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**Nov 23 2021**

**SC Court of Appeals**

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

---

Appeal from Charleston County

Honorable R. Kirk Griffin, Circuit Court Judge

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THE STATE,

RESPONDENT,

V.

MICHAEL ANTHONY MCNEIL,

APPELLANT

APPELLATE CASE NO: 2021-000933

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RECORD ON APPEAL

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TOMMY A. THOMAS  
Bar No.: 005536  
Post Office Box 88  
Irmo, SC 29063  
(803) 732-5507

ATTORNEY FOR APPELLANT

DAVID SPENCER, ESQ.  
Senior Assistant Attorney General  
S.C. Bar 68571  
P.O. Box 11549  
Columbia, SC 29211  
803 734-3970  
ATTORNEY FOR RESPONDENT

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PROCEEDINGS

VOIR DIRE

THE COURT: Good morning, ladies and gentlemen. Thank you for being here this week. My name is Kirk Griffin. I'm a circuit judge from Sumter County and I will be presiding this week over the jury trials, which are presented here in Charleston County.

With that being said, I'll recognize the Solicitor to call the case, please.

MS. NORVELL: Thank you, Your Honor. The State calls the State versus Michael McNeil.

THE COURT: Ladies and gentlemen of the jury panel we are about to begin the case of The State of South Carolina versus Michael McNeil. Before we select the jury, there are several questions which I will ask you at this time.

Has the panel been sworn?

THE CLERK OF COURT: No, sir.

THE COURT: Alright.

THE CLERK OF COURT: Will everyone please rise and raise your right hands to be sworn.

[Whereupon, the jury panel complies]

THE CLERK OF COURT: Do you swear or affirm that you shall answer truthfully all questions asked to you by the Court, so help you God? If you answered with yes please

1 say I do.

2 [Whereupon, all jurors respond with I do]

3 THE CLERK OF COURT: You may be seated.

4 [Whereupon, the jury complies]

5 THE COURT: Alright. Ladies and gentlemen, if the  
6 answers -- if your answer to any of my questions is yes,  
7 just stand right where you are. We will get your name  
8 and juror number so we can keep the record clear. So  
9 listen closely to my questions and if you believe they  
10 apply to you, just stand right where you are.

11 Is any member of the jury panel related by blood or  
12 marriage to the defendant, Michael McNeil?

13 And, Mr. McNeil, will you stand, please?

14 [Whereupon, Mr. McNeil complies]

15 THE COURT: You may sit down.

16 [Whereupon, Mr. McNeil complies]

17 THE COURT: Does any member of the jury panel have a  
18 close social relationship, business relationship, or any  
19 relationship whatsoever with the defendant, Michael  
20 McNeil?

21 [Whereupon, there is no response]

22 THE COURT: Alright. The lawyers who will be trying  
23 this case, I'm going to have them introduce themselves to  
24 you and the question is the same. Is any member of the  
25 jury panel -- is any member of the jury panel related by

1 blood or marriage to either the lawyer for the State or  
2 the defense or does any member of the jury panel have a  
3 close personal or social relationship with these lawyers.

4 I'll recognize the Solicitor's Office first.

5 MS. NORVELL: Thank you, Judge. My name is Jordan  
6 Norvell and I'm an Assistant Solicitor with the Ninth  
7 Circuit Solicitor's Office. Assisting me in this trial  
8 is Assistant Solicitor David DuTremble.

9 MR. LEWIS: Thank you, Judge. My name is Ben Lewis.  
10 I'm an attorney with the Public Defender's Office here in  
11 Charleston. Trying the case this week with me is Nick  
12 D'Angelo.

13 [Off the record momentarily]

14 THE COURT: Alright. Ladies and gentlemen, the  
15 following is a list of possible witnesses who may be  
16 called to testify in this case. The question for these  
17 individuals is the same.

18 Is any member of the jury panel related by blood or  
19 marriage to any of the potential witnesses or do -- does  
20 any member of the jury panel have a close personal or  
21 social relationship with any of these people? Maurice  
22 Washington; Duval "Boo" Crummey; Shaderick "Sed"  
23 Williams; Ruben Serrudo, formerly with the North  
24 Charleston Police Department; Detective Robert Bailey,  
25 North Charleston Police Department; Mitch Wilson, with

1 South State Bank, he's a former Charleston County  
2 Sheriff's Office employee; Doctor George Rodelsperger,  
3 Medical University of South Carolina; Doctor Stephen  
4 Fann, Medical University of South Carolina; Lieutenant  
5 Jennifer Nates, South Carolina Law Enforcement Division;  
6 Special Investigator Jennifer Hall, Ninth Circuit  
7 Solicitor's Office; Special Investigator John Glenn,  
8 Ninth Circuit Solicitor's Office; Kenneth Jones, North  
9 Charleston Police Department; Captain James Hill, North  
10 Charleston Police Department; and finally, Art Degiovine.

