

**VOLUME II OF II**

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

**RECEIVED**

**Jun 17 2020**

Appeal from Charleston County

**SC Court of Appeals**

Honorable Jennifer B. McCoy, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

BYRON LABRON RIVERS,

APPELLANT

APPELLATE CASE NO 2019-001253

RECORD ON APPEAL

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1 THE COURT: Okay. I will allow the State to respond. Is  
2 there any testimony as to anything?

3 MR. LIETZOW: Are we revisiting that, Your Honor?

4 THE COURT: It is not a directed verdict motion though.  
5 He included I believe -- we can look about the transcript. In  
6 his directed verdict motion he sort of incorporated all of the  
7 armed robbery of the victims into one. So I guess technically  
8 he made that motion at the stage.

9 I am not really sure -- you know, at this point that  
10 motion was denied, so your objection is preserved for the  
11 record and with regards to this victim.

12 Possessions, I mean I believe the testimony was this was  
13 his home. Is that correct, Solicitor -- or, no, his brother's  
14 home?

15 MR. LIETZOW: Correct.

16 THE COURT: Okay. His brother's home. And I believe the  
17 testimony of several of the witnesses included that they were  
18 all -- or several them inside were forced to remove their  
19 pants, I think which is enough -- was enough evidence for me  
20 to conclude that they were all victims of an armed robbery.

21 MR. LIETZOW: May I add one ---

22 THE COURT: That would include the intent to deprive them  
23 of their possessions. Okay. What -- anything else you need  
24 to add to that, Mr. Lietzow?

25 MR. LIETZOW: I would just add that the testimony from

1 the witness stand beared out that the defendant -- the  
2 defendants were walking around filling a plastic bag with  
3 items belonging to the victims.

4 THE COURT: Right.

5 MR. LIETZOW: And I think that would also be evidence  
6 that an armed robbery occurred on all the individuals inside  
7 of the house.

8 THE COURT: Right. I mean I -- you know, again, it will  
9 be a jury questions on whether or not they find elements  
10 requisite to each victim.

11 And on that note, while we are talking about this, let's  
12 talk about verdict forms. Because the method I prefer when we  
13 have several counts of a charge involving different victims is  
14 to list the victim's name on the verdict forms. I think that  
15 is the clearest way to get an accurate verdict from the jury.

16 I think trying to confuse them with which indictment  
17 numbers match which victims gets very confusing and results in  
18 an unclear verdict. And I want to avoid that at all costs.

19 So for the verdict forms -- so, for example, on the  
20 verdict form -- and we will have a separate verdict form for  
21 each indictment.

22 It will say we the jury by unanimous consent find the  
23 defendant Byron Labron Rivers on the charge of armed robbery  
24 of, for example, Johnell Lamar Watson guilty or not guilty.  
25 And it will differentiate between each victim. That way same

1 with the two counts of the attempted murder. So that is how  
2 we plan to go forward. Just so you know that information. I  
3 think that makes it the clearest verdict.

4 Okay. So any objections to the Court doing that as  
5 proposed?

6 MR. LIETZOW: None from the State.

7 THE COURT: Okay. Any from the defense?

8 MR. MACK: Judge, no objection to listing the victim's  
9 names.

10 THE COURT: Okay. All right. Thank you very much. All  
11 right. Well, we will be at ease at least until 1:30.

12 (WHEREUPON, break to check on lunch for jury - flood issues  
13 causing road closures.)

14 MR. OSBORNE: Your Honor, if I may, just one issue. And  
15 I am sure Mr. Mack wouldn't do this, but for his closing to  
16 save us an objection I would ask the court to instruct him not  
17 to mention anything about Stacy Green already pleading and  
18 receiving a 30-year sentence. I didn't hear any evidence on  
19 the record that he could infer to the jury.

20 THE COURT: I didn't hear any evidence whatsoever about  
21 that. Were you planning on doing that?

22 MR. MACK: Judge, actually Detective Bailey testified  
23 that he spoke to Stacy Green. And I intend to reference that  
24 in my closing.

25 THE COURT: That he spoke to Stacy Green?

1 MR. MACK: Yes.

2 THE COURT: But not that he has already been convicted  
3 and sentenced; is that right?

4 MR. MACK: Yes.

5 THE COURT: Okay. So you don't intend to state that he  
6 has been convicted and sentenced to 30 years; ---

7 MR. MACK: Correct.

8 THE COURT: --- for the record? Okay. Thank you. All  
9 right. Anything else? We will be at ease, everybody. Why  
10 don't you check back in in about half an hour, okay. I will  
11 give you at least a half an hour.

12 (WHEREUPON, break 6/12/19, approximately 1:10 p.m.)

13 (WHEREUPON, resume 6/12/19, 1:45 p.m.)

14 THE COURT: I am going to allow the attorneys to come  
15 forward and review these verdict forms as printed one more  
16 time.

17 (WHEREUPON, attorneys review verdict forms.)

18 THE COURT: The State has rested. The defense is going  
19 to call any witnesses at this point in time?

20 MR. MACK: (Shakes head.)

21 THE COURT: Okay. Well, the jury will come in and I will  
22 allow the defense to rest, and I will of course have to of  
23 course dismiss them once again and then we will go from there.

24 We can have the jury come back in whenever they are  
25 ready.

1 (WHEREUPON, break awaiting jury.)

2 (WHEREUPON, jury enters 6/12/19, 1:50 p.m.)

3 THE BAILIFF: All right. Jurors are all present, Your  
4 Honor.

5 THE COURT: Thank you very much. Please be seated.

6 Okay. Ladies and gentlemen, the State has rested and we  
7 dismissed you. I hope you had enough time to eat the lunch  
8 that took a long time to get here from the weather if you  
9 ordered lunch. Sorry about that. But anyway we are doing the  
10 best we can given the circumstances.

11 And I have yet to appoint a foreperson; so, sir, tell me  
12 your jury number in the jacket here in the front closest to  
13 me.

14 THE FOREPERSON: Eighty-six.

15 THE COURT: Eighty-six. Lucky winner. Appointed the  
16 foreperson as a result of sitting in that chair right there.  
17 You don't have any additional duties in terms of -- you don't  
18 have an additional weight or anything like that with regards  
19 to jury deliberations at all. Your only added duty as the  
20 foreperson is that you will actually be the person to sign and  
21 date the verdict forms when we get to that stage of the trial.  
22 Other than that there is nothing else you need to do special.  
23 Okay. All right. Now the State has rested. Mr. Mack,  
24 any -- you may call your first witness.

25 MR. MACK: The defense has no witnesses, Judge.

1 THE COURT: Okay. The defense rests?

2 MR. MACK: Yes, the defense rests.

3 THE COURT: All right. Thank you very much.

4 Ladies and gentlemen, once again I am going to have to  
5 dismiss you from the courtroom at this point into the trial.  
6 There is one more matter I have got to discuss with the  
7 attorneys. This however will not last very long and we will  
8 see you back here in just a couple of minutes.

9 Okay. Thank you very much.

10 (WHEREUPON, jury exits 6/12/19, 1:51 p.m.)

11 THE COURT: Okay. I am happy to entertain any motions  
12 from either side at this point in time. Any from the State?

13 MR. LIETZOW: Nothing from the State, Your Honor.

14 THE COURT: Any from the defense?

15 MR. MACK: We renew all prior objections, Judge.

16 THE COURT: All prior objection and all prior motions ---

17 MR. MACK: Right.

18 THE COURT: --- are renewed for purposes of the record,  
19 and my prior rulings stand for the reasons stated previously  
20 in the record as well.

21 Now we will move on to the closing arguments and the jury  
22 charge portion of the trial. Who will be closing for the  
23 State?

24 MR. LIETZOW: I will, Your Honor.

25 THE COURT: All right. And who will be closing for the

1 defendant?

2 MR. MACK: That will be me, Judge.

3 THE COURT: Okay. All right. So obviously Mr. Mack will  
4 be entitled to last close today. And so Mr. Lietzow will  
5 start off. And you will close in full, Mr. Lietzow.

6 MR. LIETZOW: Yes, ma'am. Thank you.

7 THE COURT: All right. We can bring the jury back in  
8 here now. Are the attorneys ready to proceed?

9 MR. LIETZOW: The State is ready.

10 MS. NORRIS: The defense is ready, Judge.

11 THE COURT: Great. You can bring them back in here.  
12 They probably haven't even made it all the way back to the  
13 jury room.

14 (WHEREUPON, pause awaiting jury.)

15 (WHEREUPON, jury enters 6/12/19, 1:55 p.m.)

16 THE COURT: All right. Ladies and gentlemen, thank you  
17 very much. Welcome back. We have presented the evidence in  
18 this case, so it is now time for the attorneys to make their  
19 closing argument.

20 The arguments of the attorneys are not evidence in this  
21 case, ladies and gentlemen. Their statements and arguments  
22 are meant to help you understand the evidence and apply the  
23 law to the evidence. You should just disregard any remark,  
24 statement, or argument which is not supported by the evidence  
25 presented during the trial or the law that I will explain to

1 you after the arguments are over.

2 Now I will direct your attention to Mr. Lietzow.

3 MR. LIETZOW: Thank you, Your Honor. May it please the  
4 court.

5 **CLOSING BY MR. LIETZOW:**

6 Ladies and gentlemen, you don't go to the Macon unless  
7 you live there or you are looking for trouble. Byron Rivers  
8 went there that night on July 15, 2016, for a specific reason.  
9 He went there looking for trouble. He went there with evil  
10 and malicious intent. He went barging in to [REDACTED]  
11 Street guns blazing.

12 Kirby Fyall ended up dead. Antonio Fyall took a shot in  
13 the face that exited out of the back of his head. Johnell  
14 Watson took a round in the rear end. And everyone in that  
15 house was robbed at gunpoint. They were forced to take their  
16 pants off and lie down the ground while this man and his  
17 codefendant walked around the house helping themselves to  
18 items that didn't belong to them.

19 And you saw the witnesses and the victims that came in.  
20 To be frank, they were pissed. They told you that. They  
21 caught the man that had just killed their brother, that had  
22 just killed their cousin, that had just killed their friend  
23 and robbed them. And they tried to take a little bit of  
24 street justice.

25 Ladies and gentlemen, the real justice takes place in

1 this courtroom. You guys are the real justice that takes  
2 place in this system. And Byron River's action that night has  
3 consequences.

4 After my closing argument and the defense's closing  
5 argument Judge McCoy is going to charge you guys on the law  
6 and is going to give you an extensive reading of the law that  
7 applies in this case. But I will submit to you right now that  
8 the State has the burden of proving all of the charges in this  
9 case beyond a doubt.

10 What is beyond a reasonable doubt? Reasonable doubt is  
11 the kind of doubt that causes a reasonable person to hesitate  
12 to act. The law does not require proof that overcomes every  
13 possible doubt. That is not possible.

14 Beyond a reasonable doubt is evidence that leaves you as  
15 jurors firmly convinced of Byron Rivers' guilt. I submit to  
16 you that we will and have proved all of the charges in this  
17 case beyond a reasonable doubt.

18 Byron River is charged with murder. What is murder? It  
19 is the killing of another person with malice aforethought.  
20 Obviously the two elements, the two first elements speak for  
21 themselves, killing another person. So what is malice?

22 Malice is conduct that shows a total disregard for human  
23 life. It is evil intent. And it can also be shown when the  
24 deed is done with a deadly weapon.

25 We know that Byron Rivers murdered Kirby Fyall. When he

1 started firing his weapon that night inside of that house he  
2 had total and utter disregard for the lives of other people  
3 inside. He did not even have a regard for his own life  
4 because he ended up shooting himself in the leg.

5         When Kirby jumped up from behind that couch and rushed  
6 towards him Byron shot him three times, one time in the neck,  
7 once in the lung, and one in the back.

8         Take a look at the crime scene photos that you guys will  
9 have back with you when you are deliberating. Do you remember  
10 when Frederick Smalls told you that Kirby flipped the couch  
11 right before he was shot? You can see in those photos that  
12 the couch is flipped up and Kirby's body is right in line with  
13 where Frederick said it happened.

14         You saw the pictures of Kirby's wounds at the autopsy.  
15 And the doctor told you that he died from gunshot wounds and  
16 that was the result of a homicide.

17         And Chad Smith testified earlier this morning that those  
18 were hollow points that came out of Kirby Fyall at that  
19 autopsy. And I submit to you that you do not load your gun  
20 with hollow point rounds unless you are trying to kill whoever  
21 you are shooting with those hollow point rounds. They are  
22 designed to expand on impact and cause maximum damage.

23         One of the most important pieces of evidence that we have  
24 in this case are the two wool gloves that were recovered from  
25 both Byron Rivers and Stacy Green. And I will talk more about

1 the gloves later, but for right now I would ask why was Byron  
2 wearing a single wool glove on his right hand on a hot summer  
3 night in Charleston in July.

4 He didn't want to leave any evidence behind at the crime  
5 scene. He didn't want to leave his DNA at the crime scene.  
6 He didn't want to leave his fingerprints on anything at the  
7 crime scene. Because he came with malicious and evil intent.  
8 It didn't work out so well for him because his DNA was on the  
9 murder weapon. But those gloves are the very definition of  
10 evil and malicious intent.

11 And do you remember what Frederick Smalls told you guys  
12 about them coming in and not wearing masks? He told you where  
13 he comes from in the Macon when two guys come barging into a  
14 house with guns and they are not wearing masks everybody in  
15 that house is supposed to die. You are not suppose to leave  
16 any witnesses behind. Evil intent.

17 Byron Rivers is also charged with two counts of attempted  
18 murder, Antonio Fyall and Johnell Watson. And attempted  
19 murder is similar to murder in that attempted murder is  
20 attempting to kill another with the specific intent to kill  
21 that person.

22 As to Antonio Fyall, Byron Rivers burst into that door  
23 and shot Antonio Fyall in the face. You do not shoot somebody  
24 in the face unless you are trying to kill them. The bullet  
25 entered his face and came out of the back of his head.

1           You take a look at the crime scene photos and the crime  
2 scene sketch you will see that one of the projectiles was  
3 recovered on the front porch. I would submit to you that that  
4 is the projectile that went through Antonio Fyall's face and  
5 came out the back of his head. Right where he said he was  
6 when he opened that door and Byron Rivers walked in and shot  
7 him in the face.

8           And Dr. Privette came in and testified as the trauma  
9 surgeon who treated Antonio Fyall when he came to the  
10 hospital. She told you that he could have died from that  
11 wound. Any time you get a gunshot wound to the head it is the  
12 most serious situation. He came in as a Category A to the  
13 trauma team which does not get more serious than a Category A.

14           And she testified about the GCS, the glac- -- the GCS.  
15 We will call it that. The coma scale. And that runs from a  
16 three to a fifteen. Fifteen being what I would hope that I am  
17 right now and that all you guys are, fully alert and wholly  
18 conscious. Three would be a rock. It would be brain dead  
19 essentially.

20           When Antonio Fyall got to the hospital he was at a four,  
21 one step above brain-dead. She told you that his condition  
22 likely deteriorated between the time that he was shot and the  
23 time that he got to the hospital. As he lost blood, as that  
24 brain injury had time to set in, his condition deteriorated  
25 more and more. She mentioned that sometimes with a skiing

1 accident somebody can fall and an hour later they can drop  
2 dead from a brain injury.

3           And there is a lot of evidence about Antonio Fyall  
4 running around on the scene after getting shot in the head.  
5 And he even told you he didn't know what happened at first.  
6 His adrenaline was sky high when he got shot in the head.

7           But the doctor was clear that as the time progressed his  
8 condition got worse. And when he got to the hospital it was  
9 the most critical condition he could possibly be in. And he  
10 is lucky to be alive. And Byron Rivers definitely attempted  
11 to kill him.

12           Johnell Watson. Byron Rivers shot Johnell Watson in the  
13 rear end after he started shooting. And Dr. Privette also  
14 told you that the round could have killed Johnell Watson  
15 especially if it punctured his colon. Entered in through here  
16 (pointing). And there's a lot of very sensitive organs in  
17 this area, and the colon being one of them. And she said if  
18 that had been perforated he could have died.

19           And they never took that round out. He is going to carry  
20 that round around with him the rest of his life, and there is  
21 going to be a permanent reminder of what happened on this  
22 night.

23           And if I am being perfectly honest, I wish that Johnell  
24 Watson had come in to testify. That would have been nice.  
25 But you heard about the code of silence from Frederick Smalls.

1 And some of the boys on the streets in that area they live by  
2 that code and they don't tell law enforcement what happened.

3 But there was ample evidence. Frederick Smalls told you  
4 he saw Johnell Watson gets shot. And Dr. Privette told you  
5 that he suffered a gunshot wound as a result of the incident  
6 that happened and that that gunshot wound could have ended his  
7 life.

8 Byron Rivers is also charged with six counts of armed  
9 robbery; Kirby Fyall and Antonio Fyall, Theodore Fyall,  
10 Frederick Smalls, Johnell Watson, Sanquan Fyall, all six of  
11 those individuals were inside of the house when Byron Rivers  
12 and Stacy Green came storming in.

13 The elements of armed robbery are the taking and carrying  
14 away of the personal property of another with the intent to  
15 deprive them of possession by use of force, threats or  
16 intimidation while armed with a deadly weapon. I think this  
17 one speaks for itself.

18 Byron River and Stacy Green both barged into that house  
19 armed with guns. Bryon had his Hi-Point 9 mm. Stacy had his  
20 Walther 40 cal. And all six of those individuals were in the  
21 living room when they came storming in.

22 You heard testimony that Eleanor Delesline was in the  
23 back room. We are not presenting an indictment for her being  
24 in the house. We are just presenting indictments for the  
25 individuals that were in the living room when those

1 individuals came in.

2           And when Byron and Stacy entered that house they held  
3 them all at gun point. They forced them to empty their  
4 pockets. And even that wasn't enough. So they made them take  
5 off their pants, hand their pants over; and they made them get  
6 down on the ground and lie face down while Stacy Green walked  
7 around the house filling a bag full of items that belonged to  
8 the victims.

9           And then after shooting and killing Kirby they tried to  
10 make their escape. Byron shot himself in the leg, so he was  
11 unable to run out.

12           Stacy Green collected the bag that had all of the  
13 victim's belongings. He took the 9 mm that Byron Rivers just  
14 got done shooting the place up with and stuffed that 9 mm into  
15 that bag.

16           He then took his 40 caliber, held it in the other arm,  
17 and Byron Rivers climbed up onto his shoulders and Stacy Green  
18 carried Byron, the bag, and his gun out of the house trying to  
19 make their escape. Because the victims at this point are  
20 ticked off. They just got robbed, their cousin just got  
21 murdered, and they just got shot.

22           And you heard that as soon as Antonio took that round in  
23 the face he ran around the side of the house and he tried to  
24 kick through the glass window and he eventually was able to  
25 jump out of it. And he went to the neighbors and he said, yo,

1 they are robbing the house, they are shooting, we need help.

2 And Antonio Cummings came over with Antonio Fyall and the  
3 whole Macon welcoming committee came back with them and  
4 confronted those individuals, Byron Rivers and Stacy Green, as  
5 they were walking out of the house.

6 And Antonio Cummings confronted Stacy Green and Byron  
7 Rivers and said you guys aren't going anywhere, do you hear  
8 that, the police are coming, those are sirens.

9 And at that point Stacy Green had had enough. He had  
10 tried to help his man out. But at this point he is trying to  
11 save his own skin. So he dumps Byron Rivers onto the ground,  
12 takes that bag, throws it away. And he takes his Walther 40  
13 caliber and he throws it behind the trashcan. And then he  
14 takes off.

