, I know,
2 who work hard, who want the best for their children, and this
3 is what we're trying to provide.

4 So if we send a message by this verdict saying to young
5 people stop this, this is not the wild, wild West, people
6 live, they work, and they have their means, and they have a
7 right to do so.

8 So as Sandra said and as Larry said, again, you have the
9 right to make choices when you're sentenced after you go to
10 be incarcerated, to make choices to not -- to stop this
11 negative language, this cold lawlessness in the streets.

12 You send a clear-cut message to Facebook or whatever to
13 let folks know make good choices. Get an education. Have
14 faith, the godly morals, good standards, and turn this around
15 because guess what? Your seed and your seed's seed have the
16 right or they should learn from your mistakes, and you will
17 come out of prison one day. Make that choice so that you
18 give back to society. Don't take from. You owe that to
19 Ivan.

20 Thank you so much.

21 THE COURT: Thank you, Ms. McFadden.

22 Mr. Shelton, I'm glad to hear from you, sir.

23 MR. SHELTON: Yes. Thank you, Your Honor.

24 First, I think I just need to renew all motions,
25 directed verdict motions, all the trial motions, pretrial, or

1 any during trial. I just wanted to renew that for purposes
2 of the record.

3 Judge, I also -- I don't know if I have to move for
4 this. But just for appeals purposes, but for a new trial
5 notwithstanding the verdict. I believe that these -- the
6 verdict from the jury is inconsistent to the facts of the
7 case as far as the facts are alleged that Brandon with a
8 group of people went and shot at Maurice Washington -- or at
9 Marquise Bryant and then went and committed a burglary and a
10 kidnapping.

11 If the jury is saying that they -- that he was not at
12 the burglary or kidnapping, he couldn't have been at the
13 murder or attempted murder. I think that's further evidence,
14 along with the questions that the jury asked about whether a
15 defendant had to be present on scene to be a hand of one,
16 hand of all. I think they were confused, and I believe it's
17 an inconsistent verdict with the facts of the case, and I ask
18 for a new trial notwithstanding the verdict, Your Honor.

19 The -- as far as sentencing, do you want to hear me on
20 sentencing?

21 THE COURT: Let me ask first do y'all want to be heard
22 on the new trial motion?

23 MS. WILLIAMS: Well, no. Just briefly, it's perfectly
24 consistent that they could believe that Mr. Grayer was at the
25 murder scene but didn't hop the fence and go to the burglary

1 scene. So I don't -- I don't think that the facts support
2 the argument that Mr. Shelton just made.

3 THE COURT: Thank you. The new trial motion is denied.
4 I do find that the -- the standard is whether there was any
5 evidence to support the jury's decision, and I find that it
6 was supported by -- by evidence.

7 Yes, sir?

8 MR. SHELTON: Thank you, Your Honor.

9 As far as sentencing, Your Honor, obviously, I've
10 advised my client not to say too much, if anything, for --
11 for any type of appeals, if there are any.

12 Judge, he's 31 years old. He was 28 or 29 when he was
13 locked up. He was first -- first arrested December 7th of
14 2017. So he has been continuously incarcerated since that
15 time.

16 He does have five children. You know, his mother and
17 his sister have been in here every single day for him. I do
18 think that they would like to address Your Honor.

19 I know that from the beginning there has been -- I guess
20 there is not really a good way to address Mr. Greene's family
21 regarding their pain and what they're going through. He
22 didn't deserve what happened. Brandon has expressed that
23 from the beginning that he doesn't know Mr. Greene, he
24 doesn't know the family, that -- that it was -- it was a
25 tragedy what happened.

1 And I know that he's expressed that to me and as far as
2 Mr. Greene, obviously, he's maintained his innocence. The
3 jury has spoken, but, Judge, he does have -- it looks like he
4 had a strong-armed robbery from 2009. The weapons charge --
5 while he was charged with possession by -- convicted of a
6 violent felony, he has not been convicted of a violent
7 felony. So I don't think that that -- that's why it got
8 changed back down to unlawful carrying, but I'm not sure. I
9 wasn't his attorney at that time. So that would just be my
10 interpretation of the record.

11 There was a period of time that he was out after this
12 happened. There was some arrests made. I was very close to
13 getting a directed verdict or getting it dismissed at the
14 preliminary hearing. I feel it should have been, but the
15 DVHAN, I think there was a lot of question marks about that,
16 but other than that, Judge, he wasn't -- he didn't get in
17 trouble after this -- this incident, so to speak, since he
18 was in 2017. I'd ask that you take that into consideration.

19 Randall Myers went to trial. It was a mistrial, his
20 first mistrial. He then pled, and I believe it was a 20-year
21 sentence that he received. So the co-defendants are -- that
22 testified are expecting something less. I just ask that --
23 that Brandon be sentenced accordingly.

24 Obviously, he's got the murder charge and it's a
25 mandatory minimum of 30 years. He's 31 years old. Thirty

1 MS. GRAYER: I love you, Brandon.

2 (WHEREUPON, there was a pause in the proceedings, after
3 which the proceedings resumed as follows.)

4 THE COURT: Okay. I'm very sorry for the pain to both
5 of these families.

6 I appreciate very much the Greene family that y'all have
7 stuck with us this week. I know this has been hard on you to
8 be here. I hope that this gives you some closure, but I do
9 appreciate very much the fact that y'all have now been
10 through I'm imagining a lot of court hearings. So we do
11 appreciate so much that you're here today, but I'm really
12 sorry for the pain to both families.