11 That's good timing. I've just finished the list of  
12 witnesses. Ma'am, what is your juror number and name,  
13 please?

14 JUROR NUMBER 276: 276, Marcella Tabor.

15 THE COURT: Alright. Ms. Tabor, which potential  
16 witness do you know or have a relationship with?

17 JUROR NUMBER 276: One of the North Charleston  
18 Police Officers, Kenneth Jones. I'm a primary care  
19 doctor and we have a prior -- relationship.

20 THE COURT: Alright. Ma'am, based on that  
21 relationship do you believe that you could be fair and  
22 impartial to both the State and the defense in the case  
23 where he may potentially be a witness?

24 JUROR NUMBER 276: Yes, sir.

25 THE COURT: You can set aside that relationship and

1 base your -- base your verdict on the evidence and  
2 testimony which is presented to you from the witness  
3 stand?

4 JUROR NUMBER 276: Yes.

5 THE COURT: Alright. Thank you, ma'am. You may  
6 have a seat.

7 [Whereupon, the juror is seated]

8 THE COURT: Has any member of the jury panel formed  
9 or expressed an opinion about any issue or matter  
10 involved in this case? If so, please stand.

11 [Whereupon, there is no response]

12 THE COURT: Is any member of the jury panel aware of  
13 any bias or prejudice towards either the State or the  
14 defendant in this case?

15 [Whereupon, there is no response]

16 THE COURT: Is there any member of the jury panel  
17 who is a member of, contributor to, any group which has  
18 as its primary concern the promotion of law enforcement  
19 or victims' rights?

20 These groups would include but certainly not be  
21 limited to MADD, which is Mothers Against Drunk Drivers,  
22 SADD, Students against Drunk Drivers, Citizens Against  
23 Violent Crime, the South Carolina Troopers Association,  
24 things like that? If any member of the jury panel has  
25 any association with any of those groups, whether it

1 would be financial or serving those organizations? If  
2 so, please stand.

3 [Whereupon, a juror stands]

4 THE COURT: Alright. Ma'am, what's your juror  
5 number?

6 JUROR NUMBER 231: 231.

7 THE COURT: 231?

8 JUROR NUMBER 231: Yes, sir.

9 THE COURT: Ms. Proctor, what is your association?

10 JUROR NUMBER 231: So my husband ---

11 THE COURT: --- just don't go into too much detail.  
12 Just tell me the -- tell me the entity with which you're  
13 associated.

14 JUROR NUMBER 231: The F.O.P. and P.B.A.

15 THE COURT: That's Fraternal Order of Police and?

16 JUROR NUMBER 231: Police Benevolence Agency.

17 THE COURT: Okay. Based upon your association with  
18 those organizations, do you feel that you could be fair  
19 and impartial to both the State and the defense in a  
20 criminal trial?

21 JUROR NUMBER 231: [Nods affirmatively]

22 THE COURT: And you could set aside any feelings  
23 that you may have based upon your participation with  
24 these groups and base your verdict solely upon the  
25 evidence and testimony you heard from the witness stand?

1 JUROR NUMBER 231: Yes.

2 THE COURT: Alright. Thank you. Is there any  
3 member of the jury panel who because of religious or  
4 moral beliefs feel that they cannot sit in judgment of  
5 another fellow human being? If so, please stand.

6 [Whereupon, there is no response]

7 THE COURT: Does any member of the jury panel know  
8 of any reason whatsoever why he or she should not serve  
9 as a juror in this case, with particular emphasis being  
10 placed on your ability to be fair and impartial to both  
11 the State and the defendant in this case?

12 [Whereupon, there is no response]

13 THE COURT: Are you or are any members of your  
14 immediate family current or former law enforcement  
15 employees or employed by any law enforcement agencies?  
16 If so, please stand.

17 [Whereupon, jurors stand]

18 THE COURT: Alright. Sir, I'll take you first.  
19 What's your juror number, please?

20 JUROR NUMBER 296: 296.

21 THE COURT: 296?

22 JUROR NUMBER 296: Yes, sir.

23 THE COURT: Alright. Mr. Whytsell?

24 JUROR NUMBER 296: Correct.

25 THE COURT: What is the relationship to law

1 enforcement?

2 JUROR NUMBER 296: Former military police.

3 THE COURT: You are former military police?

4 JUROR NUMBER 296: [Nods affirmatively]

5 THE COURT: Alright. Would the fact that you are  
6 former military police impact your ability to be fair and  
7 impartial both to the State and the defense in the trial  
8 of the criminal case?

9 JUROR NUMBER 296: No.

10 THE COURT: Alright. You can set aside any notions  
11 that you would have gained by being a police officer and  
12 base your verdict solely on the evidence and testimony  
13 which is presented in this trial?