15 And what did that bag have in it? Detective Bailey  
16 testified and told you that that bag had the victims' pants  
17 inside of it. It had a TWIC card which belonged to Frederick  
18 Smalls. It had a PayPal card. It had some other  
19 miscellaneous items. And the most important item that that  
20 bag had was the Hi-Point 9 mm weapon.

21 Later Stacy Green was caught with Theodore Fyall's wallet  
22 and his identification card in his pocket. Remember Officer  
23 Fortier testified that at first that caused a little bit of  
24 confusion. They thought they had Theodore Fyall in custody.  
25 Once they got more information on the scene they got a better

1 understanding of what was happening. They put two and two  
2 together and realized that Stacy Green actually had belongings  
3 from the victims in his pocket from the armed robbery that  
4 they had just committed.

5 And you heard other evidence of some of the witnesses and  
6 the victims running around the streets in their boxers. Why  
7 aren't they wearing pants? Because these guys made them take  
8 their pants off so they could steal all of their belongings.

9 Byron River is also charged with burglary in the first  
10 degree. Elements of burglary are entering a dwelling without  
11 consent with the intent to commit a crime inside. And for  
12 burglary in the first degree there must be at least one  
13 aggravating circumstance that accompanies it. Some of the  
14 aggravating circumstances that apply in this case are that the  
15 burglary takes place at night time, that physical injury was  
16 caused by the people committing the burglary to  
17 nonparticipants of the crime, that the participant displayed a  
18 pistol or was armed with a deadly weapon.

19 A dwelling is simply the place where you sleep at night.  
20 It is the place where you keep your stuff. [REDACTED] Street  
21 is where Sanquan Fyall and where Antonio Fyall live. They  
22 told you that. And certainly when those individuals came  
23 barging in they did not have the consent to be there.

24 And every single one of those circumstances has been met,  
25 aggravating circumstance. And obviously they had the intent

1 to commit a crime inside. The first thing they did was shoot  
2 the man when he opened the door. And they robbed them. They  
3 shoot the place up. They kill Kirby. They shoot Antonio.  
4 They shoot Johnell. There was evidence of intent to commit a  
5 crime inside that house.

6 And finally Byron Rivers is charged with possession of a  
7 weapon during the commission of a violent crime. Elements of  
8 this charge are possessing a weapon. I would submit to you  
9 that that would be a firearm in this case. During a violent  
10 crime. And violent crimes in the State of South Carolina  
11 include murder, armed robbery, attempted murder, and burglary  
12 in the first degree.

13 All of the elements for all of these charges have been  
14 met. So why Byron Rivers? Well, there is an eyewitness  
15 identification. Byron Rivers is caught at the scene. Hand of  
16 one is the hand of all. The murder weapon had Byron Rivers'  
17 DNA on it. And Byron tells you in his own words on his jail  
18 call exactly what he did that night.

19 Eyewitness identification, starting with Frederick Cam  
20 Smalls. Frederick was out he told you celebrating his  
21 birthday on July 13th at the Lions Den, a club in North  
22 Charleston. And he sees Byron Rivers at that club with  
23 Sanquan Fyall's girlfriend Latoya Mack. Latoya Mack and  
24 Sanquan Fyall have a child together. And Frederick sees Byron  
25 Rivers at that club with Latoya Mack and another man. And it

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1 bothered him a little bit.

2 He even told Sanquan, hey, man, I saw your baby mama at  
3 the club with another guy. But that was the first time that  
4 he had ever seen Byron River. And then two days later on July  
5 15th he sees Byron Rivers shoot his friend in cold blood. He  
6 said, man, I reckon that that was the same guy from the club I  
7 saw from two nights before. And when he was on that witness  
8 stand he looked at Byron Rivers and said that is the man that  
9 killed Kirby Fyall. Unequivocally.

10 And Sanquan Fyall, you heard him on the officer body cam.  
11 You saw him. He was hysterical. He had just witnessed his  
12 family member be murdered in cold blood. And he had just been  
13 the victim of a violent home invasion. And he screamed out:  
14 That is the man that shot my brother, man; I stomped him.

15 And he pointed to the officers in the direction of Byron  
16 River in the location that Stacy Green had dropped him off.  
17 (WHEREUPON, play portion of video.)

18 Next, Bryon Rivers was caught at the scene. He is caught  
19 on the scene by the victims and their neighbors a block from  
20 where he had just committed murder.

21 You can see up there the icon where [REDACTED] Street  
22 was. And the witnesses and the officers testified where they  
23 made contact with Byron Rivers. And the witnesses told you  
24 where they dropped him off, where Stacy Green dropped him off  
25 before Stacy tried to make his escape. He was caught less

1 than a scene -- less than a block from where he had just  
2 committed murder.

3         And those witnesses are all emotional, like I have been  
4 mentioning over and over again. In fact, those witnesses and  
5 those victims just witnessed what I would say is one of the  
6 most horrifying things another -- another human being can do  
7 to another human being. They had just seen their loved one  
8 and their family member get murdered in cold blood. And they  
9 are all saying that is the guy right there that killed Kirby  
10 and did this do them.

11         When police got there all of those witnesses were saying  
12 that is the man right there, pointing at Byron Rivers. The  
13 hand of one is the hand of all. This is a very important  
14 principle that Judge McCoy will give you more detail at the  
15 close of this case. But I would like to draw your attention  
16 to a few points on the hand of one is the hand of all.

17         When two or more people act together to commit a crime in  
18 the State of South Carolina the act of one is the act of all.  
19 A person who joins with another to accomplish something  
20 illegal is criminally responsible for everything done by the  
21 other person which occurs as a consequence.

22         Two people can be guilty of killing another person when  
23 only one of the two had a gun, there was only one bullet, and  
24 only one of the two fired the shot that caused the death.

25         If two or more people are together, acting together,

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1 assisting each other in committing the offense, the hand of  
2 one in the State of South Carolina is the hand of all.

3       Byron Rivers and Stacy Green acted together from the very  
4 beginning. They came into that house together. Both were  
5 armed. They acted in concert with each other. They both  
6 robbed the victims together.

7       After Byron River shot himself in the leg Stacy Green  
8 tried to help him escape. Multiple witnesses told you that  
9 Stacy Green carried Byron Rivers out of that house on his  
10 shoulders. But once Antonio Cummings confronted Green and  
11 said you ain't going anywhere Green had had enough and dropped  
12 Stacy -- or I mean dropped Byron and then he ran off.

13       I submit to you that Byron Rivers is the shooter in this  
14 case. He is the one that ended Kirby Fyall's life. He is the  
15 one that shot Antonio Fyall and Johnell Watson. But if you  
16 have any doubt about that when you are back in the jury room  
17 deliberating remember the hand of one is the hand of all, so  
18 everything that Byron Rivers did that night Stacy Green owns.  
19 And everything that Stacy Green did that night Byron Rivers  
20 owned. Because they were acting together.

21       Mr. Mack stood up in opening and told you that in this  
22 case, in this case, the hand of one is only the hand of one.  
23 Remember about those gloves I mentioned earlier, Byron Rivers  
24 and Stacy Green literally shared one pair of gloves in this  
25 case.

1           It is July. It is hot out. They get to that crime scene  
2 and they realize, oh, man, we only have one pair of gloves;  
3 well, here, you take one; here, you take one. And they both  
4 put it on their right hand. They shared a pair of gloves that  
5 night to cover their tracks, and they share the responsibility  
6 equally for what happened that night.

7           Let's talk about the Hi-Point 9 mm, the murder weapon.  
8 The layout of the crime scene and what was collected in the  
9 living room that night around Kirby Fyall's body is very  
10 important. What was not collected is also important.

11           Take a look at State's Exhibit 152. Anita Moore drew a  
12 crime scene sketch of where all of the important pieces of  
13 evidence in this case were located.

14           And you heard testimony that when a semi-automatic gun  
15 fires a bullet the projectile is the object that goes down the  
16 barrel at the intended target and the shell casing is the  
17 object that gets shot out of the side of the gun.

18           Take a look at the evidence collected at the scene.  
19 There are multiple projectiles recovered. One is recovered on  
20 the front porch, Item Number 15.

21           Chad Smith, the firearms expert testified that that round  
22 was consistent with a nominal 38. It was consistent with a  
23 380 or a 9 mm. Item Number 23 was a bullet that was found in  
24 the couch. That is also consistent with a 9 mm. Two bullets  
25 were recovered from Kirby Fyall at autopsy in the chest, in

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1 the back. Both of those bullets were consistent with a 9 mm.

2 All of the shell casings collected on that scene  
3 including the 380 were all definitively fired by that Hi-Point  
4 9 mm pistol.

5 What was not recovered on the scene? The single 40  
6 caliber shell casing. The Walther hadn't even been fired. It  
7 had an eight-round capacity magazine. And when it was  
8 recovered it had seven rounds in the magazine and one round in  
9 the chamber. When the Hi-Point was recovered it was  
10 completely empty; Byron Rivers pulled that trigger until that  
11 gun ran dry.

12 All the shell casings were fired by that gun found on the  
13 scene. And the projectile that killed Kirby Fyall were  
14 consistent with having been fired by that gun. So I would  
15 argue that that is the murder weapon in this case. And you  
16 heard evidence and testimony that Byron Rivers' DNA was on the  
17 trigger and the handle of the murder weapon.

18 Who had which gun, I have already talked about that. I  
19 would argue that Stacy Green threw his Walther behind the  
20 trashcan and after Byron Rivers shot himself and killed Kirby  
21 and shot the whole place up he collected that gun, put it in  
22 the trash bag, and they ran out of the house.

23 And there was testimony that that bag was recovered on  
24 the scene by some individuals and eventually it got to Rickey  
25 Fyall. And Rickey Fyall was a little hesitant to testify,

1 didn't remember certain items. But what he was consistent  
2 with was that he gave that bag to Detective Bailey because he  
3 thought it was the right thing to do. He told you he didn't  
4 plant any evidence on that gun.

5         Once they got that weapon Detective Bailey immediately  
6 sent it to Anita Moore who collected swabs from the trigger  
7 and the grip to try to test to see if they could find some DNA  
8 on it.

9         Detective Bailey took a buccal swab from everybody  
10 involved in this case including Byron Rivers. And they sent  
11 that gun to SLED and that DNA swab to SLED, and that SLED  
12 agent Sara Goodman testified that that was Byron Rivers' DNA  
13 on the trigger and the grip of the murder weapon that killed  
14 Kirby Fyall.

15         But don't take my word for it. We've proved to you that  
16 Byron is guilty. Take his word for it. Listen to what he  
17 says on those jail calls.

18         And look, I get it; on that jail call, a little bit hard  
19 to understand. We have arranged to have headphones available  
20 for you back in the jury room if you feel like that will  
21 assist you in listening to that jury call -- or that jail  
22 call. Don't hesitate to ask for that.

23         And when you listen to that call carefully you can tell  
24 who he is talking to on that phone. He is talking to his  
25 getaway driver that night, the driver of that white Chrysler

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1 that several of the witnesses told you that Stacy Green and  
2 Byron Rivers were trying to get to after they had committed  
3 that crime.

4 Uzi. Brandy White told you it was Uzi. Byron Rivers had  
5 a contact in his phone, Uzi. Uzi was the getaway driver that  
6 night.

7 And I have had the benefit of listening to that call a  
8 hundred times. Investigators in the office, prosecutors in  
9 the office, we have all listened to it over and over again.  
10 And I see some of you were taking notes. And let me make it  
11 easier for you. If you go to 2:20 to 2:30 on that call Byron  
12 says bro (sic) was carrying me ---

13 MR. MACK: Judge, objection.

14 THE COURT: Approach.

15 (WHEREUPON, bench conference 6/12/19, 2:28 p.m.)

16 THE COURT: Thank you so much. Please continue.

17 2:20 to 2:30 bra (ph) was carrying me. Byron Rivers just  
18 tells you how Green carried him out of the house and helped  
19 him make a getaway.

20 (WHEREUPON, publish portion of audio.)

21 Bra was soldiering on. He was carrying me. From 4:02 to  
22 4:06 Byron Rivers says somebody tried to grab me. I let off  
23 pow, pow, pow.

24 (WHEREUPON, publish portion of audio.)

25 4:56 to 5:04, he leave me right there, tried to run off

1 himself.

2 (WHEREUPON, publish portion of audio.)

3 9:13 to 9:49 Byron says -- I'm sorry, Uzi says both of  
4 y'all been shooting or something. And then Bryon says, nah,  
5 it was not even, man; man had a full clip at the end of the  
6 day.

7 (WHEREUPON, publish portion of audio.)

8 (WHEREUPON, publish portion of audio again.)

9 There is another part in that call where Byron says man  
10 was acting fooly; I let off pow, pow, pow.

11 You can have that jail call and listen to it over and  
12 over again. But if you listen to those clips that I just gave  
13 you Byron tells you in his own words what happened that night.

14 I would like to take this opportunity to talk about a few  
15 of the points that Mr. Mack made in his opening statements.  
16 And one of the tactics in this case that the defense engaged  
17 in was distractions.

18 The defense's job is to focus on all of the things that  
19 aren't there that don't exist. That strategy is designed to  
20 distract you from the things that do exist and the things that  
21 are there that are in the midst.

22 And the fact is the evidence points to one conclusion,  
23 that Byron Rivers is guilty of all the charges that the State  
24 of South Carolina has charged him with.

25 The defense mentioned in the opening that Byron went

1 there to buy drugs from the victims. Judge McCoy is going to  
2 tell you in a minute that nothing Mr. Osborne said in his  
3 opening statement is considered evidence, nothing Mr. Mack  
4 said in his opening statement is considered evidence, and  
5 nothing that is being said right now is considered evidence.  
6 The evidence that you can consider is the evidence that came  
7 from that witness stand. And you did not hear a single  
8 witness testify that Byron Rivers went to that house with the  
9 intention of buying drugs from anybody in that house.

10           Byron Rivers went to that house to commit an armed home  
11 invasion that turned deadly. And they did have drugs in the  
12 house. There was a scale, a little baggie of cocaine, a  
13 little baggie of marijuana. Kirby has some marijuana in his  
14 system at the autopsy. It is what it is. I never told you  
15 that these people were saints.

16           What is the point of introducing this evidence? Is it to  
17 somehow suggest that these victims were bad people and because  
18 of that they deserve to die? I don't know.

19           But the reason that I did object to that evidence coming  
20 in was because that evidence served only one purpose and that  
21 was to distract you from the elements and the evidence in this  
22 case that actually mattered.

23           And in Mr. Mack's opening he said that Stacy Green was  
24 the shooter, that Stacy Green ended up shooting Byron. This  
25 is certainly not our position. Our position's that Byron

1 Rivers was the shooter and the only shooter that night.

2 Mr. Mack said Kirby popped up from behind the couch after  
3 Byron Rivers told Stacy Green to look under it for more of the  
4 victim's stuff and then when Kirby pushed the couch Stacy  
5 Green ended up shooting him.

6 Why would the witnesses and the victims chase down Byron  
7 Rivers like they did if Stacy Green was the shooter? Antonio  
8 Cummings chased down Stacy Green and held him, but all of the  
9 other witnesses were focused on Byron Rivers. They were the  
10 ones that were hysterical, screaming, emotion, that is the man  
11 that shot our brother.

12 You saw a clip of Stacy Green in the back of Officer  
13 Fortier's police cruiser. And in that clip Stacy Green says  
14 the man shot himself in the leg. Talking about Byron.  
15 (WHEREUPON, publish portion of audio.)

16 And I know that is hard to listen to and hear, and you  
17 will have headphones if you want that for that as well.

18 And then there is Sanquan's excited utterance where he  
19 said, hey, man, you just killed my brother; I stomped him.  
20 Talking about Rivers. Not talking about Green.

21 Byron Rivers tells you in his jail call that he was the  
22 one that shot, that at the end of the day that man Stacy Green  
23 had a full clip.

24 And if Stacy shot everyone and shot Byron why in the  
25 world would he try to help Byron escape? He would run out of

CLOSING BY MR. LIETZOW

1 there and save himself. But he didn't. He tried to help his  
2 friend out. Just another reason they were acting as the hand  
3 of one is the hand of all. But when you are in the raw  
4 emotional state like Sanquan, Antonio, Frederick, Theodore all  
5 were, you know they are telling the truth. They don't have  
6 the mental capacity to create some fabrication or make up some  
7 lie about what happened.

8 And Stacy Green's DNA wasn't on the murder weapon. He  
9 didn't have GSR particles. The gun he threw behind the  
10 trashcan, the Walther, left no shell casings on the scene.  
11 There was no evidence that gun had been fired.

12 And let's say you still don't believe all of that. Let's  
13 say that for some reason you do believe that Stacy Green  
14 pulled the trigger. And that is why the hand of one and the  
15 hand of all in the State of South Carolina is so important.  
16 They acted together. So if you do buy that Byron River's  
17 wasn't the shooter and Stacy Green was, Byron Rivers still  
18 owns everything that Stacy Green did that night.

19 And Mr. Mack made a big deal about the fact that the  
20 witnesses or the victim said that the whole incident lasted  
21 seven to ten minutes. And for those people inside of the  
22 house it probably felt like a lifetime to them. It probably  
23 seemed like 30 minutes. And I seriously doubt any of them hit  
24 a timer on their watch on their cell phone when the two guys  
25 came barging in. And even if they had, Byron and Stacy would

1 have stolen it from them anyway. But what felt like seven to  
2 ten minutes for them, who knows. It could have been an  
3 eternity. It could've been two minutes, three minutes. The  
4 timeline is designed to distract you.

5 And the defense would have you believe that there is a  
6 conspiracy in this case, a conspiracy to convict Byron Rivers  
7 of all of these charges and the prime piece of evidence for  
8 that would be that the DNA on the murder weapon was  
9 contaminated or planted.

10 Rickey told you that he didn't plant any evidence on that  
11 bag and he gave it to Bailey because it was the right thing to  
12 do.

13 Nothing in that bag that the gun came with belonged to  
14 Byron Rivers. So there is no cross-contamination that could  
15 have occurred. His pants were not in that bag. His pants  
16 were recovered on the scene when EMS had to take them off.

17 And Byron Rivers left his blood on the scene. The DNA  
18 analyst was real clear that the DNA that was found on that  
19 weapon wasn't blood DNA, it was touch DNA. So there is no way  
20 that somebody could have taken Byron's blood and planted it on  
21 the trigger or the handle of the gun anyways.

22 And, seriously, did it look like anyone on the scene had  
23 the sophistication or the mental ability or the time or the  
24 desire to contaminate or fabricate or plant evidence?

25 To suggest that one of them somehow got particles of DNA

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1 from Byron Rivers and then meticulously and carefully planted  
2 it right on the trigger and the handle where somebody's hand  
3 would be on the gun is foolish.

4 Those people were not looking to create some conspiracy  
5 against Byron River. They were looking to get some revenge  
6 for Byron River in the form of beating up Byron Rivers,  
7 holding him there until the police got there.

8 And they didn't have time to join lines and figure out a  
9 way that they could pin this all on Byron. The police got  
10 there real quickly. And when police got there there was  
11 hysteria. Everybody was saying this and that and that is the  
12 man that stomped -- that is the man that shot Kirby.

13 One in thirty-two billion I believe is the DNA expert's  
14 testimony about Byron Rivers mistakenly DNA being on that gun.  
15 To suggest that one of those witnesses somehow contaminated or  
16 planted that DNA is only designed to distract you, take your  
17 attention away from what actually matters in this case.