13 SENTENCE

14 THE COURT: The sentence of the Court as to the charge
15 of murder is 30 years. This is concurrent with the sentence
16 of 15 years on the attempted murder charge.

17 On the charge of possession of a weapon during the
18 commission of a violent crime, the sentence is five years.
19 That is to be consecutive to the 30-year murder sentence. So
20 basically for a total of 35 years.

21 All right. Thank you.

22 MR. SHELTON: Thank you, Your Honor.

23 (WHEREUPON, the proceedings ended at 4:31 p.m.)

24

25 --- END REQUESTED TRANSCRIPT ---

AMW/0337537
WITNESSES

North Charleston Police Department

AGENCY CASE NUMBER

2016-029194

ARREST WARRANT NUMBER

2017A1010207069

DATE OF ARREST

12/08/2017

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury APR 02 2019 Date:

VERDICT

Guilty

Foreperson of Petit Jury

3/12/2020
Date:

DOCKET NO. 2019-GS-10-01772

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

APRIL TERM 2019

THE STATE

VS.

BRANDON CHRISTOPHER

GRAYER

B/M DOB: [REDACTED]

Indictment for

POSSESSION OF A WEAPON DURING
THE COMMISSION OF A VIOLENT
CRIME

SC Code: § 16-23-0490

CDR Code: 0549

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

INDICTMENT

At a Court of General Sessions, convened April 2019, the Grand Jurors of Charleston County present upon their oath:

POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME

That in Charleston County, South Carolina, on or about September 23, 2016, the Defendant, Brandon Christopher Grayer, did possess a firearm or did visibly display what appeared to be a firearm or did visibly display a knife during the commission of or attempted commission of a violent crime, to wit: Murder; in violation of Section 16-23-490, Code of Laws of South Carolina, (1976, as amended).

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


ANNE M. WILLIAMS
ASSISTANT SOLICITOR

AMW/0337537
WITNESSES

North Charleston Police Department

AGENCY CASE NUMBER

2016-029194

ARREST WARRANT NUMBER

2019-GS-10-05440

DATE OF ARREST

12/08/2017

ACTION OF GRAND JURY

TRUE BILL

NOV 05 2019

m. m. m.
Foreperson of Grand Jury

Date:

VERDICT

Guilty

Kern C. ...
Foreperson of Petit Jury

3/12/2020
Date:

DOCKET NO. 2019-GS-10-05440

The State of South Carolina
County of Charleston

COURT OF GENERAL SESSIONS

NOVEMBER TERM 2019

THE STATE

VS.

BRANDON CHRISTOPHER
GRAYER A.K.A. Brandon Grayer
B/M DOB: [REDACTED]

Indictment for

ATTEMPTED MURDER

SC Code: § 16-03-0029
CDR Code: 3410

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

INDICTMENT

At a Court of General Sessions, convened November 2019, the Grand Jurors of Charleston County present upon their oath:

ATTEMPTED MURDER

That in Charleston County, South Carolina, on or about September 23, 2016, the Defendant, Brandon Christopher Grayer, did, with intent to kill and malice aforethought, attempt to kill Marquise Bryant. This is in violation of Section 16-3-29 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.


ANNE M. WILLIAMS
ASSISTANT SOLICITOR

AMW/0337537
WITNESSES

North Charleston Police Department

AGENCY CASE NUMBER

2016-029194

ARREST WARRANT NUMBER

2019-GS-10-05441

DATE OF ARREST

12/08/2017

ACTION OF GRAND JURY

TRUE BILL
NOV 05 2019

m. math
Foreperson of Grand Jury

Date:

VERDICT

Guilty

Kevin Charles
Foreperson of Petit Jury

3/12/2020
Date:

DOCKET NO. 2019-GS-10-05441

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

NOVEMBER TERM 2019

THE STATE

VS.

BRANDON CHRISTOPHER

GRAYER A.K.A. Brandon Grayer

B/M DOB: [REDACTED]

Indictment for

MURDER

SC Code: § 16-03-0010

CDR Code: 0116

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

INDICTMENT

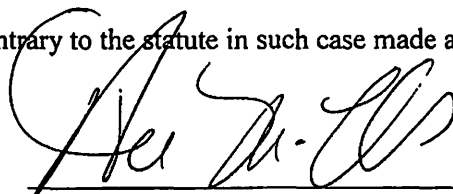
At a Court of General Sessions, convened November 2019, the Grand Jurors of Charleston County present upon their oath:

MURDER

Murder

That in Charleston County, South Carolina on or about September 23, 2016, the defendant, Brandon Christopher Grayer, while acting alone or while acting in concert with others, with malice aforethought did kill and murder Ivan Greene by means of a Firearm, and Ivan Greene did die in Charleston County as a proximate result thereof on or about September 23, 2016 in violation of §16-3-10 of the South Carolina Code of Laws (1976) as amended.

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



ANNE M. WILLIAMS
ASSISTANT SOLICITOR

CERTIFICATE OF COUNSEL FOR APPELLANT

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

Respectfully Submitted,

s/David Alexander
Appellate Defender

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

ATTORNEY FOR APPELLANT

RECEIVED
Sep 23 2021
SC Court of Appeals

This 23rd day of September, 2021.