14 JUROR NUMBER 296: Yes, sir.

15 THE COURT: Alright. Thank you, sir. You can have  
16 a seat.

17 [Whereupon, the juror is seated]

18 THE COURT: And, Ms. Proctor, 231?

19 JUROR NUMBER 231: Yes, sir.

20 THE COURT: That's the same issue that we dealt with  
21 before?

22 JUROR NUMBER 231: Yes, sir.

23 THE COURT: And you could be -- based upon your I  
24 believe you said your husband is law enforcement; you  
25 could be fair and impartial to both the State and the

1 defense in this case?

2 JUROR NUMBER 231: --

3 THE COURT REPORTER: Is that a yes, ma'am?

4 JUROR NUMBER 231: Yes.

5 THE COURT: And you could base your verdict solely  
6 upon the evidence and testimony that is presented to you  
7 from the witness stand?

8 JUROR NUMBER 231: Yes, sir.

9 THE COURT: Alright. Thank you, ma'am.

10 Alright. Ma'am, behind her, what's your number?

11 JUROR NUMBER 199: I'm juror number 199.

12 THE COURT: Alright. Ms. Messeroff, what is your  
13 connection with law enforcement, please?

14 JUROR NUMBER 199: My father is a retired police  
15 officer.

16 THE COURT: Alright. Based upon the fact that your  
17 father was a police officer, do you believe that you can  
18 be fair and impartial to both the State and the defense  
19 in a criminal jury trial?

20 JUROR NUMBER 199: It depends on the nature of the  
21 case. I'm not aware of what this case is about.

22 THE COURT: Right.

23 JUROR NUMBER 199: So if you're saying in every  
24 possible case do I think I can be fair and impartial the  
25 answer is no.

1 THE COURT: Alright. Ms. Messeroff, thank you. You  
2 can have a seat.

3 [Whereupon, the juror is seated]

4 THE COURT: And we will set Ms. Messeroff to the  
5 side based upon her answer to my question. Ma'am?

6 JUROR NUMBER 274: Juror number 274, Leigh Summer.  
7 My husband is retired federal law enforcement air marshal  
8 and secret service.

9 THE COURT: Alright. Based upon your husband's  
10 former employment, do you believe that you could be fair  
11 and impartial to both the State and the defense in this  
12 case?

13 JUROR NUMBER 274: I think so, yes.

14 THE COURT: Alright. And you can set aside any...

15 JUROR NUMBER 274: I believe so. I'm my own person  
16 so.

17 THE COURT: Okay. So you could base your evidence  
18 -- or excuse me, you could base your verdict solely upon  
19 the evidence and testimony that you heard in this case,  
20 and set aside any bias or anything else that may exist,  
21 based upon your husband's former employment?

22 JUROR NUMBER 274: Yes, sir.

23 THE COURT: Alright. Thank you, ma'am. You can  
24 have a seat.

25 [Whereupon, the juror is seated]

1           THE COURT:    Are you or are any members of your  
2 immediate family or close personal friends related to or  
3 a personal friend or an acquaintance of anyone employed  
4 with the Charleston County Solicitor's Office?  If so,  
5 please stand.

6           [Whereupon, jurors stand]

7           THE COURT:    Alright.  Sir, what's your number?

8           JUROR NUMBER 138:  I don't know my number.  It's  
9 Jonathan Mark Hylton, H-Y-L-T-O-N.

10          THE COURT:    Alright.  It's 138.  Mr. Hylton, what is  
11 your association with a member of the Solicitor's Office?

12          JUROR NUMBER 138:  One of the Assistant Solicitors  
13 is a family friend of mine.

14          THE COURT:    Okay.  It's not one of the assistants  
15 who's trying this case, is it?

16          JUROR NUMBER 138:  No, sir.

17          THE COURT:    Alright.  Based upon you having a friend  
18 who is an Assistant Solicitor, do you believe that you  
19 could -- that that would impact your ability to be fair  
20 and impartial in a trial that would be presented by the  
21 Solicitor's Office?

22          JUROR NUMBER 138:  Yes.

23          THE COURT:    You do?  You don't believe you could be  
24 fair and impartial?

25          JUROR NUMBER 138:  Oh no, I could.

1 THE COURT: Okay. Let's be absolutely certain.  
2 Based upon your relationship with a member of the  
3 Solicitor's Office, do you feel you could be fair and  
4 impartial if you were selected as a juror in this case?

5 JUROR NUMBER 138: Yes, sir, I can.

6 THE COURT: Okay. You can set aside that friendship  
7 and base your verdict solely upon the evidence and  
8 testimony presented from the witness stand?