18 And all of those victims and witnesses came in and told  
19 what happened from different perspectives. Another reason you  
20 know that this wasn't a grand conspiracy is if all of them  
21 had come in and given the exact same statement from beginning  
22 to end it would have seemed rehearsed. It would have seemed  
23 like they had planned it. And that's not what happened. They  
24 all came in, and from their vantage point they told you what  
25 they saw what they remembered. And you should be suspicious

1 if they came in and said something that lined up from end --  
2 from start to end. That is not what happened.

3 The defense's job is to focus on the things that are not  
4 there, that don't exist. That is their strategy. It is  
5 designed to distract you from what is there, what does exist.

6 And the fact is, the overwhelming evidence proves that  
7 Byron Rivers is guilty of committing murder, two counts of  
8 attempted murder, six counts of armed robbery, one count of  
9 burglary in the first-degree, and one count of possession of a  
10 weapon during commission of a violent crime.

11 None of these witnesses had any reason to lie. You saw  
12 how emotional and you saw how raw they were. They had just  
13 lost a loved one and they were victims of one of the most  
14 brutal things that one human can do to another human being.  
15 And they were all consistent with one thing. When the police  
16 got there they said that is the man that killed Kirby.

17 The forensic evidence backs up exactly what they said.  
18 The forensic evidence in this case is what it is. And that is  
19 that that Hi-Point .9 millimeter was the gun that ended Kirby  
20 Fyall's life and was the gun that shot Antonio Fyall and  
21 Johnell Watson; and the forensic evidence is that that man's  
22 DNA was on where the business end of that gun is, the grip and  
23 the trigger.

24 And remember when you share a pair of gloves at a crime  
25 scene you share responsibility for what goes on at that crime

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1 scene. Wearing a single glove in July is evil intent. Find  
2 Byron Rivers guilty. Hold him accountable for his actions.  
3 Thank y'all.

4 THE COURT: Mr. Mack.

5 MR. MACK: Thank you, Judge.

6 **CLOSING BY MR. MACK:**

7 Summertime in the Macon, and the usual suspects are  
8 there. Nashishi Walker, Antonio Cummings, Leutonia Traxler,  
9 and Drit (ph). They are walking up and down Leland Avenue,  
10 probably high, scored a rock off the Fyall boys.

11 Byron Rivers, Stacy Green, don't pay them much mind.  
12 They are headed in the same direction, [REDACTED] Avenue.  
13 Byron Rivers has 50 bucks in his pocket. Just got paid. His  
14 work stub is in the other pocket. The schedule for the next  
15 week is on that work stub. They either walked there or maybe  
16 they got dropped off by a car. It doesn't really matter. But  
17 they are headed in that same direction.

18 Byron Rivers has a Walther PPS 40 caliber in his  
19 possession. He may or may not be wearing a black glove.  
20 Definitely does not have a mask. Stacy Green has a Hi-Point 9  
21 mm in his possession. He may or may not have a glove. His  
22 dreads are hanging over his eyes in his face.

23 What do they do? They walk to the front door of [REDACTED]  
24 [REDACTED]. Through the door they can hear laughter, guys having  
25 a good time, maybe the sound effects from a video game. And

1 they knock on that door. The door opens. They step inside.  
2 Walk closer to the kitchen. And some words are exchanged.  
3 They talk about a deal. Frederick Smalls goes back into the  
4 kitchen. He is going to cut up some coke and put it into a  
5 bag.

6 MR. LIETZOW: Objection, Your Honor.

7 THE COURT: Sustained.

8 MR. MACK: And as they are waiting there there is a scale  
9 on the stove. Somebody was in the kitchen. But the scale and  
10 some coke. And as they are waiting there in the living room  
11 somebody recognizes him from the Lion's Den two days prior.  
12 He is the guy Byron Rivers who was talking to Latoya, Sanquan  
13 Fyall's baby mamma, the mother of his children who used to  
14 live under his roof and no longer does.

15 No deal goes down that day. An argument starts. And it  
16 escalates. Kirby Fyall attacks Byron Rivers in that living  
17 room. Flips the couch. Stacy Green has no idea what is going  
18 on. He has one thought in his head, crack cocaine.

19 So he unloads that 9 mm Hi-Point; and Byron Rivers hears  
20 pop, pop, pop, everybody get down on the ground and take off  
21 your pants.

22 Stacy Green leaps over the couch and runs back in the  
23 bedroom. He pulls a pillow off of the bed, rips the  
24 pillowcase off, runs back inside ---

25 MR. LIETZOW: Objection, Your Honor.

CLOSING BY MR. MACK

1 THE COURT: I am going to need to see you all at the  
2 bench, please.

3 (WHEREUPON, bench conference 6/12/19, 2:49 p.m.)

4 THE COURT: Thank you.

5 MR. MACK: Grabs a bat. Runs back into the living room  
6 and starts picking up pants.

7 When he fired those shots Byron Rivers hit the ground.  
8 So did Stacy Green -- or, I'm sorry, so did Kirby Fyall. He  
9 hits Antonio Fyall as he is running for the window and Johnell  
10 Watson sees him. He starts grabbing what he can off the  
11 floor.

12 He feels guilty for shooting Byron Rivers, the man he  
13 showed up with. He throws him on his back, puts that 9 mm in  
14 the bag and grabs the Walther PPS that Byron Rivers dropped on  
15 the floor, and he exits that living room.

16 Cash in the bottom drawer dresser. The Crown Royale bag  
17 is untouched. Stacy Green has no drugs in his possession. He  
18 makes it out with a TWIC card, Theo Fyall's wallet, a couple  
19 of debit cards, cell phone, and some pants.

20 His guilt for Byron Rivers only makes it about half a  
21 block. Because when he hears sirens he drops him right there  
22 and he keeps running. He is headed for the train tracks.  
23 Antonio Cummings is on his tail, and Deputy Fortier was not  
24 far behind.

25 Byron Rivers is getting bludgeoned on the front steps or

1 not far from [REDACTED]. Meanwhile Antonio Cummings -- I'm  
2 sorry, Antonia Fyall is running through the living room  
3 cleaning up a crime scene, picking up cocaine and throwing it  
4 in the tote in the living room. Who knows what else he grabs.

5 Ladies and gentlemen, that is the story of Kirby Fyall's  
6 death and Byron Rivers' visit to death's doorstep. You don't  
7 have to believe the whole story. And Byron Rivers doesn't  
8 have to explain it.

9 But if that story puts a reasonable amount of doubt in  
10 your mind you cannot convict that man. I told the State this  
11 story was coming in my opening. And they have presented no  
12 evidence from you to doubt otherwise.

13 Even beyond that story there is a whole lot of doubt in  
14 this case, ladies and gentlemen. This theory that Byron River  
15 shot himself in the crotch, take a look at those pants. There  
16 is a bullet hole here (pointing) and a bullet hole here  
17 (pointing).

18 And then he shoots Kirby three times in the chest, snipes  
19 Antonio Fyall who is running for the window and then Johnell  
20 Watson? Hard to believe. You heard the doctor testify his  
21 pelvis was shattered.

22 So why would the alleged victims make up this story?  
23 Because they are drug dealers.

24 MR. LIETZOW: Objection.

25 THE COURT: Overruled.

CLOSING BY MR. MACK

1           MR. MACK: That simple. With a litany of convictions of  
2 trying to avoid new arrest warrants, trying to catch a break  
3 on pending charges. And it worked. No charges were brought  
4 against those individuals being in possession of drugs. No  
5 charges were brought against those individuals for the  
6 attempted murder of Byron River. At the hands with a  
7 sledgehammer and at the foot of Sanquan Fyall.

8           Only half of them showed up. Only one of them cared  
9 enough to stick around for a day. Uncle Rickey, a man who  
10 meant well, wanted to do the right thing, didn't even stick  
11 around.

12           These guys were pissed. That is what the solicitor said.  
13 Richard Smalls said it himself, Kirby Fyall doesn't have a  
14 voice and that is why he showed up today. He is exactly  
15 right, Kirby Fyall is dead. And that is very unfortunate. At  
16 the hands of Stacy Green.

17           But his brother, Sanquan Fyall, has a voice. His friend,  
18 Johnell Watson, has a voice. And Johnell Watson's girlfriend  
19 Eleanor Delesline has a voice.

20           None of them showed up to testify in this case. Why?  
21 Because the State doesn't want you to know how their stories  
22 don't align with those who testified.

23           You cannot trust a single bit of testimony that came out  
24 of that house. All you can trust is a handful of first  
25 responders. Deputy Fortier deserves an award. You do not

1 hear that often from public defenders.

2 She chased down the murder suspect in this case on foot,  
3 put him in cuffs in the back of her cop car with the  
4 wherewithal to turn on the camera facing the back seat where  
5 if you listen closely you will hear Stacy Green say I don't  
6 want to go back to jail.

7 He knows that camera is on. This isn't the first time he  
8 has been in a cop car.

9 MR. LIETZOW: Objection, Your Honor.

10 THE COURT: Sustained.

11 MR. MACK: In Stacy Green's flight path first responders  
12 find the loot, Byron's 40 caliber Walther PPS, the gun that  
13 didn't fire a shot. No shell casing was found on the scene.

14 Also if you count Uncle Rickey as a first responder, he  
15 finds a bag in Stacy Green's path with the alleged murder  
16 weapon, that Hi-Point 9 mm along with the belongings of the  
17 people inside.

18 So what has the State got? A couple of pretty good  
19 arguments. They have got a SLED report that says Byron's DNA  
20 is on the trigger of that Hi-Point 9 mm with two other  
21 unidentified individuals. They got a SLED report that only  
22 focuses on the shell casings inside of the house and makes no  
23 account for the bullets.

24 In my opening I told you to ask yourselves that question  
25 when you heard their argument, and their expert couldn't

CLOSING BY MR. MACK

1 testify to where those bullets the projectiles came from,  
2 which gun was fired.

3 A jail call, Number 3, a jail call from Byron's former  
4 lover -- or sorry, a jail call introduced by Byron's former  
5 lover, a negative gunshot residue showing Stacy Green's gloved  
6 right hand and a still photo from a body worn camera of Byron  
7 wearing the glove.

8 Those are their best arguments. Five of them. And we  
9 are going to address them all in order. It is going to take a  
10 bit. But this is too important.

11 SLED report saying Byron's DNA is on the trigger of the 9  
12 mm with two identified individuals. That gun was hidden from  
13 the police. In a case where witnesses have testified to  
14 tampering with evidence. Antonio Fyall told you himself he  
15 went back through that murder scene and hid evidence.

16 None of the people who were in possession of that 9 mm  
17 before Rickey Fyall testified during the course of this trial.  
18 The State said and Rickey Fyall said he wanted to do the right  
19 thing. But do not put it past him to put DNA evidence on a  
20 trigger. He is the uncle of known felons.

21 MR. LIETZOW: Objection, Your Honor.

22 MR. MACK: He told him ---

23 THE COURT: Sustained. Please strike the last statement  
24 made by the defense attorney. Facts not in evidence.

25 MR. MACK: The victims of this crime have convictions on

1 their record. They have been through the system. They know  
2 how DNA works.

3 We have crime scene detective too -- sorry, crime scene  
4 forensics detective, Moore, testified. She means well. She  
5 doesn't have a dog in this fight. Don't put it past her to  
6 mess up buccal swabs either. Woman said she made a mistake,  
7 she put the wrong date on the buccal swab for the DNA on that  
8 gun.

9 She said a lot of evidence was in this case. She had a  
10 hard time keeping track. Who is to say she didn't mix up the  
11 buccal swabs herself. That DNA could have come from anywhere.  
12 You heard the DNA expert testify; sweat, saliva, blood.

13 While we are on Detective Moore there are a couple of  
14 other issues I would like to bring to your attention in terms  
15 of forensics. That living room was about the size of this  
16 jury box. You will not see a single bullet hole in any of  
17 those pictures presented into evidence.

18 The autopsy expert said the next shot passed through.  
19 Antonio Fyall said and the doctor said that that shot went  
20 through his head.

21 What are they hiding? There was not a single picture in  
22 evidence that shows you the wall, which door was located in  
23 that living room. The curtains are all drawn. The wall far  
24 on the side is not pictured either. Shell casings are all  
25 over that living room. The State mentioned one in the

1 doorway. There is one on the couch, and there are shell  
2 casings all around Kirby Fyall's body. Just a sidebar along  
3 the forensics.

4 Back to my list. Number two, SLED report that only  
5 focuses on shell casings and does not identify guns shot from  
6 bullets. Again, we have no idea how many guns were in that  
7 house. We have five unidentified bullets. You could have had  
8 or we could have had as many as seven guns including the  
9 Walther PPS and the Hi-Point .9 mm inside to that house.

10 Any one of those weapons could have been removed by the  
11 victims in this case; Rickey Fyall, Antonio Traxler, Nashishi  
12 Walker, Antonio Fyall.

13 Moving on to Number 3, a jail call introduced by Byron's  
14 former lover. This one is easy. We have no idea who was on  
15 that phone. The person on the call identifies themselves as  
16 DJ. And he reads off Bryan Rivers' arrest warrants and  
17 affidavits. That is information that is easily accessible at  
18 the jail. That is information that if you wanted to tomorrow  
19 you could go down to the first floor, Clerk of Courts Office,  
20 in this building and acquire yourself.

21 So what does the State do, they bring in Britney White.  
22 She identifies Byron's voice. The woman likely upset that  
23 Byron broke it off with her for Latoya Mack. Sanquan Fyall's  
24 baby mamma.

25 Detective Bailey is not an expert on SIM Cards, but he

1 stood up there -- sat up there and told you that he was able  
2 to download the contact information from Byron Rivers' phone  
3 which had a 9 mm bullet hole through the center and on -- or  
4 in that contact information he located the name Uzi. That was  
5 his testimony. You will not see a single screenshot of a  
6 computer showing you the name Uzi, a single report to that  
7 regard.

8           Who is this guy? I would certainly like to know. Don't  
9 be fooled by Brittany White's testimony too. She said her  
10 number twice. She never said Uzi's number.

11           If I had his number right now I would probably call it  
12 after this trial. I would like to know who he is. And I bet  
13 if we called his number he would testify that that call never  
14 took place, that he has no idea who Byron Rivers is or what  
15 happened on July 15th, 2016. I guarantee it.

16           Did the State call Uzi? No. They had his number.

17           Number 4, negative gunshot residue for Stacy Green's  
18 gloved right hand. Another easy one. Ladies and gentlemen,  
19 it is very difficult to take GSR on a gloved hand.

20           Detective Bailey is not a expert in GSR either. It's not  
21 rocket science though. It just takes a little bit of sweat,  
22 brushing up against your clothes, maybe the carrying of  
23 another person, for that stuff to brush off.

24           And you saw Stacy Green in the back of that cop car. He  
25 is sweating profusely. It is dripping down his face. He just

CLOSING BY MR. MACK

1 ran for his life from a murder scene. Deputy Fortier is on  
2 his tail.

3 Nobody else was tested for GSR. Not Sanquan Fyall, not  
4 Johnell Watson, not Theo Fyle, not Antonio Fyall, not  
5 Frederick Smalls, and not Byron Rivers.

6 You heard a lot about buccal swab from Detective Bailey.  
7 He made sure to take everybody's. He wanted to keep track of  
8 everybody's DNA that was inside of that house. But he said it  
9 himself, he felt he did not need to take GSR. He already had  
10 his mind made up. He already had his theory. He said he had  
11 enough evidence in the case.

12 Finally, saved the best for last. Still photo from a  
13 body worn camera of Byron Rivers wearing a black glove. That  
14 is the best statement due -- that is their best argument. And  
15 if it looked like I was surprised when they introduced that  
16 evidence it is because I was.

17 All of those binders, incident reports from police  
18 officers, there was an ocean of blue lives on the scene that  
19 day all wearing cameras and the best they can do is a blurry  
20 of one individual who was passing by Byron Rivers and said to  
21 another cop, hey, that looks important, somebody should grab  
22 that.

23 Not one of the other cop's body cam videos captured a  
24 photo of that glove. Not for one person who was inside of  
25 that house said Byron Rivers was wearing a glove.

1           Not any of the cops from North Charleston Police  
2 Department who were milling around at that crime scene said  
3 Byron Rivers was wearing a black glove. Nobody. Not Sanquan  
4 Fyall, not Johnell Watson, not Theo Fyall, not Antonio Fyall,  
5 not Frederick Smalls, and not Eleanor Delesline.

6           Byron Rivers, just stand up for us. Hold out your hand.  
7 (WHEREUPON, Mr. Rivers complied.)

8           That is a massive hand. Those are kid gloves. They  
9 wouldn't fit my little sister. This case is a mess. As I  
10 told you, the State's theory does not clean it up. It makes  
11 matters worse.

12           This is a killing at the hands of Stacy Green. The man  
13 arrested with the guns and the loot in his flight path. The  
14 man with the dreadlocks, the man who lost his cool during a  
15 drug deal gone bad.

16           MR. LIETZOW: Objection. Facts not in the record.

17           THE COURT: Sustained. Continue.

18           MR. MACK: The man who spoke with Detective Bailey the  
19 night of the incident, the conversation for which we have no  
20 details. Not how long, not what was discussed, not whether he  
21 confessed. The man who acted not as the hand of all, but as  
22 the hand of one was Stacy Green.

23           THE COURT: Thank you very much. Ladies and gentlemen,  
24 now would normally be the time when I would read you the  
25 charge and the law on the case. However, I have been apprised

1 that there are court personnel that the Clerk of Court here,  
2 Julie Armstrong, has decided due to the inclement weather and  
3 the flooding conditions downtown that the courthouse will be  
4 closing at 3:30 this afternoon very shortly here in about 20  
5 minutes.

6 It would take me longer than that to read you the law of  
7 the case. And then of course you would have to deliberate.  
8 So what I am going to do is ask you to come back once more in  
9 the morning. At that point in time I will then charge you on  
10 the applicable law and I will let you retire to deliberate on  
11 this case.

12 I am going to release you now for the afternoon and ask  
13 that you come back at 9:15. I am going to instruct you once  
14 again do not discuss the case. Don't look anything up. Don't  
15 conduct any indepent research whatsoever about these parties  
16 or the attorneys representing them.

17 And once again, we will dismiss you to the hands of the  
18 bailiffs and we will see you back here at nine -- excuse me,  
19 9:15.

20 (WHEREUPON, jury exits 6/12/19, 3:12 p.m.)

21 THE COURT: Thank you. We will be at ease until 9:15.

22 (WHEREUPON, recess for the day due to weather, 6/12/19, 3:13  
23 p.m.)

24 (WHEREUPON, resume 6/13/19, 9:18 a.m.)

25 THE COURT: Anything from the State or the defense before

1 we bring the jury back in to begin the charge?

2 MR. LIETZOW: No, ma'am. Thank you.

3 MR. MACK: No, Judge.

4 THE COURT: All right. You have already had an  
5 opportunity to review the charge and the verdict forms. They  
6 are the same as they were yesterday the last time you reviewed  
7 them. But if you need another opportunity you can at this  
8 time.

9 MR. MACK: Nothing.

10 THE COURT: Okay. All right. We can bring the jury back  
11 in then whenever you are ready.

12 THE BAILIFF: Yes, ma'am.

13 (WHEREUPON, jury enters 6/13/19, 9:23 a.m.)

14 THE COURT: Good morning, ladies and gentlemen. Thank  
15 you once again for being so prompt this morning. And I am  
16 sorry for yesterday's weather delay so to speak. But better  
17 safe than sorry when you are Downtown. I understand there are  
18 some areas that flood around the high traffic zone, so I  
19 understand why the clerk made a decision to close the  
20 courthouse when she did.

21 We will now move on to the last phase of the trial,  
22 ladies and gentlemen. This is the portion when I will charge  
23 you on the law that is applicable to this case.

24 You will notice that I will be reading you this law,  
25 ladies and gentlemen. And it is lengthy. The reason that I

## CHARGE ON LAW

1 read it is to state the law as accurately as possible, okay.

2 **CHARGE ON LAW:**

3 All right. Ladies and gentlemen, it now becomes my duty  
4 as trial judge under the constitution of this state to charge  
5 and instruct you as to the law applicable to this case. It is  
6 your duty as jurors to accept and apply the law as the court  
7 will now state it to you in your exclusive duty to determine  
8 the effects, the value, the weight, and the credibility of the  
9 evidence.

10 Both the State and Mr. Rivers have a right to expect that  
11 you will conscientiously consider and evaluate the evidence  
12 and apply the law of the case thereto and to that end both  
13 parties will receive and obtain a fair and impartial trial in  
14 this case.

15 When I use the word defendant I refer to Mr. Byron Labron  
16 Rivers. The defendant here has been accused in what we call  
17 indictments. Each indictment is a piece of paper on which  
18 accusations against the defendant are placed. They are not  
19 exhibits. You will have a number of exhibits in this case,  
20 and those are part of the evidence in the case.

21 The indictment in this case allege multiple offenses  
22 against the defendant. The charges are: One count of murder,  
23 two counts of attempted murder, six counts of armed robbery,  
24 one count of burglary in the first degree, and one count of  
25 possession of a weapon during the commission of a violent

1 crime.

2 Each indictment charges a separate and distinct offense.  
3 You must decide each indictment separately on the evidence and  
4 the law applicable to it, uninfluenced by your decision as to  
5 any other indictment.

6 The defendant may be convicted or acquitted on any or all  
7 of the offenses charged. You will be asked to write a  
8 separate verdict of guilty or not guilty for each indictment.

9 Now to these indictments the defendant has rendered a  
10 plea of not guilty which then places upon the State the burden  
11 of proving beyond a reasonable doubt that the defendant is  
12 guilty.

13 In this state and in this country a person who is accused  
14 with the commission of a criminal offense is never required to  
15 come in and prove himself or herself innocent. This principle  
16 of law is called the presumption of innocence. Each of you is  
17 required under our law and by your oath to actively presume  
18 that the defendant is not guilty.

19 The presumption of innocence is maintained at all times  
20 throughout the trial of this case. It is removed when and if  
21 the State brings in enough evidence to persuade you beyond all  
22 reasonable doubt that the defendant is guilty.

23 So what is reasonable doubt? A reasonable doubt is a  
24 doubt which makes an honest, sincere, conscientious juror  
25 hesitate to act.

1           Proof beyond a reasonable doubt is proof that leaves you  
2 firmly convinced of the defendant's guilt. There are very few  
3 things in this world that we know with absolute certainty.  
4 And in criminal cases the law does not require proof that  
5 overcomes every possible doubt.

6           If based on your consideration of the evidence you are  
7 firmly convinced that the defendant is guilty of the crimes  
8 charged you must find him guilty.

9           If on the other hand you think there is a real  
10 possibility that he is not guilty you must give him the  
11 benefit of the doubt and find him not guilty.

12           Reasonable doubt may arise from evidence which is in the  
13 case or from the lack of or absence of evidence in the case.  
14 It is up to you, ladies and gentlemen, to determine whether a  
15 reasonable doubt exists as to the guilt of this defendant.

16           I charge you that the defendant is entitled to every  
17 reasonable doubt arising in the whole case. If upon any issue  
18 of fact essential to conviction in a verdict of guilty you  
19 have a reasonable doubt as to how that issue should be  
20 resolved it would be your duty to resolve that reasonable  
21 doubt in favor of the defendant.

22           Now as the sole fact finders in this case you should have  
23 listened closely to the evidence that was presented. Weighing  
24 the evidence is entirely a mental process. You must weigh the  
25 evidence using your good judgment and your common sense.

1 Ladies and gentlemen, cases can be presented or evidence  
2 can be presented in one of two ways, direct evidence or  
3 indirect evidence which is also called circumstantial  
4 evidence.

5 Direct evidence is when someone comes in and testifies to  
6 the commission of a crime that they perceive through their own  
7 senses, for example, if a witness saw someone commit a crime.  
8 Indirect evidence or circumstantial evidence is when someone  
9 testifies as to different events that occur and when you link  
10 all of them together they point to the commission of a crime.

11 One or both methods can be used to present a case.  
12 Crimes may be proven by circumstantial evidence. The law  
13 makes absolutely no distinction between the weight or value to  
14 be given to either direct or circumstantial evidence, nor is a  
15 greater degree of certainty required of circumstantial  
16 evidence than of direct evidence.

17 You should weigh all of the evidence in the case. To the  
18 extent that the State relies on circumstantial evidence the  
19 law says it has to meet a certain test. First, the State has  
20 to prove each event or circumstance it relies on beyond a  
21 reasonable doubt. Additionally, these facts must point  
22 conclusively to the guilt of the accused beyond a reasonable  
23 doubt and they must be wholly perfectly consistent with each  
24 other in every particular respect.

25 The mere fact that the circumstances brought out in a

1 case are strongly suspicious of guilt or the circumstances are  
2 such that a defendant's guilt is probable is not enough. If  
3 these circumstances merely portray a defendant's behavior as  
4 suspicious the proof has failed. It is not sufficient to  
5 sustain a conviction. Because the proof offered by the State  
6 has to be more than suspicion. It has to be more than someone  
7 being probably guilty. It has to be proof that satisfies you  
8 beyond a reasonable doubt.

9         The State has the burden of proving the defendant guilty  
10 on all charges beyond a reasonable doubt. This burden rests  
11 with the State regardless of whether the State relies on  
12 direct evidence, circumstantial evidence, or some combination  
13 of the two.

14         The evidence you are to consider consists of the  
15 testimony of the witnesses and the exhibits that have been  
16 offered and received during the trial.

17         Objections and rulings in matters that may have been  
18 excluded from the record are not to be considered by you in  
19 any fashion. If it appears to you that I have so commented  
20 during either the trial or the giving of the instructions you  
21 must disregard such comment entirely.

22         Also the remarks of the attorneys are not evidence.  
23 Their statements and their arguments are intended to help you  
24 understand the evidence and apply the law. You should  
25 disregard any remark, statement, or argument which is not

1 supported by the evidence or the law as given to you by the  
2 court.

3 I instruct you and I emphasize that the fact that the  
4 defendant did not testify is not a factor to be considered by  
5 you in any way in your deliberations and in your consideration  
6 of the question of the defendant's guilt or innocence. It  
7 must not be considered by you in any manner whatsoever.

8 A defendant has the constitutional right to remain silent  
9 and the assertion of this right must not be considered by you  
10 in your deliberations. I repeat, you are to draw no  
11 conclusion whatsoever from the fact that the defendant in this  
12 case did not testify. The fact that this defendant did not  
13 testify should not even be discussed in the jury room.

14 The burden of proof, as I have stated to you, is on the  
15 State. The defendant is not required to prove his innocence.  
16 The burden of proof remains on the State to prove guilt beyond  
17 a reasonable doubt.

18 So how do you decide the facts of this case? You do it  
19 through the exercise of your good judgment, your common sense,  
20 and your sense of logic and reason and your experiences in  
21 everyday life.

22 Every day in our lives you judge credibility. You make  
23 decisions with regard to whether people are believable,  
24 persuasive, convincing or not. You do the same thing as a  
25 juror.

1           In deciding believability you may consider the witness's  
2 manner and appearance, was he or she straightforward or  
3 hesitant in answering, was the testimony of a witness  
4 consistent or inconsistent, how did the witness come to know  
5 the facts that he or she testified to or what was his or her  
6 ability to know these facts, is there some reason a witness  
7 would want to give testimony which would help or hurt one side  
8 or the other. In other words, was the witness biased or  
9 prejudiced.

10           In making this determination you may consider whether a  
11 particular witness has a motive to testify favorably for one  
12 party versus the other. Thus, you may consider whether a  
13 particular witness may gain some other reward, payment,  
14 personal advantage, or vindication through testimony.

15           In determining the question of credibility or  
16 believability of a witness you may believe one witness as  
17 against several witnesses or several witnesses as against one.  
18 You may believe a part of the testimony of one witness and  
19 reject the remaining part of that witness's testimony.  
20 Likewise, you may believe the testimony of a witness in its  
21 entirety or reject the same witness's testimony in its  
22 entirety.

23           You are to consider all of the evidence in this case and  
24 determine what you believe to be the facts of this dispute.

25           Now the rules of evidence ordinarily do not permit

1 witnesses to testify to opinions or conclusions. An exception  
2 as we discussed during this trial to this rule exists for  
3 witnesses we call expert witnesses. A witness who by  
4 education and experience has become an expert in some art,  
5 science, profession, or calling may state an opinion as to  
6 relevant and material matter in which the witness claims to be  
7 an expert and the reasons for that opinion.

8         You can -- you should consider any expert opinion  
9 received in evidence in this case and like any other evidence  
10 give it the weight you think it deserves.

11         If you decide that the opinion of an expert witness is  
12 not based on sufficient education and experience or if you  
13 conclude that reasons given in support of the opinion are not  
14 sound or that the opinion is outweighed by other evidence you  
15 may disregard the opinion entirely.

16         An expert witness's testimony is to be given no greater  
17 weight than that of any other witnesses simply because the  
18 witness is an expert. Further, you are not required to accept  
19 an expert's opinion even though it is not contradicted.

20         If you believe there has been evidence presented that a  
21 witness has made prior statements which are not consistent  
22 with the witness's present testimony you may use this evidence  
23 to decide whether to believe this witness. You may also use  
24 evidence of the earlier contradictory statements to determine  
25 the truth of those statements.

1           It is up to you to decide whether to believe the earlier  
2 statements or the testimony given at trial. If a witness is  
3 shown to have knowingly testified untruthfully concerning any  
4 material matter you may consider this in determining whether  
5 to trust the witness's testimony as to any other matter. You  
6 may also reject all testimony of that witness or give all or  
7 part of the testimony the weight you think it deserves.

8           A person who has a past criminal record is competent to  
9 testify during the trial. A past record does not affect the  
10 ability of that witness to testify. The past record may only  
11 be considered by you if at all in determining the witness's  
12 believability. Remember, you are the sole judges of the facts  
13 in the case and the believability of any and all of the  
14 witnesses.

15           Now as the presiding judge in this trial I am the sole  
16 judge of the law in this case, and it is your duty as jurors  
17 to accept and apply the law as I will now state it to you.

18           As I have already told you, you are given a wide latitude  
19 in regard to determining believability and determining the  
20 facts in the case. When it comes to the law though you have  
21 to accept the following legal principles as I will now give  
22 them to you.

23           You obviously can't change the law. You must take the  
24 law as I give it to you. You find the facts as you see them  
25 and apply the law to those facts. And that is the way you

1 reach your verdict.

2       In order to establish criminal liability criminal intent  
3 is required. For example, the mental state required to be  
4 proven by the State for a particular crime might be purpose,  
5 intent, knowledge, recklessness, or criminal negligence.

6       Criminal intent must be proven by the State beyond a  
7 reasonable doubt. Criminal intent is always a matter that  
8 must be determined by the jury from the circumstances  
9 surrounding the situation.

10       There is no way to prove intent to a mathematical  
11 certainty. There is no way medical science can dissect a  
12 person's brain and determine what the person had in mind. So  
13 the law says criminal intent may be inferred from the  
14 circumstances shown to have existed. This is how you make a  
15 determination of whether the element requiring intent was  
16 present.

17       It is not necessary to establish intent by direct and  
18 positive evidence. Intent may be established by inference in  
19 the same way as any other acts, by taking into consideration  
20 the act of the parties and all the facts and circumstances of  
21 the case.

22       Criminal intent is a mental state, a conscious  
23 wrongdoing. It is up to you to determine what the defendant  
24 intended to do based on the circumstances as shown to have  
25 existed.

1           In this case the defendant is charged with murder of  
2 Kirby Fyall. Section 16-3-10 of the South Carolina Code  
3 defines murder as the killing of any person with malice  
4 aforethought either expressed or implied.

5           The State must prove beyond a reasonable doubt that the  
6 defendant killed another person with malice aforethought.  
7 Malice is hatred, ill will, or hostility towards another  
8 person. It is the intentional doing of a wrongful act without  
9 just cause or excuse and with an intent to inflict an injury  
10 or under circumstances that the law will infer an evil intent.

11           Malice indicates a formed purpose and design to do a  
12 wrongful act under circumstances that exclude any legal right  
13 to do it.

14           Further, there must be malice aforethought which means  
15 that the malice must have been conceived in the mind of the  
16 defendant prior to the act producing the fatal result.

17           The word aforethought is easily understood to refer to  
18 the time when the evil is conceived. The law does not require  
19 that the malice must exist for any appreciable length of time  
20 before the commission of the act. It may be conceived at the  
21 very moment the action is taken which results in the death of  
22 another.

23           Therefore, there must be a combination of the previous evil  
24 intent and the act.

25           Malice aforethought may be expressed or inferred. The

1 terms expressed and inferred do not mean different kind of  
2 malice but merely the manner in which the malice may be shown  
3 to exist. This is either by direct evidence or by inference  
4 from the facts and circumstances which are proved.

5       Expressed malice is shown when a person speaks words  
6 which express hatred or ill will for another or when the  
7 person prepared beforehand to do the act which was later  
8 accomplished. For example, lying in wait for a person or any  
9 other acts of preparation going to show that the deed was  
10 within the defendant's mind would be expressed malice.

11       Malice may be inferred from conduct showing a total  
12 disregard for human life. If facts are proved beyond a  
13 reasonable doubt sufficient to raise an inference of malice to  
14 your satisfaction this inference would be simply an  
15 evidentiary fact to be considered by you the jury along with  
16 other evidence in the case and you may give it such weight as  
17 you find it should receive.

18       If malice is present in the mind of the one doing the  
19 killing any length of time before the act then its presence  
20 would be sufficient to render the killing murder.

21       As I previously stated, criminal intent is a necessary  
22 element of the crime of murder and that must be proved by the  
23 State beyond a reasonable doubt.

24       Criminal intent is always a matter that must be  
25 determined by the jury from the circumstances surrounding the

1 situation, so the law states that criminal intent may be  
2 inferred from the circumstances shown to have existed. This  
3 is how the jury makes a determination of whether or not the  
4 element requiring an intent was present.

5       The State is not required to prove motive. Although the  
6 presence or absence or -- or of evidence of motive may be  
7 considered in making your determination in this case.

8       Criminal intent is a state of mind that operates jointly  
9 with an act in the commission of a crime. Intent includes  
10 those consequences which, A, represent the very purpose for  
11 which an act is done, or, B, are known to be substantially  
12 certain to result regardless of desire.

13       Criminal intent is a mental state, a conscious  
14 wrongdoing. It is up to you the jury to determine what the  
15 defendant intended to do based on the circumstances shown to  
16 have existed.

17       I tell you that the State must prove criminal intent as  
18 it must prove every other element beyond a reasonable doubt.

19       This -- excuse me, the defendant is also charged with the  
20 attempted murders of Antonio Shamar Fyall and Johnell Lamar  
21 Watson.

22       An attempt is an effort to accomplish a crime which does  
23 not succeed. An attempt includes the specific intent to do a  
24 particular criminal act along with an act falling short of the  
25 act intended.

1           The State must show more than the mere preparation and  
2 intent; there must be some overt act committed in the effort  
3 to commit the crime.

4           Intent means intending the result which actually occurs.  
5 Not accidentally or involuntary. Intent may be shown by acts  
6 and conduct of the defendant in other circumstances from which  
7 you may naturally and reasonably infer intent.

8           In order to prove the defendant is guilty of attempted  
9 murder beyond a reasonable doubt the State must prove the  
10 defendant attempted to kill another person or persons with  
11 malice aforethought either expressed or implied.

12           Once again, malice is hatred, ill will, or hostility  
13 towards another person. It is the intentional doing of a  
14 wrongful act without just cause or excuse and with an intent  
15 to inflict an injury or under circumstances that the law will  
16 infer an evil intent.

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

23           Again, malice aforethought may be express or inferred.  
24 The terms expressed and inferred do not mean different kinds  
25 of malice but merely the manner in which malice may be shown

1 to exist. That is either by direct evidence or by inference  
2 from the facts and circumstances which are proved.

3 Expressed malice is shown when a person speaks words  
4 which express hatred or ill will for another or when the  
5 person prepared beforehand to do an act which was later  
6 accomplished. For example, once again, lying in wait for a  
7 person or any other acts of preparation going to show that the  
8 deed was within the defendant's mind would be expressed  
9 malice.

10 If facts are proved beyond a reasonable doubt sufficient  
11 to raise an inference of malice to your satisfaction this  
12 inference would -- it would be simply an evidentiary fact to  
13 be considered by you along with the other evidence in the case  
14 and you may give it the weight you decide it should receive.

15 Specific intent to kill is an element of attempted  
16 murder. Intent means intending the result which actually  
17 occurs. Not accidentally or involuntary.

18 Intent may be shown by acts of conduct of the defendant  
19 and other circumstances from which you may naturally and  
20 reasonably infer intent.

21 Evidence of the character of the act, the purpose to be  
22 accomplished, and the resulting wounds or injuries may be  
23 considered in determining the intent with which the act was  
24 committed.

25 Intent may also be inferred when it is demonstrated that

1 the defendant voluntarily and willfully commits an act the  
2 natural tendency of which is to destroy another's life.

3 The defendant is also charged with the armed robberies of  
4 Frederick Smalls, Johnell Lamar Watson, Kirby Fyall, Antonio  
5 Shamar Fyall, Theodore Gerard Fyall, and Sanquan Fyall.

6 In order to prove these offenses the State must first  
7 prove beyond a reasonable doubt that the defendant took  
8 personal property from the person or presence of another  
9 person. The property is in the presence of a person if it is  
10 within the person's reach, inspection, observation, or control  
11 so that the person could if not overcome with violence or  
12 prevented by fear keep possession of the property.

13 The State must also prove beyond a reasonable doubt that  
14 the defendant carried the property away intending to  
15 permanently deprive the owner of the property and to keep the  
16 property for the defendant's own use. The slightest removal  
17 of the property or the complete possession of the property  
18 even for an instant by the defendant is sufficient to show a  
19 taking and carrying away of the property.

20 The taking and carrying away the property must have been  
21 done with violence or by putting the owner of the property in  
22 fear of violence.

23 Finally, the State must prove beyond a reasonable doubt  
24 that the defendant was armed with a deadly weapon during the  
25 robbery.

1           A deadly weapon is any article, instrument or substance  
2 which is likely to cause death or great bodily harm. Whether  
3 an instrument has been used as a deadly weapon depends on the  
4 facts and circumstances of each case. A gun is an example of  
5 a deadly weapon. A gun may also be a deadly weapon even if it  
6 is not operating.

7           The defendant is also charged with one count of  
8 first-degree burglary. The State must prove beyond a  
9 reasonable doubt that the defendant entered into a dwelling  
10 without consent.

11           A dwelling is any building or portion of a building in  
12 which a person ordinarily sleeps. A building constructed as  
13 the dwelling that has never been occupied cannot be considered  
14 a dwelling for purposes of burglary. But a building is a  
15 dwelling even if the residents are temporarily absent from the  
16 building.

17           In order to prove that the defendant entered the dwelling  
18 the State does not have to show that the defendant's entire  
19 body entered the dwelling. The smallest entry is sufficient.  
20 It may be any part of the body such as the hand or foot or  
21 even an instrument such as a hook or other instrument.