9 JUROR NUMBER 138: Yes, sir.

10 THE COURT: Alright. Thank you, sir. You can have  
11 a seat.

12 [Whereupon, the juror is seated]

13 THE COURT: Sir, what's your number?

14 JUROR NUMBER 206: I think it's 206.

15 THE COURT: Mr. Moore?

16 JUROR NUMBER 206: Yes, sir.

17 THE COURT: Alright. Mr. Moore, what's your  
18 relationship, sir?

19 JUROR NUMBER 206: I don't know if my cousin --

20 THE COURT REPORTER: I can't hear you ---

21 THE COURT: --- I need you to -- I need you to speak  
22 up just a little bit. You said you had a cousin who's  
23 employed with the Solicitor's Office?

24 JUROR NUMBER 206: Yeah. I don't know if she works  
25 in the Solicitor's Office. Her name is Karen Singleton.

1 THE COURT: Okay.

2 MS. NORVELL: I don't -- I don't believe that we  
3 have an employee with that last name.

4 THE COURT: Okay. And even -- even if you do, that  
5 employee is not involved in the presentation of this  
6 trial?

7 MS. NORVELL: That's correct.

8 THE COURT: Alright. Sir, based upon your having a  
9 family member who's employed with the Solicitor's Office,  
10 do you feel that would impact your ability to be fair and  
11 impartial if you were selected as a juror in this case?

12 JUROR NUMBER 206: No, sir.

13 THE COURT: Alright. And you could base your  
14 verdict on the evidence and testimony that you heard  
15 presented from the witness stand?

16 JUROR NUMBER 206: Yes, sir.

17 THE COURT: Alright. Thank you, sir. You can have  
18 a seat.

19 [Whereupon, the juror is seated]

20 THE COURT: Has any member of the jury panel or any  
21 member of your immediate family ever been a victim of a  
22 violent crime? If so, please stand.

23 [Whereupon, there is no response]

24 THE COURT: Has any member of the jury panel formed  
25 an opinion concerning the guilt or innocent -- innocence

1 of Michael Anthony McNeil? If so, please stand.

2 [Whereupon, there is no response]

3 THE COURT: Has any member of the jury panel ever  
4 served on a jury before? If so, please stand.

5 [Whereupon, jurors stand]

6 THE COURT: Alright. Ma'am, let's start with you  
7 in the purple.

8 JUROR NUMBER 259: I'm Dana Sinkler, jury number  
9 259, and I have served on three juries, two criminal and  
10 one civil.

11 THE COURT: Alright. Ms. Sinkler, would your prior  
12 jury service affect the way you would view this case at  
13 all?

14 JUROR NUMBER 259: No.

15 THE COURT: Alright. Thank you, ma'am. You can  
16 have a seat.

17 [Whereupon, the juror is seated]

18 THE COURT: Sir, there in the flowered shirt?

19 JUROR NUMBER 94: Omar Frias, juror number 94, and I  
20 served on a criminal court case.

21 THE COURT: Okay. And would the fact that you've  
22 previously served on a criminal case impact your ability  
23 to potentially sit on a jury in this matter?

24 JUROR NUMBER 94: No, sir.

25 THE COURT: Alright. Sir, you can have a seat.

1 [Whereupon, the juror is seated]

2 THE COURT: Ma'am in the blue?

3 JUROR NUMBER 73: Yes. My name is Angienita  
4 Deveaux. I don't remember my juror number.

5 THE COURT: Give me that last name again.

6 JUROR NUMBER 73: Deveaux.

7 THE COURT REPORTER: I think it's 73.

8 CLERK OF COURT: It's 73.

9 THE COURT: Alright. Ms. Deveaux is number 73.  
10 What type of jury have you served on, ma'am?

11 JUROR NUMBER 73: On a criminal and a civil.

12 THE COURT: Alright. Would the fact that you've  
13 served on two juries in the past impact your ability or  
14 your, how you would view or potentially judge this  
15 particular case?

16 JUROR NUMBER 73: No.

17 THE COURT: Alright. Ma'am, you can have a seat.  
18 Thank you.

19 [Whereupon, the juror is seated]

20 JUROR NUMBER 241: Juror number 241, Monica Rivers.

21 THE COURT: Alright. Ms. Rivers, what type of jury  
22 have you served on in the past?

23 JUROR NUMBER 241: Civil.

24 THE COURT: Civil? Alright. The fact that you've  
25 served on a civil jury, would that impact your ability to

1 perform as a juror if you were selected in this case?

2 JUROR NUMBER 241: No.

3 THE COURT: Alright. Thank you, ma'am. You can  
4 have a seat.

5 [Whereupon, the juror is seated]

6 THE COURT: Ma'am, there in the dark top?

7 JUROR NUMBER 228: Juror 228, Lauren Powell.

8 THE COURT: Alright. Ms. Powell, what type of jury  
9 have you served on in the past?

10 JUROR NUMBER 228: I believe it was civil.

11 THE COURT: Okay. Would your prior jury service  
12 impact your ability in any way to serve on this jury if  
13 you were selected in this case?