22           In addition, the State does not have to prove that the  
23 force -- that force was used to gain entry. If a person  
24 enters a building by using deception, artifice, trick, or  
25 misrepresentation to get consent to enter this is an entry

1 without consent.

2       Next the State must prove beyond a reasonable doubt that  
3 the defendant intended to commit a crime, either a felony or  
4 misdemeanor, at the time of the entry. The mere entry into a  
5 dwelling without consent is not burglary. If the intent to  
6 commit a crime is formed after the entry it is not burglary.

7       On the other hand, if the defendant intended to commit a  
8 crime at the time of the entry it is a burglary even if the  
9 intent was abandoned after the entry. It does not matter that  
10 the intended crime was not completed.

11       Intent may be shown by acts and conduct of the defendant  
12 and other circumstances from which you may naturally and  
13 reasonably infer intent.

14       Finally, the State must prove beyond a doubt that when  
15 entering while in the dwelling or when fleeing the defendant  
16 or an accomplice was armed with a deadly weapon or explosive.

17       A deadly weapon is any article, instrument, or substance  
18 which is likely to cause death or great bodily harm. Whether  
19 an instrument has been used as a deadly weapon depends on the  
20 facts and circumstances of each case. A gun is a deadly  
21 weapon. And a gun may be a deadly weapon even if it is not  
22 operating.

23       The State must prove beyond a reasonable doubt that when  
24 entering, while in the dwelling, or when fleeing the defendant  
25 or an accomplice caused physical injury to anyone not

1 participating in the crime.

2       The State must prove beyond a reasonable doubt that when  
3 entering, while in the dwelling, or when fleeing the defendant  
4 or an accomplice displayed what was or appeared to be a knife,  
5 a pistol, revolver, rifle, shotgun, machine gun or other  
6 firearm.

7       Finally, the defendant is also charged with possession of  
8 a weapon during the commission of or attempt to commit a  
9 violent crime.

10       The State must prove beyond a reasonable doubt that the  
11 defendant was in possession of a firearm or visibly displayed  
12 what appeared to be firearm during the commission of a violent  
13 crime.

14       A firearm means any machine gun, automatic rifle,  
15 revolver, pistol, or any weapon which will, is designed to, or  
16 may be readily converted to expel a projectile.

17       In order to find the defendant guilty of possession of a  
18 weapon during the commission of a violent crime you must first  
19 find that the defendant is guilty of either committing a  
20 violent crime or attempting to commit a violent crime.

21       Murder, attempted murder, armed robbery, and first-degree  
22 burglary are violent crimes in South Carolina. The State must  
23 prove beyond a reasonable doubt that the weapon furthered,  
24 advanced, or helped in the commission of the violent crime.

25       If a crime is committed by two or more people who are

1 acting together in committing a crime the act of one is the  
2 act of all. A person who joins with another to commit an  
3 unlawful act is criminally responsible for everything done by  
4 the other person which happens as a probable or natural  
5 consequence of the acts done in carrying out the common plan  
6 and purpose.

7 For example, two people can be guilty of killing another  
8 person when only one of the two had a gun, where there was  
9 only one bullet, and only one of the two fired the shot that  
10 caused the death.

11 If two or more people are together acting together  
12 assisting each other in committing the offense the act of one  
13 is the act of all. Or as it is sometimes said, the hand of  
14 one is the hand of all.

15 Prior knowledge that a crime is going to be committed  
16 without more is not sufficient to make a person guilty of that  
17 crime. Mere knowledge that another person is going to commit  
18 a crime even if the defendant is present when the crime is  
19 committed is not sufficient to convict the defendant as the  
20 principle.

21 Guilt as a principle is shown by actual or constructive  
22 presence at the scene as a result of prior arrangement.  
23 Therefore a finding of a prior arranged plan or common scheme  
24 is necessary for a finding of guilt as a principle.

25 The State must prove beyond a reasonable doubt by

1 competent evidence the theory of the hand of one is the hand  
2 of all.

3 A principle in a crime is one who either actually commits  
4 the crime or who was present aiding, abetting, or assisting in  
5 committing the crime.

6 When a person does an act in the presence of and with the  
7 assistance of another the act is done by both. Where two or  
8 more acting with a common plan or intent are present at the  
9 commission of a crime it does not matter who actually commits  
10 the crime. All are guilty. The hand of one is the hand of  
11 all.

12 Present at the commission of a crime means to be  
13 sufficiently near to aid and abet and assist in the commission  
14 of the crime. However, mere presence at the scene of a crime  
15 is not sufficient to convict one as a principle on the theory  
16 of aiding and abetting.

17 Intent is also a necessary element. For there must have  
18 been a common design or intent to commit the crime and the  
19 crime must have been committed pursuant thereto with the  
20 person aiding and abetting by some overt act.

21 Intent means intending the results which naturally --  
22 which actually occurs. Not accidentally or involuntarily.  
23 Intent may be shown by acts and conduct of the defendant and  
24 other circumstances from which you may naturally and  
25 reasonably infer intent. The State must prove these elements

1 beyond a reasonable doubt.

2       Like I just mentioned, mere presence at the scene is not  
3 sufficient to prove someone guilty of a crime. A defendant's  
4 presence where a crime is being committed or mere association  
5 with a person who commits a crime does not make a defendant an  
6 accomplice or an aider and abettor of the person committing  
7 the crime.

8       The burden is on the State to prove every element of the  
9 crimes charged. If you find after reviewing all of the  
10 evidence that the State has proved that the defendant was only  
11 present at the scene of the crime and that they have not  
12 proved beyond a reasonable doubt any other participation in  
13 the crime then you must find the defendant not guilty.

14       The law is that proof of at the scene of the crime is not  
15 -- proof of being at the scene of the crime is not sufficient  
16 to find someone guilty.

17       Ladies and gentlemen, you are not partisans or advocates  
18 for the State of South Carolina or this defendant. You do not  
19 serve as jurors to reward friends or punish enemies. You have  
20 been selected by both the State and this defendant as fair and  
21 impartial jurors. It is your duty then by your joint  
22 deliberations to determine the facts in this case giving to  
23 this defendant the benefit of every reasonable doubt. Then  
24 you take and you apply the law which has been given to you by  
25 this court to the facts which you have determined to be and

1 thus you arrive at a verdict.

2       When you have accomplished this and you have written your  
3 verdicts you will have satisfied your oath as jurors and you  
4 will have discharged your duty to the State, to Mr. Rivers,  
5 and to the court.

6       Now there are several possible verdicts which you may  
7 find in this case. And there's no significance whatsoever in  
8 the order in which I state these possible verdicts. It is  
9 simply that one may be stated first.

10       You will have several verdict forms with you in the jury  
11 room, which I will hand to the bailiffs shortly. There is a  
12 separate verdict form for each indictment.

13       Each verdict form allows you to find the defendant either  
14 guilty or not guilty. You will check the appropriate line and  
15 then you will -- the foreperson will then sign the verdict  
16 form and date it. When you have completed these you will  
17 knock on the jury room door and inform the bailiff.

18       Ladies and gentlemen, your verdict must be unanimous,  
19 meaning all 12 of you must agree. Mr. Foreperson, once again,  
20 when the jury agrees on the verdicts in this case you will  
21 indicate by checking the line next to the verdict and signing  
22 your name. You will then knock on the door of the jury room  
23 and inform the bailiffs that you have reached a verdict. At  
24 that time we will receive you back into the courtroom.

25       Ladies and gentlemen, I will now ask that you return to

1 your jury room but do not yet begin deliberations until you  
2 are told to do so by either the clerk or the bailiff.

3 There are some matters which I must discuss with these  
4 attorneys once more before you begin your deliberations. And  
5 I will now release you to the hands of the bailiffs.

6 And please separate the two alternates.

7 THE CLERK: Yes, ma'am.

8 (WHEREUPON, jury exits courtroom 6/13/19, 9:52 a.m.)

9 THE COURT: Please be seated.

10 Any exceptions or objections to the charges read by the  
11 court from the State?

12 MR. LIETZOW: Judge, the only thing that I was thinking  
13 about was we elected to indict Mr. Rivers under burglary first  
14 for the nighttime and/or causing violence inside the house.  
15 And I don't think Your Honor mentioned the nighttime provision  
16 to the jury. And that is one thing that I would ask that you  
17 include in the jury charge.

18 THE COURT: Okay. Obviously we didn't catch that  
19 yesterday when we all went over ---

20 MR. LIETZOW: Yes, ma'am.

21 THE COURT: --- that yesterday together when you had the  
22 opportunity to do that. That would have been appreciated at  
23 that time. But you have had time to review it.

24 All right. Mr. Mack, do you want to respond? Any  
25 objection to me recharging and adding in the nighttime

1 element?

2 MR. MACK: Yes, of course, Judge.

3 THE COURT: So you object to that.

4 MR. MACK: They had their opportunity to review ---

5 THE COURT: It is the law ---

6 MR. MACK: --- the jury charge.

7 THE COURT: --- in South Carolina; however, and I do find  
8 it would be appropriate to include that as part of the  
9 elements. So I do find it necessary for me to recharge that  
10 one portion of the jury charge. Of course I will also  
11 recharge -- let me review that portion.

12 (WHEREUPON, pause for court's review of charge.)

13 THE COURT: I am not going to recharge it. I think you  
14 have waived your right to have me recharge it yesterday when  
15 we went through this yesterday, frankly. And, you know, we  
16 are going to have to go forward with what we had. All right?

17 MR. LIETZOW: Understood. Thank you.

18 THE COURT: So your objection is noted for the record.

19 All right, Mr. Mack, any objections or exceptions from  
20 the defense to the charges read from this court?

21 MR. MACK: No objection.

22 THE COURT: All right. Yeah, I think, you know, we had a  
23 whole charging conference. We didn't bring it up then. I am  
24 not inclined to recharge. And I think it would be prejudicial  
25 at this point to recharge one particular section.

1           So with that, any other objections that I need to note  
2 before we get the evidence and the verdict forms to the jury?

3           MR. LIETZOW: Nothing from the State, Your Honor.

4           MR. MACK: Just renew all previous objections ---

5           THE COURT: Sure. Yeah -- yes, all previous objections,  
6 motions made or renewed on behalf of the defense. And I stand  
7 by my previously ruling to all of those. But you have renewed  
8 them at every stage of the trial. So appreciate your  
9 attention to that.

10           Now let's see. If the attorneys could come forward and  
11 assure that the evidence that goes back to the jury is the  
12 correct evidence I would appreciate that. I will also hand  
13 the verdict forms.

14 (WHEREUPON, exhibits reviewed by attorneys 6/13/19, 9:57 a.m.)

15 (WHEREUPON, clerk presents evidence and verdict form to jury,  
16 6/13/19, 10:05 a.m.)

17 (WHEREUPON, resume 6/13/19, 10:47 p.m.)

18           THE COURT: Thank you. Please be seated.

19           All right. We received a note which we will mark as the  
20 next court exhibit.

21           THE COURT REPORTER: Number 3.

22 (WHEREUPON, Court's Exhibit Number 3, jury note, marked for  
23 identification.)

24           THE COURT: Court's Exhibit 3 states for armed robbery  
25 does any item technically have to be taken from the

1 individual. And then it says are we able to ask if it was  
2 determined whose pants were found outside of the house.

3 So in response to Question Number 1 I will recharge them  
4 on the armed robbery portion of the charge, the entire armed  
5 robbery portion.

6 And then obviously as to their second question I would  
7 tell them that they have all the evidence in the case, that I  
8 cannot answer any questions regarding factual issues.

9 All right. So we can bring the jury in.

10 (WHEREUPON, pause awaiting jury.)

11 (WHEREUPON, jury enters 6/13/19, 10:49 a.m.)

12 THE COURT: Be seated please.

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

14 THE COURT: All right. Thank you. Ladies and gentlemen,  
15 we received your note. There is sort of a two-part question  
16 on there. The first part says for armed robbery does any item  
17 technically have to be taken from the individual.

18 I will now recharge you on that portion of the charge,  
19 okay. So listen carefully.

20 The defendant is also charged with the armed robberies of  
21 Frederick Smalls, Johnell Lamar Watson, Kirby Fyall, Antonio  
22 Shamar Fyall, Theodore Gerard Fyall, and Sanquan Fyall.

23 In order to prove these offenses the State must first  
24 prove beyond a reasonable doubt that the defendant took  
25 personal property from the person or presence of another

1 person. The property is in the presence of a person if it is  
2 within the person's reach, inspection, observation, or control  
3 so that the person could if not overcome with violence or  
4 prevented by fear keep possession of the property.

5 The State must also prove beyond a reasonable doubt that  
6 the defendant carried the property away intending to  
7 permanently deprive the owner of the property and to keep the  
8 property for the defendant's on use. The slightest removal of  
9 the property or the complete possession of the property even  
10 for an instant by the defendant is sufficient to show a taking  
11 and carrying away of the property.

12 The taking and carrying away the property must have been  
13 done with violence or by putting the owner of the property in  
14 fear of violence.

15 Finally, the State must prove beyond a reasonable doubt  
16 that the defendant was armed with a deadly weapon during the  
17 robbery.

18 A deadly weapon is any article, instrument or substance  
19 which is likely to cause death or great bodily harm. Whether  
20 an instrument has been used as a deadly weapon depends on the  
21 facts and circumstances of each case. A gun is an example of  
22 a deadly weapon. A gun may also be a deadly weapon even if it  
23 is not operating.

24 As to the second part of your question which states are  
25 we able to ask whose pants were found outside of the house,

1 ladies and gentlemen, you have all of the evidence in this  
2 case. I cannot answer any specific factual question other  
3 than to tell you that you have all of the evidence that you  
4 need to reach a verdict in this case.

5 Now we will once again let you retire to the jury room.  
6 If there are any other needs for me to recharge any other  
7 portion just let the bailiff know. Okay.

8 (WHEREUPON, jury exits 10:52 a.m.)

9 THE COURT: Thank you very much. All right. We will be  
10 back at ease.

11 (WHEREUPON, recess.)

12 (WHEREUPON, resume 6/13/19, 11:51 p.m., following jury note  
13 marked Court's Exhibit 4.)

14 THE COURT: All right. Court's Exhibit 4 is another jury  
15 note that says can we have a written copy of the armed robbery  
16 law.

17 Now there is a case out in the Court of Appeals which  
18 states if you give the jury a copy of the charge it must be  
19 the charge in its entirety, not merely one section. So if I  
20 were to honor this request I would obviously give them the  
21 entire charge. I am happy to hear from either side on this.

22 MR. LIETZOW: No objection from the State, Your Honor.

23 THE COURT: Okay.

24 MS. NORRIS: We are fine as long as the Court gives the  
25 entire charge.

1 THE COURT: The entire charge. Okay. We will do that  
2 then. So before -- there is really no necessity for the jury  
3 to come in. We will just print off another clean copy of the  
4 charge and I will allow the attorneys to review it one more  
5 time and then we will send it back, okay. All right.

6 (WHEREUPON, recess 6/13/19, 11:52 a.m.)

7 (WHEREUPON, resume 6/13/19, 12:00 p.m. for attorneys to review  
8 printed charge.)

9 THE COURT: This will be marked as the next court's  
10 exhibit.

11 (WHEREUPON, Court's Exhibit Number 5, charge, was marked for  
12 identification.)

13 THE COURT: This will be marked as Court's Exhibit 5.  
14 And this will be handed to the bailiff. You can take that to  
15 the jury room.

16 All right. We are back at ease.

17 (WHEREUPON, recess 6/13/19, 12:01 p.m.)

18 (WHEREUPON, resume 6/13/19, 1:48 p.m.)

19 (WHEREUPON, Court's Exhibit 6, jury note, marked for  
20 identification.)

21 THE COURT: We have another note from the jury. We have  
22 marked it as Court's Exhibit 6. And it states an armed  
23 robbery, comma, when it states, comma, quote, in order to  
24 prove these offenses the State must first provide beyond a  
25 reasonable doubt that the defendant took personal property

1 from the person or presence of another person, comma, quote.  
2 Is this stating that a victim must lose his or her property in  
3 order for the defendant to be guilty or, underlined, can a  
4 victim be in the mere presence of someone else who loses  
5 property but not lose his or her own property specifically.

6 Signed the foreperson, 86.

7 I am not inclined to give any more specific instruction  
8 other than what they have been charged. I think if I make any  
9 other specific instruction or answer their specific question  
10 that will result in me specifically commenting on the facts of  
11 this case which obviously would be inappropriate.

12 So my plan at this point is to -- I can either bring them  
13 in and tell them that I can't answer this question or I can  
14 write back on this note I cannot answer this question and sign  
15 my name and let you see the note and pass it back to them.  
16 Whichever you prefer.

17 MR. OSBORNE: We are fine with you writing on the note.

18 THE COURT: Okay. Preference?

19 MR. MACK: Either is fine, Judge.

20 THE COURT: Okay.

21 (WHEREUPON, the Court complied.)

22 THE COURT: All right. I will allow the attorneys to  
23 come view my response on the note and then I will send it  
24 back.

25 Any objection to the response as written? It saves the

1 time of them coming in here and me saying that.

2 (WHEREUPON, attorney's reviewed note.)

3 MR. MACK: Good.

4 THE COURT: Okay. Thank you. We will send it back to  
5 them.

6 (WHEREUPON, note returned by clerk to jury.)

7 (WHEREUPON, break 6/13/19, 1:51 p.m.)

8 (WHEREUPON, resume 6/13/19, 2:14 p.m.)

9 THE COURT: Mr. Bailiff, I understand the jury has  
10 reached a verdict; is that correct?

11 THE BAILIFF: Yes, ma'am.

12 THE COURT: All right. If you will bring the jury in we  
13 will receive them at this time.

14 (WHEREUPON, jury enters 6/13/19, 2:17 p.m.)

15 THE COURT: Mr. Foreman, I understand the jury has  
16 reached a verdict; is that correct?

17 THE FOREMAN: Yes, ma'am.

18 THE COURT: All right. If you could please pass those  
19 forms to the bailiff I would appreciate it.

20 (WHEREUPON, complied.)

21 THE COURT: The forms have all been filled out and  
22 signed. I will pass them to the clerk for publications.

23 Will the defendant please rise.

24 (WHEREUPON, defendant complied.)

25 THE WITNESS: The case of the State of South Carolina

1 versus Byron Labron Rivers, Indictment Number 2017-GS-10-  
2 02174, we the jury by unanimous consent find the defendant  
3 Byron Labron Rivers on the charge of the murder of Kirby Fyall  
4 guilty. Signed by the presiding juror June 13th, 2019.

5 In Indictment Number 2017-GS-10-02107, we the jury by  
6 unanimous consent find the defendant Byron Labron Rivers  
7 guilty on the charge of the attempted murder of Antonio Shamar  
8 Fyall guilty. Signed by the presiding juror June 13th, 2019.

9 Indictment Number 2017-GS-10-02106, we the jury by  
10 unanimous consent find the defendant Byron Labron Rivers on  
11 the charge of attempted murder of Johnell Lamar Watson guilty.  
12 Signed by the presiding juror June 13th, 2019.

13 Indictment Number 2017-GS-01891, we the jury by unanimous  
14 consent find the defendant Byron Labron Rivers on the charge  
15 of armed robbery of Sanquan Quantez Fyall guilty. Signed by  
16 the presiding juror June 13th, 2019.

17 Indictment Number 2019-GS-10-01893, we the jury by  
18 unanimous consent find the defendant Byron Labron Rivers on  
19 the charge of the armed robbery of Theodore Gerald Fyall  
20 guilty. Signed by the presiding juror June 13th, 2019.