14 JUROR NUMBER 228: No, sir.

15 THE COURT: Alright. Thank you, ma'am. You can  
16 have a seat.

17 [Whereupon, the juror is seated]

18 THE COURT: All the way in the back.

19 JUROR NUMBER 87: Jennifer Ferrell, number 87.

20 THE COURT: Alright. Ms. Ferrell, what type of jury  
21 have you served on?

22 JUROR NUMBER 87: Criminal.

23 THE COURT: Criminal?

24 JUROR NUMBER 87: Yes, sir.

25 THE COURT: Alright. Would the fact that you've

1 served on a criminal jury in the past have any impact on  
2 your ability to sit as a juror in this case?

3 JUROR NUMBER 87: No, sir.

4 THE COURT: Alright. Thank you, ma'am. You can  
5 have a seat.

6 [Whereupon, the juror is seated]

7 THE COURT: Alright. Sir, on the camera. What's  
8 your number?

9 JUROR NUMBER 145: 145.

10 THE COURT: 145. Mr. Jenkins, what type of jury did  
11 you serve on?

12 JUROR NUMBER 145: It was a criminal.

13 THE COURT: Okay. And the fact that you've served  
14 on a criminal jury in the past, does that have any  
15 bearing on your ability to serve if you were potentially  
16 selected as a juror in this case?

17 JUROR NUMBER 145: No.

18 THE COURT: Alright. Thank you, sir. You can have  
19 a seat.

20 [Whereupon, the juror is seated]

21 THE COURT: Does any member of the jury panel live  
22 or work near Dunlap Street in North Charleston? If so,  
23 please stand.

24 [Whereupon, there is no response]

25 THE COURT: Does any member of the jury panel feel

1 that they will be unable to serve and deliberate, as long  
2 as is necessary to reach a verdict, due to the current  
3 COVID-19 pandemic?

4 [Whereupon, there is no response]

5 THE COURT: Does any member of the jury panel feel  
6 that they will be more likely to rush to judgment because  
7 of concerns regarding COVID-19?

8 [Whereupon, there is no response]

9 THE COURT: Alright. Thank you, ladies and  
10 gentlemen. Does the State have any further voir dire  
11 questions?

12 MS. NORVELL: No, Judge. We're comfortable with the  
13 Court's standard voir dire.

14 THE COURT: Any additional specific requests?

15 MR. LEWIS: No, that's -- nothing additional, Judge  
16 on jury selection.

17 [Whereupon, a juror stands]

18 THE COURT: Yes, ma'am?

19 JUROR NUMBER 153: Yeah. I don't know what size  
20 room the jury panel would be in and I do have concerns  
21 about being sequestered in a room with people who are  
22 unvaccinated or may carry the COVID virus within them.

23 THE COURT: Okay. Ma'am, what is your number?

24 JUROR NUMBER 153: 153.

25 THE COURT: Ms. Kaufman?

1 JUROR NUMBER 153: Yes, sir.

2 THE COURT: Alright. Ma'am, thank you. I've made a  
3 note of your situation. You can have a seat.

4 [Whereupon, the juror is seated]

5 THE COURT: Alright. Ladies and gentlemen, that  
6 concludes the voir dire questions which are specific to  
7 this case. The Clerk's Office will generate a random  
8 list of names of the jurors who are -- who have not been  
9 excused so if your name is called just stand right where  
10 you are, as you've done.

11 The attorneys will have an opportunity to consider  
12 you as a juror and they will either accept you as a juror  
13 or they will excuse you from the trial of this case. We  
14 are going to do two alternates.

15 Let me see the lawyers up here real quick.

16 [Whereupon, an off-the-record bench conference is  
17 held]

18 [Off the record momentarily]

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STRIKING OF THE JURY

THE CLERK OF COURT: Alright. Ladies and gentlemen, if I call your name and your number if you would, please stand. For those of you upstairs in the courtroom, if I call your name and number, if you could just approach the camera just like you did for roll call.

Juror number 16 -- I'm sorry, 117, Charles Green.

[Whereupon, juror number 117 stands]

THE CLERK OF COURT: What say ye for the State?

MS. NORVELL: Please present this juror.

JUROR NUMBER 117: Say it again?

THE CLERK OF COURT: One second, sir. What say ye for the defense?

MR. LEWIS: Please seat this juror.

THE CLERK OF COURT: Sir, if you could have a seat in the jury box to your right. You've been selected as a juror in the trial of this case.

[Whereupon, juror number 117 is seated in the jury box as a juror]

THE CLERK OF COURT: Juror number 40, Johnny Burch.

[Whereupon, juror number 40 stands]

THE CLERK OF COURT: What say ye for the State?

MS. NORVELL: Beg the Court's indulgence.

THE COURT: Yes, ma'am.

[Whereupon, Ms. Norvell and Mr. DuTremble confer]

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Striking of the Jury  
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1 MS. NORVELL: Please present this juror.

2 THE CLERK OF COURT: What say ye for the defense?

3 MR. LEWIS: Please seat the juror.

4 THE CLERK OF COURT: Sir, you've been selected as a  
5 juror in the trial of this case. Just please have a  
6 seat.

7 [Whereupon, juror number 40 is seated as a juror]

8 THE CLERK OF COURT: Juror number 87, Ms. Ferrell.

9 [Whereupon, juror number 87 stands]

10 THE CLERK OF COURT: 87. What say ye for the State?

11 MS. NORVELL: Beg the Court's indulgence.

12 [Whereupon, Ms. Norvell and Mr. DuTremble confer]

13 MS. NORVELL: Please present this juror.

14 THE CLERK OF COURT: What say ye for the defense?

15 MR. LEWIS: Please seat this juror.

16 THE CLERK OF COURT: Ma'am, you've been selected as  
17 a juror in the trial of this case. Just please have a  
18 seat.

19 [Whereupon, juror number 87 is seated as a juror]

20 THE CLERK OF COURT: Juror number 244. 244.

21 [Whereupon, juror number 244 stands]

22 THE CLERK OF COURT: What say ye for the State?

23 MS. NORVELL: Please present this juror.

24 THE CLERK OF COURT: What say ye for the defense?

25 MR. LEWIS: Please seat the juror.

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1 THE CLERK OF COURT: Ma'am, you've been selected as  
2 a juror in the trial of this case. Please have a seat.

3 [Whereupon, juror number 244 is seated as a juror]

4 THE CLERK OF COURT: Juror number 148. 148, Mr.  
5 Johnson.

6 [Whereupon, juror number 148 stands]

7 THE CLERK OF COURT: What say ye for the State?

8 MS. NORVELL: Please excuse this juror.

9 THE CLERK OF COURT: Sir, you've been excused from  
10 this trial. Please have a seat.

11 [Whereupon, juror number 148 is excused from the  
12 trial of the case]

13 THE CLERK OF COURT: Juror number 296. 296, Mr.  
14 Whytsell.

15 [Whereupon, juror number 296 stands]

16 THE CLERK OF COURT: What say ye for the State?

17 MS. NORVELL: Please excuse this juror.

18 THE CLERK OF COURT: Sir, you've been excused from  
19 this case. Just please have a seat.

20 [Whereupon, juror number 296 is excused from the  
21 trial of the case]

22 THE CLERK OF COURT: The State has used two out of  
23 five strikes. Juror number 118, 118, Mr. Green, John  
24 Green.

25 [Whereupon, juror number 118 stands]

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Striking of the Jury  
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1 THE CLERK OF COURT: What say ye for the State?

2 MS. NORVELL: Please present this juror.

3 THE CLERK OF COURT: What say ye for the defense?

4 MR. LEWIS: Please seat the juror.

5 THE CLERK OF COURT: Sir, you've been selected as a  
6 juror in the trial of this case. If you could just have  
7 a seat in the jury box that's behind you.

8 [Whereupon, juror number 118 is seated in the jury  
9 box as a juror]

10 THE CLERK OF COURT: Juror number 252, 252, Demarco  
11 Sheares.

12 [Whereupon, juror number 252 stands]

13 THE CLERK OF COURT: What say you for the State?

14 MS. NORVELL: Please present this juror.

15 THE CLERK OF COURT: What say you for the defense?

16 MR. LEWIS: Please seat the juror.

17 THE CLERK OF COURT: Sir, you've been selected as a  
18 juror in the trial of this case.

19 [Whereupon, juror number 252 is seated as a juror]

20 THE CLERK OF COURT: Juror number 177, Christopher  
21 Levesque.

22 [Whereupon, juror number 177 stands]

23 THE CLERK OF COURT: What say you for the State?

24 MS. NORVELL: Beg the Court's indulgence.

25 [Whereupon, Ms. Norvell and Mr. DuTremble confer]

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1 MS. NORVELL: Please present this juror.  
2 THE CLERK OF COURT: What say you for the defense?  
3 MR. LEWIS: Please seat the juror.  
4 THE CLERK OF COURT: Sir, you've been selected as a  
5 juror in the trial of this case.  
6 [Whereupon, juror number 177 is seated as a juror]  
7 THE CLERK OF COURT: Juror number 174, 174, Erin  
8 Leger.  
9 [Whereupon, juror number 174 stands]  
10 THE CLERK OF COURT: What say ye for the State?  
11 MS. NORVELL: Please present this juror.  
12 THE CLERK OF COURT: What say you for the defense?  
13 MR. LEWIS: Please seat the juror.  
14 THE CLERK OF COURT: Ma'am, you've been selected as  
15 a juror. If you could please just have a seat in the  
16 jury box behind you.  
17 [Whereupon, juror number 174 is seated in the jury  
18 box as a juror]  
19 THE CLERK OF COURT: Juror number 164, Ryan  
20 Krawchuk.  
21 [Whereupon, juror number 165 stands]  
22 THE CLERK OF COURT: What say you for the State?  
23 MS. NORVELL: Please present this juror.  
24 THE CLERK OF COURT: What say you for the defense?  
25 MR. LEWIS: Please seat the juror.