21 Indictment Number 2019-GS-10-01894, we the jury by  
22 unanimous consent find the defendant Byron Labron Rivers on  
23 the charge of armed robbery of Frederick K. Smalls guilty.  
24 Signed by the presiding juror June 13th, 2019.

25 Indictment Number 2019-GS-10-01890, we the jury by

1 unanimous consent find the defendant Byron Labron Rivers on  
2 the charge of armed robbery of Antonio Shamar Fyall not  
3 guilty. Signed by the presiding juror June 13th, 2019.

4 Indictment Number 2019-GS-10-01899, we the jury by  
5 unanimous consent find the defendant Byron Labron Rivers on  
6 the charge of armed robbery of Herbie Fyall not guilty.  
7 Signed by the presiding juror June 13th, 2019.

8 Indictment Number 2019-GS-10-01889, we the jury by  
9 unanimous consent find the defendant Byron Labron Rivers on  
10 the charge of armed robbery of Johnell Lamar Watson not  
11 guilty. Signed by the presiding juror June 13th, 2019.

12 Indictment Number 2019-GS-10-02143, we the jury by  
13 unanimous consent find the defendant Byron Labron Rivers on  
14 the charge of burglary first degree guilty. Signed by the  
15 presiding juror June 13th, 2019.

16 Indictment Number 2017-GS-10-02108, we the jury by  
17 unanimous consent find the defendant Byron Labron Rivers on  
18 the charge of possession of a weapon during the commission of  
19 a violent crime guilty. Signed by the presiding juror by --  
20 June 13th, 2019.

21 THE COURT: Thank you very much.

22 Mr. Foreman, is that the jury's verdict?

23 MR. FOREMAN: Yes, ma'am.

24 THE COURT: All right. Any post-verdict motions from the  
25 State?

1 MR. LIETZOW: None from the State, Your Honor.

2 THE COURT: Requests or motion at this time from the  
3 defense?

4 MR. MACK: Judge, if we may poll the jury.

5 THE COURT: Sure.

6 If you don't mind polling the jury.

7 THE CLERK: When I call your juror number please raise  
8 your hand to identify yourself. I will then ask you two  
9 question. Please answer with yes or no.

10 THE CLERK: Juror Number 86, is this your verdict?

11 THE JUROR: Yes, ma'am, it is.

12 THE CLERK: Is it still your verdict?

13 THE JUROR: Yes, ma'am, it is.

14 THE CLERK: Juror Number 212, is this your verdict?

15 THE JUROR: Yes, ma'am.

16 THE CLERK: Is it still your verdict?

17 THE JUROR: Yes, ma'am.

18 THE CLERK: Juror Number 110, is this your verdict?

19 THE JUROR: Yes, ma'am.

20 THE CLERK: Is it still your verdict?

21 THE JUROR: Yes, ma'am.

22 THE CLERK: Juror Number 4, is this your verdict?

23 THE JUROR: Yes, ma'am.

24 THE CLERK: Is it still your verdict?

25 THE JUROR: Yes.

1 THE CLERK: Juror Number 269, is this your verdict?  
2 THE JUROR: Yes.  
3 THE CLERK: Is it still your verdict?  
4 THE JUROR: Yes.  
5 THE CLERK: Juror Number 4, is this your verdict?  
6 THE JUROR: Yes.  
7 THE CLERK: Is it still your verdict?  
8 THE JUROR: Yes.  
9 THE CLERK: Juror Number 287, is this your verdict?  
10 THE JUROR: Yes, ma'am.  
11 THE CLERK: Is it still your verdict?  
12 THE JUROR: Yes, ma'am.  
13 THE CLERK: Juror Number 28, is this your verdict?  
14 THE JUROR: Yes, ma'am.  
15 THE CLERK: Is it still your verdict?  
16 THE JUROR: Yes, ma'am.  
17 THE CLERK: Juror Number 267, is this your verdict?  
18 THE JUROR: Yes, ma'am.  
19 THE CLERK: Is it still your verdict?  
20 THE JUROR: Yes, ma'am.  
21 THE CLERK: Juror Number 135, is this your verdict?  
22 THE JUROR: Yes.  
23 THE CLERK: Is it still your verdict?  
24 THE JUROR: Yes, ma'am.  
25 THE CLERK: Juror Number 19, is this your verdict?

1 THE JUROR: Yes, ma'am.

2 THE CLERK: Is it still your verdict?

3 THE JUROR: Yes, ma'am.

4 THE CLERK: And Juror Number 92, is this your verdict?

5 THE JUROR: Yes, ma'am.

6 THE CLERK: Is it still your verdict?

7 THE JUROR: Yes, ma'am.

8 THE CLERK: Your Honor, the jury has been polled.

9 THE COURT: Thank you. Any other requests or motions  
10 before the jury is released?

11 MR. MACK: No, Judge.

12 THE COURT: All right. Ladies and gentlemen -- you can  
13 be seated now. Thank you very much.

14 Ladies and gentlemen, we appreciate your time and  
15 consideration in reaching your verdict. You have obviously  
16 been very diligent in taking your time in considering these  
17 matters.

18 I never -- I make it a comment never to comment -- make  
19 it a point never to comment on a jury's verdict. But I will  
20 thank you for your service on behalf of the State of South  
21 Carolina today and all week this week in removing yourselves  
22 from your regular routine in daily life.

23 At this point in time in the trial we will move on to the  
24 sentencing phase. You are welcome to stay if you want to, but  
25 you are also free to leave. You are officially discharged of

1 your jury service at this time. If you want to leave, just  
2 simply get up and the bailiffs will escort you out. You can  
3 leave anytime you want and you won't offend anybody. Okay.

4 So with that I would ask that the State prepare some  
5 sentencing sheets and make sure that we have the correct  
6 indictments corresponding to the charges which came back  
7 guilty.

8 And if you need to check with the clerk I suggest you do  
9 so to be sure you have the correct indictment.

10 I am going to ask too that you put what I do in Plea  
11 Court which is the possible sentence I want you to write that  
12 on the sheets for clarification for the record.

13 (WHEREUPON, pause awaiting sentencing sheets.)

14 THE COURT: All right. I have reviewed the sentencing  
15 sheets and confirmed that they do indicate the indictment  
16 numbers on which the guilty verdicts were returned. I will  
17 return these verdict forms back to the clerk.

18 All right. As is customary I am happy to hear from the  
19 State first on sentencing.

20 MR. LIETZOW: Thank you, Your Honor. I would ask you to  
21 first hear from Kirby Fyall's widow.

22 THE COURT: Okay.

23 Yes, ma'am. If you don't mind just come up to the corner  
24 there, and before you begin if you could just state your name  
25 for the record I would appreciate it.

1 MS. ALEXANDRIA WARD: My name is Alexandria Ward.

2 THE COURT: Ward, W-A-R-D?

3 MS. ALEXANDRIA WARD: Yes.

4 THE COURT: Yes, ma'am.

5 MS. ALEXANDRIA WARD: And I just wanted to thank the  
6 State of South Carolina. I'm sorry (pause for composure).  
7 The State of South Carolina, the prosecutor's office, the  
8 investigator, and everyone that has worked on this so  
9 diligently on this case. I do thank everybody.

10 I want to ask you for the maximum sentencing in the case.  
11 What Byron took from us that day we can never replace. You  
12 know, Kirby, my husband, taken physically from him; but his  
13 life was stolen that day. So was ours. And I want to ask you  
14 for the maximum sentencing. Thank you.

15 THE COURT: Yes, ma'am. I am sorry you have to be here  
16 under these circumstances.

17 MS. ALEXANDRIA WARD: Thank you.

18 THE COURT: Yes, ma'am. There is somebody else.

19 If you could tell me your name?

20 MS. CATHY WARD: Sure. My name is Cathy Ward. W-A-R-D.

21 THE COURT: Thank you.

22 MS. CATHY WARD: And I do reiterate my gratitude, extreme  
23 gratitude, to the State of South Carolina, the Solicitor's  
24 Office, and the investigator on this.

25 And what I just want to say just briefly what the court

1 isn't -- wasn't able to hear is who Kirby was. Kirby was a  
2 Christian, loving man. He was a husband. He was a father to  
3 his daughter Corrie who is entering her teenage years without  
4 the guidance of a loving Christian man.

5 And I please ask and beg the court to sentence him to the  
6 maximum sentence. I will learn to forgive and move on. But  
7 may God have mercy on his soul. Thank you.

8 THE COURT: Thank you.

9 MR. LIETZOW: Judge, starting with Byron River's record.  
10 He has been convicted of a burglary third-degree in 2012,  
11 assault and battery third-degree by mob in 2012. And he has a  
12 2015 conviction for malicious injury to personal property.

13 THE COURT: Okay.

14 MR. LIETZOW: Your Honor, the facts in this case are  
15 horrendous. This is one of the most evil things that one  
16 individual can do to another. The callousness that Byron  
17 River's displayed that night by barging into that house with  
18 every intent to commit an armed robbery and a home invasion  
19 that resulted in the death of one individual and two other  
20 individuals being shot.

21 I really don't think that the rehabilitative aspect of  
22 the criminal justice system is appropriate in this case, Your  
23 Honor. And we do think that the punitive aspect of the  
24 justice system is the most important thing here. Because of  
25 that we would ask Your Honor to impose a life sentence on the

1 murder and the burglary in the first-degree.

2 I would like to point out for the court's clarification  
3 that all of the victims in this case work. They had work  
4 schedules. And that is one of the large reasons that they  
5 were not able to stick around this entire week. And without  
6 their cooperation this case would have never been able to come  
7 to court. So they deserve the lion's share of the  
8 appreciation for the conviction in this case.

9 Byron Rivers in jail-calls that were not published to the  
10 jury that were not brought forward, tried to take steps to  
11 intimidate witnesses, tried to get his codefendant to fall in  
12 line and make sure that these charges never got brought in  
13 front of a court.

14 For all those reasons, Your Honor, the only appropriate  
15 sentence as far as the State is concerned is a life sentence,  
16 and we would ask Your Honor to impose life without parole.

17 Thank you.

18 THE COURT: All right. I will turn it over to the  
19 defense. Who will be presenting sentencing? I understand it  
20 is a strange position for an attorney to be in after -- upon a  
21 trial. But Mr. Mack I am happy to hear from you.

22 MR. MACK: Thank you, Judge. We respectfully request of  
23 course the minimum sentence in this case of 30 years. Byron  
24 literally has no idea what happened that night, given the  
25 extent of his injuries from the sledgehammer, from the

1 kicking, and from the gunshot wound.

2 He is a quiet man. As you can see he keeps to himself.  
3 He is a man of conviction. Since day one he has wanted this  
4 trial. He is a man who has believed in me all along and got  
5 behind this theory.

6 I think all of the evidence in this case -- a lot of it  
7 suggests that something was going on in that house before and  
8 after Byron was inside it.

9 As far as the State's claims that Byron was threatening a  
10 witness I have listened to those jail calls and I do not hear  
11 it. His co-defendant in this case did confess, Judge. He  
12 claimed Byron was the shooter. We have no reason to believe  
13 his co-defendant whatsoever. During that confession he lied  
14 several times to police. First he said he had no gun. Then  
15 he said he had a toy gun. Then he said he had a 380. And  
16 then he said he had a 40 caliber handgun.

17 Only after he was told by police that a 380 shell casing  
18 was found on the scene did he tell them that he had a 40  
19 caliber handgun, Judge.

20 The allegations of gang affiliation in this case also  
21 have no merit, Judge. They were made by Latoya Mack his  
22 former girlfriend and the mother of Sanquan Fyall's child.  
23 She made them to police only after the police confronted her  
24 about how Sanquan Fyall was trying to post bond for her.

25 She was just as scared of Sanquan Fyall as she was of

1 anybody else in this case. And when -- when police told her  
2 that Sanquan Fyall was at the jail to post bond for her all of  
3 a sudden she goes on about talking that -- or she goes on to  
4 say that Bryon is involved in a gang, and he found out about  
5 whatever was in that house through the gang and not through  
6 her, in order to alleviate herself from any sort of threat  
7 that may come from the people inside of that house.

8 Judge, Byron Rivers has never seen the guns in this case  
9 before in his life.

10 His prior record, Judge, you will see armed robbery  
11 mistrial. That is a case of mistaken identity.

12 The burg-third in his case is a conviction that resulted  
13 in a guilty plea. He received a time-served offer from the  
14 State. And his co-defendant implicated him through a  
15 receiving stolen goods charge. The cops approached this co-  
16 defendant and the co-defendant pointed at him.

17 For those reasons we request the minimum sentence.

18 THE COURT: Does your client wish to say anything at this  
19 time?

20 MR. MACK: I don't believe so, Judge.

21 THE COURT: Well, this is certainly a tragedy for several  
22 lives on the night that it took place. And there are  
23 obviously a lot of people who were affected by it. Obviously  
24 A great community concern in this area for acts such as this.

25 Of course I want to make it clear for the record that the

1 only facts upon which I consider -- I will consider in  
2 crafting the sentence are those that bore out in the evidence  
3 that was presented at trial. I am not considering allegations  
4 that weren't charged or brought forth in any charges from the  
5 State or allegations of gang violence or anything of that  
6 nature. I don't find that to be appropriate.

7 But given the signs of premeditation with the gloves, the  
8 fact that South Carolina does recognize that the hand of one  
9 is the hand of all and that a life was lost that night is of  
10 great concern to me. And I obviously take all of those things  
11 into consideration.

12 I know there was some comment during the trial or some  
13 evidence presented during the trial obviously that there was  
14 some -- some drug activity obviously going on in the house.  
15 But I don't value the lives of those who were killed or those  
16 who were victims of this crime any less than I would value the  
17 lives of someone in my own neighborhood if this had taken  
18 place down the street from me. So I think it would be wholly  
19 inappropriate for me to consider their lives to be worth any  
20 less or their fears or their concerns to be somehow valued  
21 less than somebody else's. So for that reason I will be  
22 imposing the maximum sentence in this case, which of course is  
23 life without parole.

24 So specifically on the indictments I will go through them  
25 individually so it is clear for the record. 2017-GS-10-02108,

1 this is the possession of a weapon during the commission of a  
2 violent crime charge. Obviously the penalty on that is five  
3 years. You will receive a sentence to the State Department of  
4 Corrections for five years.

5 And that will run concurrent with the sentence on 2019-  
6 GS-10-02143, burglary in the first-degree I sentence you to  
7 the State Department of Corrections for a term of life without  
8 parole.

9 It will run concurrent with the sentence on 2019-GS-10-  
10 01894, armed robbery. I sentence you to the State Department  
11 of Corrections for a term of 30 years.

12 That will run concurrent with the sentence on Indictment  
13 2019-GS-10-01893, armed robbery, South Carolina Department of  
14 Corrections for 30 years.

15 That will run concurrent with the sentence on Indictment  
16 2019-GS-10-01891, armed robbery, I sentence you to the South  
17 Carolina Department of Corrections for a term of 30 years.

18 Also concurrent to the sentence on 2017-GS-10-02107,  
19 attempted murder, I sentence you to the South Carolina  
20 Department of Corrections for a term of murder 30 years.

21 That will run concurrent with Indictment 2017-GS-10-  
22 02106, I sentence you -- again, the second count of attempted  
23 murder I sentence you to the South Carolina Department of  
24 Corrections for a term of 30 years.

25 And finally that will run concurrent with the sentence on

1 the operative indictment which is 2017-GS-10-02104, I sentence  
2 you in the murder of Kirby Fyall to South Carolina Department  
3 of Corrections for a term of life without parole.

4 I wish you luck. Court is adjourned.

5 (WHEREUPON, the trial concluded.)

ECK/0319900  
WITNESSES

North Charleston Police Department

AGENCY CASE NUMBER  
2016-021530

ARREST WARRANT NUMBER  
2016A1010203281

DATE OF ARREST  
07/22/2016

ACTION OF GRAND JURY

*Foreperson*  
**TRUE BILL** APR 11 2017  
Foreperson of Grand Jury Date

VERDICT

*Guilty*

*Travis Folk* 0-13-19  
Foreperson of Petit Jury Date

DOCKET NO. 2017-GS-10-02104

The State of South Carolina  
County of Charleston

COURT OF GENERAL SESSIONS  
APRIL TERM 2017

THE STATE

VS.

BYRON LABRON RIVERS  


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 April 2017, the Grand Jurors of Charleston County present upon their oath:

**MURDER**

That in Charleston County, South Carolina on or about July 15, 2016, the defendant, Byron Labron Rivers, alone or while acting in concert with others feloniously, willfully and with malice aforethought, did kill and murder Kirby Fyall by means of Gunshot, and Kirby Fyall did die in Charleston County as a proximate result thereof on or about July 15, 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.



---

**CULVER KIDD**  
ASSISTANT SOLICITOR

ECK/0319900  
WITNESSES

DOCKET NO. 2017-GS-10-02106

North Charleston Police Department

**The State of South Carolina**  
County of Charleston

AGENCY CASE NUMBER  
2016-021530

COURT OF GENERAL SESSIONS  
APRIL TERM 2017

ARREST WARRANT NUMBER  
2016A1010203378

DATE OF ARREST  
07/22/2016

THE STATE

ACTION OF GRAND JURY

VS.

BYRON LABRON RIVERS

*True Bill*  
TRUE BILL APR 11 2017  
Foreperson of Grand Jury Date:

VERDICT

Indictment for

ATTEMPTED MURDER

SC Code: § 16-03-0029  
CDR Code: 3410

*Guilty*

*Kevin Folk*  
Foreperson of Petit Jury

*4/13/19*  
Date:

STATE OF SOUTH CAROLINA  
COUNTY OF CHARLESTON

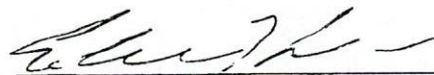
INDICTMENT

At a Court of General Sessions, convened April 2017, the Grand Jurors of Charleston County present upon their oath:

**ATTEMPTED MURDER**

That in Charleston County, South Carolina, on or about July 15, 2016, the Defendant, Byron Labron Rivers, alone or while acting in concert with others did, with intent to kill and malice aforethought, attempt to kill Johnell Lamar Watson. 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.



---

**CULVER KIDD**  
ASSISTANT SOLICITOR

ECK/0319900  
WITNESSES

DOCKET NO. 2017-GS-10-02107

North Charleston Police Department

The State of South Carolina  
County of Charleston

AGENCY CASE NUMBER

2016-021530

COURT OF GENERAL SESSIONS

APRIL TERM 2017

ARREST WARRANT NUMBER

2016A1010203377

DATE OF ARREST

07/22/2016

THE STATE

VS.

BYRON LABRON RIVERS  
[REDACTED]

ACTION OF GRAND JURY

TRUE BILL

APR 11 2017

Foreperson of Grand Jury

Date:

VERDICT

Indictment for

ATTEMPTED MURDER

SC Code: § 16-03-0029  
CDR Code: 3410

Guilty

Travis Folk  
Foreperson of Petit Jury

4/13/19  
Date:

STATE OF SOUTH CAROLINA  
COUNTY OF CHARLESTON

## INDICTMENT

At a Court of General Sessions, convened April 2017, the Grand Jurors of Charleston County present upon their oath:

**ATTEMPTED MURDER**

That in Charleston County, South Carolina, on or about July 15, 2016, the Defendant, Byron Labron Rivers, alone or while acting in concert with others did, with intent to kill and malice aforethought, attempt to kill Antonio Shamar Fyall. 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.