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1 THE CLERK OF COURT: Sir, you've been selected as a  
2 juror in the trial of this case. Just please have a  
3 seat.

4 [Whereupon, juror number 165 is seated as a juror]

5 THE CLERK OF COURT: Juror number 60, James Coman.

6 [Whereupon, juror number 60 stands]

7 THE CLERK OF COURT: What say ye for the State?

8 MS. NORVELL: Beg the Court's indulgence.

9 THE COURT: Yes, ma'am.

10 [Whereupon, Ms. Norvell and Mr. DuTremble confer]

11 MS. NORVELL: Please present this juror.

12 THE CLERK OF COURT: What say ye for the defense?

13 MR. LEWIS: Please excuse this juror.

14 THE CLERK OF COURT: Sir, please have a seat.

15 You've been excused from this trial.

16 [Whereupon, juror number 60 is excused from the  
17 trial of the case]

18 THE CLERK OF COURT: Juror number 72, 72, Thomas  
19 Delorenzo.

20 [Whereupon, juror number 72 stands]

21 THE CLERK OF COURT: What say you for the State?

22 MS. NORVELL: Please excuse this juror.

23 THE CLERK OF COURT: Sir, please have a seat.

24 You've been excused from this case.

25 [Whereupon, juror number 77 is excused from the

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1 trial of the case]

2 THE CLERK OF COURT: The State has used three out of  
3 five strikes, defense one out of five. Juror number 260,  
4 Christina Sithideth.

5 [Whereupon, juror number 260 stands]

6 THE CLERK OF COURT: What say you for the State?

7 MS. NORVELL: Please present this juror.

8 THE CLERK OF COURT: What say you for the defense?

9 MR. LEWIS: Please seat the juror.

10 THE CLERK OF COURT: Ma'am, please have a seat in  
11 the jury box behind you. You've been selected as a juror  
12 in the trial of this case.

13 [Whereupon, juror number 260 is seated in the jury  
14 box as a juror]

15 THE CLERK OF COURT: Juror number 128, 128, Vanessa  
16 Harris.

17 [Whereupon, juror number 128 stands]

18 THE CLERK OF COURT: What say ye for the State?

19 MS. NORVELL: Please present this juror.

20 THE CLERK OF COURT: What say ye for the defense?

21 MR. LEWIS: Please seat this juror.

22 THE CLERK OF COURT: Ma'am, you've been selected as  
23 a juror in the trial of this case.

24 [Whereupon, juror number 129 is seated as a juror]

25 THE CLERK OF COURT: Juror number 100, Bradley

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1 Gattis.

2 [Whereupon, juror number 100 stands]

3 THE CLERK OF COURT: What say you for the State?

4 MS. NORVELL: Please present this juror.

5 THE CLERK OF COURT: What say you for the defense?

6 MR. LEWIS: Please seat -- one moment.

7 [Whereupon, Mr. Lewis and Mr. D'Angelo confer]

8 MR. LEWIS: I'm sorry. Please excuse this juror.

9 THE CLERK OF COURT: Sir, you've been excused from  
10 this case. Just please have a seat. Just have a seat  
11 right there [indicates].

12 JUROR NUMBER 100: Oh. I'm sorry.

13 THE CLERK OF COURT: You're good.

14 [Whereupon, juror number 100 is excused from the  
15 trial of the case]

16 THE CLERK OF COURT: Juror number 241. 241.

17 [Whereupon, juror number 241 stands]

18 THE CLERK OF COURT: What say ye for the State?

19 MS. NORVELL: Please present this juror.

20 THE CLERK OF COURT: What say ye for the defense?

21 MR. LEWIS: Please seat the juror.

22 THE CLERK OF COURT: Ma'am, you've been selected as  
23 a juror in the trial of this case.

24 [Whereupon, juror number 241 is seated as a juror]

25 THE CLERK OF COURT: Juror number 2 -- oh I'm sorry.

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1 That is number 12. Now striking for the first alternate.