  
\_\_\_\_\_  
**CULVER KIDD**  
ASSISTANT SOLICITOR

ECK/0319900  
WITNESSES

DOCKET NO. 2017-GS-10-02108

North Charleston Police Department

The State of South Carolina  
County of Charleston

AGENCY CASE NUMBER  
2016-021530

COURT OF GENERAL SESSIONS  
APRIL TERM 2017

ARREST WARRANT NUMBER  
2016A1010203376

DATE OF ARREST

07/22/2016

THE STATE

VS.

BYRON LABRON RIVERS  


ACTION OF GRAND JURY

TRUE BILL

APR 11 2017

Foreperson of Grand Jury

Date

VERDICT

Indictment for

POSSESSION OF A WEAPON DURING  
THE COMMISSION OF A VIOLENT  
CRIME

SC Code: § 16-23-0490  
CDR Code: 0549

Guilty

Foreperson of Petit Jury

6-13-19  
Date:

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

INDICTMENT

At a Court of General Sessions, convened April 2017, the Grand Jurors of Charleston County present upon their oath:

**POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME**

That in Charleston County, South Carolina, on or about July 15, 2016, the Defendant, Byron Labron Rivers, 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 and Armed Robbery; 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.

  
\_\_\_\_\_  
**CULVER KIDD**  
ASSISTANT SOLICITOR

AMW/0319900  
WITNESSES

DOCKET NO. 2019-GS-10-01891

The State of South Carolina  
County of Charleston

North Charleston Police Department

AGENCY CASE NUMBER  
2016-021530

COURT OF GENERAL SESSIONS  
APRIL TERM 2019

ARREST WARRANT NUMBER  
2016A1010203371

DATE OF ARREST  
07/22/2016

THE STATE

VS.

BYRON LABRON RIVERS A.K.A. Byron Rivers  
~~XXXXXXXXXX~~

ACTION OF GRAND JURY

TRUE BILL

*[Signature]*  
Foreperson of Grand Jury Date: APR 02 2019

VERDICT

Indictment for

ARMED ROBBERY

SC Code: § 16-11-0330(A)  
CDR Code: 0139

Guilty

*[Signature]* 6-13-19  
Foreperson of Petit Jury Date:

STATE OF SOUTH CAROLINA  
COUNTY OF CHARLESTON

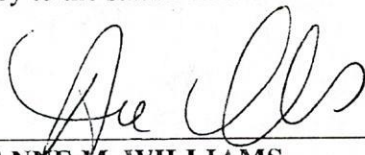
INDICTMENT

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

ARMED ROBBERY

That on or about July 15, 2016, in Charleston County, South Carolina, the Defendant, Byron Labron Rivers, by use of force, threats or intimidation and while armed with a deadly weapon, or while alleging, either by action or words, he was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery reasonably believed to be a deadly weapon, did take and carry away goods and/or monies from the person or immediate presence of Sanquan Quatez Fyall with the intent to permanently deprive the victim of possession thereof, in violation of §16-11-330(A) 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/0319900  
WITNESSES

North Charleston Police Department

AGENCY CASE NUMBER  
2016-021530

ARREST WARRANT NUMBER  
2016A1010203373

DATE OF ARREST  
07/22/2016

ACTION OF GRAND JURY

**TRUE BILL**

*[Signature]*  
Foreperson of Grand Jury

Date: APR 02 2019

VERDICT

*[Signature]*

*[Signature]*  
Foreperson of Petit Jury

Date: 10/12/19

DOCKET NO. 2019-GS-10-01893

The State of South Carolina  
County of Charleston

COURT OF GENERAL SESSIONS  
APRIL TERM 2019

THE STATE

VS.

BYRON LABRON RIVERS A.K.A. Byron Rivers  
*[Redacted]*

Indictment for

ARMED ROBBERY

SC Code: § 16-11-0330(A)  
CDR Code: 0139

STATE OF SOUTH CAROLINA  
COUNTY OF CHARLESTON

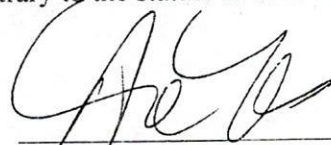
## INDICTMENT

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

ARMED ROBBERY

That on or about July 15, 2016, in Charleston County, South Carolina, the Defendant, Byron Labron Rivers, by use of force, threats or intimidation and while armed with a deadly weapon, or while alleging, either by action or words, he was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery reasonably believed to be a deadly weapon, did take and carry away goods and/or monies from the person or immediate presence of Theodore Gerard Fyall with the intent to permanently deprive the victim of possession thereof, in violation of §16-11-330(A) 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/0319900  
WITNESSES

North Charleston Police Department

AGENCY CASE NUMBER

2016-021530

ARREST WARRANT NUMBER

2016A1010203374

DATE OF ARREST

07/22/2016

ACTION OF GRAND JURY

**TRUE BILL**

*[Signature]*  
Foreperson of Grand Jury

APR 02 2019  
Date:

VERDICT

*County*

*Travis Fole*

Foreperson of Petit Jury

*6-13-19*

Date:

DOCKET NO. 2019-GS-10-01894

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

APRIL TERM 2019

THE STATE

VS.

BYRON LABRON RIVERS A.K.A. Byron Rivers  
*[Redacted]*

Indictment for

ARMED ROBBERY

SC Code: § 16-11-0330(A)

CDR Code: 0139

STATE OF SOUTH CAROLINA  
COUNTY OF CHARLESTON

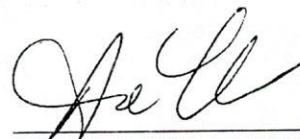
## INDICTMENT

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

ARMED ROBBERY

That on or about July 15, 2016, in Charleston County, South Carolina, the Defendant, Byron Labron Rivers, by use of force, threats or intimidation and while armed with a deadly weapon, or while alleging, either by action or words, he was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery reasonably believed to be a deadly weapon, did take and carry away goods and/or monies from the person or immediate presence of Frederick K Smalls with the intent to permanently deprive the victim of possession thereof, in violation of §16-11-330(A) 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/0319900  
WITNESSES

North Charleston Police Department

AGENCY CASE NUMBER  
2016-021530

ARREST WARRANT NUMBER  
2019-GS-10-02143

DATE OF ARREST  
07/22/2016

ACTION OF GRAND JURY  
**TRUE BILL**

*[Signature]*

Foreperson of Grand Jury APR 02 2019 Date:

VERDICT

*Guilty*  
*Kevin Fowl* 6-13-19  
Foreperson of Petit Jury Date:

DOCKET NO. 2019-GS-10-02143

The State of South Carolina  
County of Charleston

COURT OF GENERAL SESSIONS  
APRIL TERM 2019

THE STATE

VS.

BYRON LABRON RIVERS A.K.A. Byron  
Rivers

*[Redacted]*

Indictment for

**BURGLARY FIRST DEGREE**

SC Code: § 16-11-0311  
CDR Code: 0079

STATE OF SOUTH CAROLINA  
COUNTY OF CHARLESTON

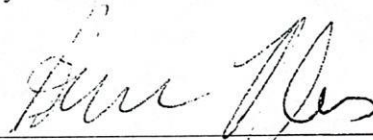
## INDICTMENT

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

BURGLARY FIRST DEGREE

That in Charleston County, South Carolina on or about July 15, 2016, the Defendant Byron Labron Rivers, did enter the dwelling of Sanquan Quatez Fyall without consent and with the intent to commit a crime therein. That, in addition, said entry or remaining occurred in the nighttime; and/or the defendant caused physical injury to a person who was not a participant in the crime; and/or the defendant displayed what was or appeared to be a knife, pistol, revolver, rifle, shotgun, machine gun, or other firearm; and/or the defendant was armed with a deadly weapon or explosive; in violation of § 16-11-311 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

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF CHARLESTON

STATE VS.

BYRON LABRON RIVERS

AKA: Byron Rivers

Race: [redacted] Sex: [redacted]

DOB: [redacted] SS#: [redacted]

Address: [redacted]

City, State, Zip: [redacted]

DL# [redacted] SID# [redacted]

\*CDL Yes  No  CMV Yes  No  Hazmat Yes  No

In disposition of the said indictment comes now the Defendant who was

INDICTMENT/CASE#: 2017-GS-10-02104 ✓  
A/W: 2016A1010203281  
Date of Offense: 07/15/2016  
S.C. Code §: 16-03-0010  
CDR Code #: 0116

SENTENCE SHEET

TO: Murder (30-1A)

CONVICTED OF or  PLEADS

In violation of § 16-03-0010 of the S.C. Code of Laws, bearing CDR Code # 0116

NON-VIOLENT  VIOLENT  SERIOUS  MOST SERIOUS  Mandatory GPS  §17-25-45 (CSC w/minor 1<sup>st</sup> or CSC w/minor 3<sup>rd</sup>)

The charge is:  As indicted,  Lesser Included Offense,  Defendant Waives Presentment to Grand Jury.  Negotiated Sentence,  Recommendation by the State.  
The plea is:  Without Negotiations or Recommendation,  Recommended by the State.

ATTEST:

*[Signature]*

76463

102068

Anne M. Williams, Assistant Solicitor

SC Bar #

Defendant

Attorney for Defendant

SC Bar #

WHEREFORE, the Defendant is committed to the  State Department of Corrections  County Detention Center, for a determinate term of LWOP days/months/years or life without parole under the Youthful Offender Act not to exceed \_\_\_\_\_ years and/or to pay a fine of \$ \_\_\_\_\_; provided that upon the service of \_\_\_\_\_ days/months/years and or payment of \$ \_\_\_\_\_ plus costs and assessments as applicable\*; the balance is suspended with probation for \_\_\_\_\_ months/years and subject to South Carolina Department of Probation, Parole and Pardon Service standard conditions of probation, which are incorporated by reference.

CONCURRENT or  CONSECUTIVE to sentence on: \_\_\_\_\_

The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.

The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION:  Deferred  Def. Waives Hearing  Ordered PTUP \_\_\_\_\_ days/hours Public Service Employment

Total: \$ \_\_\_\_\_ plus 20% fee: \$ \_\_\_\_\_

Payment Terms: \_\_\_\_\_

Obtain GED

Set by SCDPPPS \_\_\_\_\_

Attend Voc. Rehab. Or Job Corp. \_\_\_\_\_

Recipient: \_\_\_\_\_

May serve W/E beginning \_\_\_\_\_

\*Fine: \_\_\_\_\_ \$ \_\_\_\_\_

Substance Abuse Counseling

§14-1-206 (Assessments 107.5%) \$ \_\_\_\_\_

Random Drug/Alcohol Testing

§14-1-211 (A)(1)(Conv. Surcharge) \$100 \$ 100.00

Fine may be pd. in equal consecutive weekly/monthly

§14-1-211 (A)(2)(DUI Surcharge) \$100 \$ \_\_\_\_\_

pmts. of \$ \_\_\_\_\_ Beginning \_\_\_\_\_

§56-5-2995 (DUI Assessment) \$12 \$ \_\_\_\_\_

\$ \_\_\_\_\_ Paid to Public Defender Fund

§56-1-286 (DUI Breath Test) \$25 \$ \_\_\_\_\_

Other: \_\_\_\_\_

Proviso (Public Def/Probation) \$500 \$ \_\_\_\_\_

§14-1-212 (Law Enforce. Funding) \$25 \$ 25.00

§14-1-213 (Drug Court Surcharge) \$150 \$ \_\_\_\_\_

§50-21-114 (BU1 Breath Test Fee) \$50 \$ \_\_\_\_\_

§56-5-2942(J) (Vehicle Assessment) \$40/ea \$ \_\_\_\_\_

Appointed PD or appointed other counsel,

3% to County (if paid in installments) \$ \$ 3.75

Proviso requires \$500 be paid to Clerk

TOTAL \$ 128.75

during probation and shall be collected before any other fees.

Clerk of Court/Deputy Clerk: *[Signature]*

Court Reporter: *[Signature]*

Presiding Judge: *[Signature]*

Judge Code: 2786

Sentence Date: 6/13/19

COUNTY OF CHARLESTON

STATE VS.

BYRON LABRON RIVERS

AKA: Byron Rivers

Race: [redacted] Sex: [redacted]

DOB: [redacted] SS#: [redacted]

Address: [redacted]

City, State, Zip: [redacted]

DL# [redacted] SID# [redacted]

\*CDL Yes  No  CMV Yes  No  Hazmat Yes  No

In disposition of the said indictment comes now the Defendant who was

INDICTMENT/CASE#: 2017-GS-10-02106

A/W: 2016A1010203378

Date of Offense: 07/15/2016

S.C. Code §: 16-03-0029

CDR Code #: 3410

SENTENCE SHEET

TO: Attempted Murder (D-36415)  
In violation of § 16-03-0029 of the S.C. Code of Laws, bearing CDR Code # 3410

CONVICTED OF or  PLEADS

NON-VIOLENT  VIOLENT  SERIOUS  MOST SERIOUS  Mandatory GPS  §17-25-45  
(CSC w/minor 1<sup>st</sup> or CSC w/minor 3<sup>rd</sup>)

The charge is:  As indicted,  Lesser Included Offense,  Defendant Waives Presentment to Grand Jury. \_\_\_\_\_ (def.'s initials)

The plea is:  Without Negotiations or Recommendation,  Negotiated Sentence,  Recommendation by the State.

ATTEST:

[Signature] 76463 102068  
Anne M. Williams, Assistant Solicitor SC Bar # Defendant Attorney for Defendant SC Bar #

WHEREFORE, the Defendant is committed to the  State Department of Corrections  County Detention Center,  
for a determinate term of 30 days/months/years or  under the Youthful Offender Act not to exceed \_\_\_\_\_ years  
and/or to pay a fine of \$ \_\_\_\_\_; provided that upon the service of \_\_\_\_\_ days/months/years and or payment  
of \$ \_\_\_\_\_; plus costs and assessments as applicable\*; the balance is suspended with probation for \_\_\_\_\_  
months/years and subject to South Carolina Department of Probation, Parole and Pardon Service standard conditions of probation, which  
are incorporated by reference.

CONCURRENT or  CONSECUTIVE to sentence on: \_\_\_\_\_

The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State  
Department of Corrections.

The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic  
Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION:  Deferred  Def. Waives Hearing  Ordered PTUP \_\_\_\_\_  
Total: \$ \_\_\_\_\_ plus 20% fee: \$ \_\_\_\_\_ days/hours Public Service Employment

Payment Terms: \_\_\_\_\_ Obtain GED

Set by SCDPPPS \_\_\_\_\_ Attend Voc. Rehab. Or Job Corp. \_\_\_\_\_

Recipient: \_\_\_\_\_ May serve W/E beginning \_\_\_\_\_

\*Fine: \_\_\_\_\_ \$ \_\_\_\_\_ Substance Abuse Counseling

§14-1-206 (Assessments 107.5%) \$ \_\_\_\_\_ Random Drug/Alcohol Testing

§14-1-211 (A)(1)(Conv. Surcharge) \$100 \$ 100.00 Fine may be pd. in equal consecutive weekly/monthly

§14-1-211 (A)(2)(DUI Surcharge) \$100 \$ \_\_\_\_\_ pmts. of \$ \_\_\_\_\_ Beginning \_\_\_\_\_

§56-5-2995 (DUI Assessment) \$12 \$ \_\_\_\_\_ \$ \_\_\_\_\_ Paid to Public Defender Fund

§56-1-286 (DUI Breath Test) \$25 \$ \_\_\_\_\_ Other: \_\_\_\_\_

Proviso (Public Def/Probation) \$500 \$ \_\_\_\_\_

§14-1-212 (Law Enforce. Funding) \$25 \$ 25.00

§14-1-213 (Drug Court Surcharge) \$150 \$ \_\_\_\_\_

§50-21-114 (BUI Breath Test Fee) \$50 \$ \_\_\_\_\_

§56-5-2942(J) (Vehicle Assessment) \$40/ea \$ \_\_\_\_\_

3% to County (if paid in installments) \$ \$ 3.75

TOTAL \$ 129.75  Appointed PD or appointed other counsel,  
Proviso requires \$500 be paid to Clerk  
during probation and shall be collected before any other fees.

Clerk of Court/Deputy Clerk: [Signature]  
Court Reporter: [Signature]

Presiding Judge: [Signature]  
Judge Code: 2786  
Sentence Date: 6/13/19

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF CHARLESTON

STATE VS.

BYRON LABRON RIVERS

AKA: Byron Rivers

Race: [redacted] Sex: [redacted]

DOB: [redacted] SS#: [redacted]

Address: [redacted]

City, State, Zip: [redacted]

DL# [redacted] SID# [redacted]

\*CDL Yes  No  CMV Yes  No  Hazmat Yes  No

In disposition of the said indictment comes now the Defendant who was

INDICTMENT/CASE#: 2017-GS-10-02107  
A/W: 2016A1010203377  
Date of Offense: 07/15/2016  
S.C. Code §: 16-03-0029  
CDR Code #: 3410

CONVICTED OF or  PLEADS

TO: Attempted Murder (6-364ms.)

In violation of § 16-03-0029 of the S.C. Code of Laws, bearing CDR Code # 3410

NON-VIOLENT  VIOLENT  SERIOUS  MOST SERIOUS  Mandatory GPS  §17-25-45  
(CSC w/minor 1<sup>st</sup> or CSC w/minor 3<sup>rd</sup>)

The charge is:  As indicted,  Lesser Included Offense,  Defendant Waives Presentment to Grand Jury. (def.'s initials)  
The plea is:  Without Negotiations or Recommendation,  Negotiated Sentence,  Recommendation by the State.

ATTEST:

Anne M. Williams 76463 Defendant [Signature] 102068 Attorney for Defendant SC Bar # SC Bar #

WHEREFORE, the Defendant is committed to the  State Department of Corrections  County Detention Center, for a determinate term of 30 days/months/years or  under the Youthful Offender Act not to exceed — years and/or to pay a fine of \$ —; provided that upon the service of — days/months/years and or payment of \$ —; plus costs and assessments as applicable\*; the balance is suspended with probation for — months/years and subject to South Carolina Department of Probation, Parole and Pardon Service standard conditions of probation, which are incorporated by reference.

CONCURRENT or  CONSECUTIVE to sentence on: —

The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.

The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION:  Deferred  Def. Waives Hearing  Ordered PTUP — days/hours Public Service Employment  
Total: \$ — plus 20% fee: \$ —

Payment Terms: —

Set by SCDPPPS —

Recipient: —

\*Fine: — \$ —

§14-1-206 (Assessments 107.5%)		\$	<u>—</u>
§14-1-211 (A)(1)(Conv. Surcharge)	\$100	\$	<u>100.00</u>
§14-1-211 (A)(2)(DUI Surcharge)	\$100	\$	<u>—</u>
§56-5-2995 (DUI Assessment)	\$12	\$	<u>—</u>
§56-1-286 (DUI Breath Test)	\$25	\$	<u>—</u>
Proviso (Public Def/Probation)	\$500	\$	<u>—</u>
§14-1-212 (Law Enforce. Funding)	\$25	\$	<u>25.00</u>
§14-1-213 (Drug Court Surcharge)	\$150	\$	<u>—</u>
§50-21-114 (BUI Breath Test Fee)	\$50	\$	<u>—</u>
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$	<u>—</u>
3% to County (if paid in installments)	\$	\$	<u>3.75</u>
<b>TOTAL</b>		\$	<u>128.75</u>

Obtain GED

Attend Voc. Rehab. Or Job Corp. —

May serve W/E beginning —

Substance Abuse Counseling

Random Drug/Alcohol Testing

Fine may be pd. in equal consecutive weekly/monthly

pmts. of \$ — Beginning —

\$ — Paid to Public Defender Fund

Other: —

Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

Clerk of Court/Deputy Clerk: [Signature]  
Court Reporter: [Signature]

Presiding Judge: [Signature]  
Judge Code: 2786  
Sentence Date: 6/13/19

COUNTY OF CHARLESTON

STATE VS.

BYRON LABRON RIVERS

AKA: Byron Rivers

Race: \_\_\_\_\_ Sex: \_\_\_\_\_

DOB: \_\_\_\_\_ SS#: \_\_\_\_\_

Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

DL# \_\_\_\_\_ SID# \_\_\_\_\_

\*CDL Yes  No  CMV Yes  No  Hazmat Yes  No

In disposition of the said indictment comes now the Defendant who was

CONVICTED OF or  PLEADS

TO: Possession Of A Weapon During The Commission Of A Violent Crime

(0-5 yrs.)

In violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code # 0549

NON-VIOLENT  VIOLENT  SERIOUS  MOST SERIOUS  Mandatory GPS  §17-25-45

(CSC w/minor 1<sup>st</sup> or CSC w/minor 3<sup>rd</sup>)

The charge is:  As indicted,  Lesser Included Offense,  Defendant Waives Presentment to Grand Jury. \_\_\_\_\_ (def.'s initials)

The plea is:  Without Negotiations or Recommendation,  Negotiated Sentence,  Recommendation by the State.

ATTEST:

Anne M. Williams 76463 Defendant \_\_\_\_\_ 102068 Attorney for Defendant SC Bar # \_\_\_\_\_ SC Bar # \_\_\_\_\_

WHEREFORE, the Defendant is committed to the  State Department of Corrections  County Detention Center, for a determinate term of 5 days/months/years, or  under the Youthful Offender Act not to exceed \_\_\_\_\_ years and/or to pay a fine of \$ \_\_\_\_\_; provided that upon the service of \_\_\_\_\_ days/months/years and or payment of \$ \_\_\_\_\_; plus costs and assessments as applicable\*; the balance is suspended with probation for \_\_\_\_\_ months/years and subject to South Carolina Department of Probation, Parole and Pardon Service standard conditions of probation, which are incorporated by reference.

CONCURRENT or  CONSECUTIVE to sentence on: \_\_\_\_\_

The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.

The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION:  Deferred  Def. Waives Hearing  Ordered PTUP \_\_\_\_\_ days/hours Public Service Employment

Total: \$ \_\_\_\_\_ plus 20% fee: \_\_\_\_\_ \$ \_\_\_\_\_ Obtain GED

Payment Terms: \_\_\_\_\_

Set by SCDPPPS \_\_\_\_\_

Recipient: \_\_\_\_\_

\*Fine: \_\_\_\_\_ \$ \_\_\_\_\_

§14-1-206 (Assessments 107.5%) \$ \_\_\_\_\_

§14-1-211 (A)(1)(Conv. Surcharge) \$100 \$ 100.00

§14-1-211 (A)(2)(DUI Surcharge) \$100 \$ \_\_\_\_\_

§56-5-2995 (DUI Assessment) \$12 \$ \_\_\_\_\_

§56-1-286 (DUI Breath Test) \$25 \$ \_\_\_\_\_

Proviso (Public Def/Probation) \$500 \$ \_\_\_\_\_

§14-1-212 (Law Enforce. Funding) \$25 \$ 25.00

§14-1-213 (Drug Court Surcharge) \$150 \$ \_\_\_\_\_

§50-21-114 (BUI Breath Test Fee) \$50 \$ \_\_\_\_\_

§56-5-2942(J) (Vehicle Assessment) \$40/ea \$ \_\_\_\_\_

3% to County (if paid in installments) \$ 3.75

TOTAL \$ 129.75

Attend Voc. Rehab. Or Job Corp. \_\_\_\_\_

May serve W/E beginning \_\_\_\_\_

Substance Abuse Counseling

Random Drug/Alcohol Testing

Fine may be pd. in equal consecutive weekly/monthly

pmts. of \$ \_\_\_\_\_ Beginning \_\_\_\_\_

\$ \_\_\_\_\_ Paid to Public Defender Fund

Other: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Appointed PD or appointed other counsel,

Proviso requires \$500 be paid to Clerk

during probation and shall be collected before any other fees.

Clerk of Court/Deputy Clerk: Quynh Mason

Court Reporter: Phyllis Norton

Presiding Judge: McClay

Judge Code: 2764

Sentence Date: 6/13/19

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF CHARLESTON

STATE VS.

BYRON LABRON RIVERS

AKA: Byron Rivers

Race: [redacted] Sex: [redacted]

DOB: [redacted] SS#: [redacted]

Address: [redacted]

City, State, Zip: [redacted]

DL# [redacted] SID# [redacted]

\*CDL Yes  No  CMV Yes  No  Hazmat Yes  No

In disposition of the said indictment comes new the Defendant who was  CONVICTED OF or  PLEADS

TO: Armed Robbery (1D-3D w/SS)

In violation of § 16-11-0330(A) of the S.C. Code of Laws, bearing CDR Code # 0139

NON-VIOLENT  VIOLENT  SERIOUS  MOST SERIOUS  Mandatory GPS  §17-25-45

(CSC w/minor 1<sup>st</sup> or CSC w/minor 3<sup>rd</sup>)

The charge is:  As indicted,  Lesser Included Offense,  Defendant Waives Presentment to Grand Jury. (def.'s initials)

The plea is:  Without Negotiations or Recommendation,  Negotiated Sentence,  Recommendation by the State.

ATTEST:

[Signature] 76463 Defendant [Signature] 102068 Attorney for Defendant SC Bar # SC Bar #

WHEREFORE, the Defendant is committed to the  State Department of Corrections  County Detention Center, for a determinate term of 30 days/months/years, or  under the Youthful Offender Act not to exceed \_\_\_\_\_ years and/or to pay a fine of \$ \_\_\_\_\_; provided that upon the service of \_\_\_\_\_ days/months/years and or payment of \$ \_\_\_\_\_; plus costs and assessments as applicable\*; the balance is suspended with probation for \_\_\_\_\_ months/years and subject to South Carolina Department of Probation, Parole and Pardon Service standard conditions of probation, which are incorporated by reference.

CONCURRENT or  CONSECUTIVE to sentence on: \_\_\_\_\_

The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.

The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION:  Deferred  Def. Waives Hearing  Ordered PTUP \_\_\_\_\_ days/hours Public Service Employment

Total: \$ \_\_\_\_\_ plus 20% fee: \$ \_\_\_\_\_

Payment Terms: \_\_\_\_\_

Obtain GED

Set by SCDPPPS \_\_\_\_\_

Attend Voc. Rehab. Or Job Corp. \_\_\_\_\_

Recipient: \_\_\_\_\_

May serve W/E beginning \_\_\_\_\_

\*Fine: \$ \_\_\_\_\_

Substance Abuse Counseling

§14-1-206 (Assessments 107.5%) \$ \_\_\_\_\_

Random Drug/Alcohol Testing

§14-1-211 (A)(1)(Conv. Surcharge) \$100 \$ 100.00

Fine may be pd. in equal consecutive weekly/monthly

§14-1-211 (A)(2)(DUI Surcharge) \$100 \$ \_\_\_\_\_

pmts. of \$ \_\_\_\_\_ Beginning \_\_\_\_\_

§56-5-2995 (DUI Assessment) \$12 \$ \_\_\_\_\_

\$ \_\_\_\_\_ Paid to Public Defender Fund

§56-1-286 (DUI Breath Test) \$25 \$ \_\_\_\_\_

Other: \_\_\_\_\_

Proviso (Public Def/Probation) \$500 \$ \_\_\_\_\_

§14-1-212 (Law Enforce. Funding) \$25 \$ 25.00

§14-1-213 (Drug Court Surcharge) \$150 \$ \_\_\_\_\_

§50-21-114 (BUI Breath Test Fee) \$50 \$ \_\_\_\_\_

§56-5-2942(J) (Vehicle Assessment) \$40/ea \$ \_\_\_\_\_

Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

3% to County (if paid in installments) \$ 3.75

TOTAL \$ 128.75

Clerk of Court/Deputy Clerk: [Signature]

Presiding Judge: [Signature]

Court Reporter: [Signature]

Judge Code: 2763

Sentence Date: 2/13/19

BYRON LABRON RIVERS

AKA: Byron Rivers

Race: [redacted] Sex: [redacted]

DOB: [redacted] SS#: [redacted]

Address: [redacted]

City, State, Zip: [redacted]

DL# [redacted] SID# [redacted]

\*CDL Yes  No  CMV Yes  No  Hazmat Yes  No

In disposition of the said indictment comes now the Defendant who was

CONVICTED OF or  PLEADS

TO: Armed Robbery (16-30415)

In violation of § 16-11-0330(A) of the S.C. Code of Laws, bearing CDR Code # 0139

NON-VIOLENT  VIOLENT  SERIOUS  MOST SERIOUS  Mandatory GPS  §17-25-45

(CSC w/minor 1<sup>st</sup> or CSC w/minor 3<sup>rd</sup>)

The charge is:  As indicted,  Lesser Included Offense,  Defendant Waives Presentment to Grand Jury. (def.'s initials)

The plea is:  Without Negotiations or Recommendation,  Negotiated Sentence,  Recommendation by the State.

ATTEST

[Signature] 76463 Defendant [Signature] 102068 Attorney for Defendant SC Bar #

WHEREFORE, the Defendant is committed to the  State Department of Corrections  County Detention Center, for a determinate term of 30 days/months/years or  under the Youthful Offender Act not to exceed — years and/or to pay a fine of \$ —; provided that upon the service of — days/months/years and or payment of \$ —; plus costs and assessments as applicable\*; the balance is suspended with probation for — months/years and subject to South Carolina Department of Probation, Parole and Pardon Service standard conditions of probation, which are incorporated by reference.

CONCURRENT or  CONSECUTIVE to sentence on: \_\_\_\_\_

The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.

The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION:  Deferred  Def. Waives Hearing  Ordered PTUP \_\_\_\_\_ days/hours Public Service Employment

Total: \$ \_\_\_\_\_ plus 20% fee: \$ \_\_\_\_\_

Payment Terms: \_\_\_\_\_

Obtain GED

Set by SCDPPPS \_\_\_\_\_

Attend Voc. Rehab. Or Job Corp. \_\_\_\_\_

May serve W/E beginning \_\_\_\_\_

Substance Abuse Counseling

Random Drug/Alcohol Testing

Fine may be pd. in equal consecutive weekly/monthly

pmts. of \$ \_\_\_\_\_ Beginning \_\_\_\_\_

\$ \_\_\_\_\_ Paid to Public Defender Fund

Other: \_\_\_\_\_

Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

Recipient: \_\_\_\_\_

\*Fine: \_\_\_\_\_ \$ \_\_\_\_\_

§14-1-206 (Assessments 107.5%) \$ \_\_\_\_\_

§14-1-211 (A)(1)(Conv. Surcharge) \$100 \$ 100.00

§14-1-211 (A)(2)(DUI Surcharge) \$100 \$ \_\_\_\_\_

§56-5-2995 (DUI Assessment) \$12 \$ \_\_\_\_\_

§56-1-286 (DUI Breath Test) \$25 \$ \_\_\_\_\_

Proviso (Public Def/Probation) \$500 \$ \_\_\_\_\_

§14-1-212 (Law Enforce. Funding) \$25 \$ 25.00

§14-1-213 (Drug Court Surcharge) \$150 \$ \_\_\_\_\_

§50-21-114 (BUI Breath Test Fee) \$50 \$ \_\_\_\_\_

§56-5-2942(J) (Vehicle Assessment) \$40/ca \$ \_\_\_\_\_

3% to County (if paid in installments) \$ \$ 3.75

TOTAL \$ 128.75

Clerk of Court/Deputy Clerk: [Signature]

Court Reporter: [Signature]

Presiding Judge: [Signature]

Judge Code: 2763

Sentence Date: 3/6/13/19

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF CHARLESTON

STATE VS.

BYRON LABRON RIVERS

AKA: Byron Rivers

Race: [redacted] Sex: [redacted]

DOB: [redacted] SS#: [redacted]

Address: [redacted]

City, State, Zip: [redacted]

DL# [redacted] SID# [redacted]

\*CDL Yes  No  CMV Yes  No  Hazmat Yes  No

In disposition of the said indictment comes now the Defendant who was  CONVICTED OF or  PLEADS

TO: Armed Robbery (1B-30415)

In violation of § 16-11-0330(A) of the S.C. Code of Laws, bearing CDR Code # 0139

NON-VIOLENT  VIOLENT  SERIOUS  MOST SERIOUS  Mandatory GPS  §17-25-45 (CSC w/minor 1<sup>st</sup> or CSC w/minor 3<sup>rd</sup>)

The charge is:  As indicted,  Lesser Included Offense,  Defendant Waives Presentment to Grand Jury. \_\_\_\_\_ (def.'s initials)

The plea is:  Without Negotiations or Recommendation,  Negotiated Sentence,  Recommendation by the State.

ATTEST:

[Signature] 76463 102068  
Anne M. Williams, Assistant Solicitor SC Bar # Defendant Attorney for Defendant SC Bar #

WHEREFORE, the Defendant is committed to the  State Department of Corrections  County Detention Center, for a determinate term of 30 days/months/years or  under the Youthful Offender Act not to exceed \_\_\_\_\_ years and/or to pay a fine of \$ \_\_\_\_\_; provided that upon the service of \_\_\_\_\_ days/months/years and or payment of \$ \_\_\_\_\_; plus costs and assessments as applicable\*; the balance is suspended with probation for \_\_\_\_\_ months/years and subject to South Carolina Department of Probation, Parole and Pardon Service standard conditions of probation, which are incorporated by reference.

CONCURRENT or  CONSECUTIVE to sentence on: \_\_\_\_\_

The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.

The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION:  Deferred  Def. Waives Hearing  Ordered PTUP \_\_\_\_\_ days/hours Public Service Employment

Total: \$ \_\_\_\_\_ plus 20% fee: \$ \_\_\_\_\_ Obtain GED

Payment Terms: \_\_\_\_\_

Set by SCDPPPS \_\_\_\_\_

Attend Voc. Rehab. Or Job Corp. \_\_\_\_\_

Recipient: \_\_\_\_\_ May serve W/E beginning \_\_\_\_\_

\*Fine: \_\_\_\_\_ \$ \_\_\_\_\_ Substance Abuse Counseling

§14-1-206 (Assessments 107.5%) \$ \_\_\_\_\_ Random Drug/Alcohol Testing

§14-1-211 (A)(1)(Conv. Surcharge) \$100 \$ 100.00 Fine may be pd. in equal consecutive weekly/monthly

§14-1-211 (A)(2)(DUI Surcharge) \$100 \$ \_\_\_\_\_ pmts. of \$ \_\_\_\_\_ Beginning \_\_\_\_\_

§56-5-2995 (DUI Assessment) \$12 \$ \_\_\_\_\_ \$ \_\_\_\_\_ Paid to Public Defender Fund

§56-1-286 (DUI Breath Test) \$25 \$ \_\_\_\_\_ Other: \_\_\_\_\_

Proviso (Public Def/Probation) \$500 \$ \_\_\_\_\_

§14-1-212 (Law Enforce. Funding) \$25 \$ 25.00

§14-1-213 (Drug Court Surcharge) \$150 \$ \_\_\_\_\_

§50-21-114 (BUI Breath Test Fee) \$50 \$ \_\_\_\_\_

§56-5-2942(J) (Vehicle Assessment) \$40/ea \$ \_\_\_\_\_

3% to County (if paid in installments) \$ \$ 3.75

TOTAL \$ 128.75

Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

Clerk of Court/Deputy Clerk: [Signature]  
Court Reporter: [Signature]

Presiding Judge: [Signature]  
Judge Code: 2764  
Sentence Date: 6/13/19

COUNTY OF CHARLESTON

STATE VS.

BYRON LABRON RIVERS

AKA: Byron Rivers

Race: [REDACTED] Sex: [REDACTED]

DOB: [REDACTED] SS#: [REDACTED]

Address: [REDACTED]

City, State, Zip: [REDACTED]

DL# [REDACTED] SID# [REDACTED]

\*CDL Yes  No  CMV Yes  No  Hazmat Yes  No

In disposition of the said indictment comes now the Defendant who was

CONVICTED OF or  PLEADS

TO: Burglary First Degree (15-life)

In violation of § 16-11-0311 of the S.C. Code of Laws, bearing CDR Code # 0079

NON-VIOLENT  VIOLENT  SERIOUS  MOST SERIOUS  Mandatory GPS  §17-25-45

The charge is:  As indicted,  Lesser Included Offense,  Defendant Waives Presentment to Grand Jury. (def.'s initials)

The plea is:  Without Negotiations or Recommendation,  Negotiated Sentence,  Recommendation by the State.

ATTEST:

[Signature] 76463 Defendant [Signature] 102068 Attorney for Defendant SC Bar # SC Bar #

WHEREFORE, the Defendant is committed to the  State Department of Corrections  County Detention Center, for a determinate term of LWOP <sup>life without parole</sup> days/months/years or  under the Youthful Offender Act not to exceed \_\_\_\_\_ years and/or to pay a fine of \$ \_\_\_\_\_; provided that upon the service of \_\_\_\_\_ days/months/years and or payment of \$ \_\_\_\_\_; plus costs and assessments as applicable\*; the balance is suspended with probation for \_\_\_\_\_ months/years and subject to South Carolina Department of Probation, Parole and Pardon Service standard conditions of probation, which are incorporated by reference.

CONCURRENT or  CONSECUTIVE to sentence on: \_\_\_\_\_

The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.

The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION:  Deferred  Def. Waives Hearing  Ordered PTUP \_\_\_\_\_ days/hours Public Service Employment

Total: \$ \_\_\_\_\_ plus 20% fee: \_\_\_\_\_ \$ \_\_\_\_\_

Payment Terms: \_\_\_\_\_

Obtain GED

Set by SCDPPPS \_\_\_\_\_

Attend Voc. Rehab. Or Job Corp. \_\_\_\_\_

May serve W/E beginning \_\_\_\_\_

Substance Abuse Counseling

Random Drug/Alcohol Testing

Fine may be pd. in equal consecutive weekly/monthly

pmts. of \$ \_\_\_\_\_ Beginning \_\_\_\_\_

\$ \_\_\_\_\_ Paid to Public Defender Fund

Other: \_\_\_\_\_

Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

Recipient: \_\_\_\_\_

\*Fine: \_\_\_\_\_ \$ \_\_\_\_\_

§14-1-206 (Assessments 107.5%) \$ \_\_\_\_\_

§14-1-211 (A)(1)(Conv. Surcharge) \$100 \$ 100.00

§14-1-211 (A)(2)(DUI Surcharge) \$100 \$ \_\_\_\_\_

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§56-1-286 (DUI Breath Test) \$25 \$ \_\_\_\_\_

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3% to County (if paid in installments) \$ \$ 3.75

TOTAL \$ 128.75

Clerk of Court/Deputy Clerk: [Signature]

Court Reporter: Phyllis Norton

Presiding Judge: [Signature]

Judge Code: 2764

Sentence Date: 6/13/19

## CERTIFICATE OF COUNSEL FOR APPELLANT

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

Respectfully Submitted,

**RECEIVED**

**Jun 17 2020**

**SC Court of Appeals**

s/ Kathrine H. Hudgins

Kathrine H. Hudgins  
Appellate Defender

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

ATTORNEY FOR APPELLANT

This 17<sup>th</sup> day of June, 2020.