2 Strikes are one and two. Juror number 228. 228.

3 [Whereupon, juror number 228 stands]

4 THE CLERK OF COURT: What say ye for the State?

5 MS. NORVELL: Please present this juror.

6 THE CLERK OF COURT: What say ye for the defense?

7 MR. LEWIS: Please excuse this juror.

8 THE CLERK OF COURT: Ma'am, you've been excused from  
9 this case. Just please have a seat.

10 [Whereupon, juror number 228 is excused from the  
11 trial of the case]

12 THE CLERK OF COURT: Juror number 230. 230.

13 [Whereupon, juror number 230 stands]

14 THE CLERK OF COURT: What say ye for the State?

15 MS. NORVELL: Please present this juror.

16 THE CLERK OF COURT: What say ye for the defense?

17 MR. LEWIS: Please seat this juror.

18 THE CLERK OF COURT: Sir, you've been selected as  
19 the first alternate in the trial of this case. Just have  
20 a seat, please.

21 [Whereupon, juror number 230 is seated as an  
22 alternate juror]

23 THE CLERK OF COURT: Now striking for second  
24 alternate. Juror number 259. 259.

25 [Whereupon, juror number 259 stands]

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1 THE CLERK OF COURT: What say ye for the State?

2 MS. NORVELL: Please excuse this juror.

3 THE CLERK OF COURT: Ma'am, you've been excused from  
4 this case. Please have a seat.

5 [Whereupon, juror number 259 is excused from the  
6 trial of the case]

7 THE CLERK OF COURT: Juror number 106. 106, Mr.  
8 Godin.

9 [Whereupon, juror number 106 stands]

10 MS. NORVELL: Please present this juror.

11 THE CLERK OF COURT: Sorry. What say ye for the  
12 defense?

13 MR. LEWIS: Please seat this juror.

14 THE CLERK OF COURT: Sir, you've been selected as  
15 the second alternate in this case.

16 [Whereupon, juror number 106 is seated as an  
17 alternate juror]

18 THE CLERK OF COURT: Your Honor, you have a jury.

19 THE COURT: Yes, sir.

20 [Off the record momentarily]

21 THE COURT: Alright. Ladies and gentlemen, if you  
22 were not selected as one of the twelve primary jurors or  
23 one of the two alternates, you are free to go at this  
24 time. Please call the number that you were given to the  
25 Clerk's call-in system after six o'clock tonight. There

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1 will be further instructions with regard to what you are  
2 required to do, and it will say usually one of three  
3 different things. It will tell you when to report back,  
4 when to call back, or that you've been excused for the  
5 week.

6 Now, the first two options are far more likely at  
7 the beginning of the week. As it gets close to Thursday  
8 or Friday, you might get the third option that you've  
9 been excused. But call that number tonight after 6:00.  
10 It will tell you what we need you to do. And it's just a  
11 recording so you can talk to it if you want to but it's  
12 not going to say anything other than what's been  
13 prerecorded.

14 So if you were not selected as a juror or an  
15 alternate in this case, you are free to go at this time.  
16 Then those who were selected please remain seated. I  
17 have further instructions for the fourteen of you.

18 [Whereupon, the remaining jury panel is excused at  
19 11:34 a.m.]

20 THE COURT: Alright. Ladies and gentlemen, those of  
21 you who were selected either as a primary jury or the  
22 alternates in this case, I have a few instructions for  
23 you that will let you know how we are going to proceed.  
24 Folks, we are going to have some pretrial matters that  
25 will likely take up the balance of the day so we aren't

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1 going to start this trial until 9:30 tomorrow morning.  
2 And, folks, you don't know much about this case other  
3 than the defendant's name and I'm assuming based on one  
4 of the questions, that the allegations in this matter are  
5 alleged to have occurred on or near Dunlap Street in  
6 North Charleston. You don't know anything about this  
7 case other than those two items.

8 But I would instruct all of you that it would be  
9 improper for you to begin any discussions about this  
10 case. It would be improper for you to seek to do any  
11 research whatsoever on this case whether it be through  
12 social media, the internet, news reports, anything of  
13 that nature. So please do not undertake any sort of  
14 fact-finding or investigation about any of the issues  
15 which may have occurred in this case.

16 As I stated earlier during voir dire, the  
17 information that you will receive about these matters  
18 will come to you from inside the courtroom and from the  
19 witnesses who testify from the witness stand, so do not  
20 seek to do any research about any matters involved in  
21 this case.

22 Are we going to show the jurors where they need to  
23 report in the morning?

24 THE BAILIFF: Yes, sir.

25 THE COURT: Alright. The members of the Clerk

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1 staff, the bailiffs, are going to show you to the jury  
2 room where you will be required to report in the morning.  
3 But other than that, I don't have any further  
4 instructions other than to remind you to be -- we will  
5 start promptly at 9:30 so if you would be here no later  
6 than 9:15 so we can get things moving as soon as possible  
7 in the morning.

8         And, again, please do not seek to do any sort of  
9 research of any type whatsoever about the issues involved  
10 in this case. Thank you for being here this morning and  
11 we will see you tomorrow morning at 9:30.

12         [Whereupon, the jury is excused and exits at 11:38  
13 a.m.]

14         [Off the record momentarily]

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1 THE COURT: Folks, there's a couple of things I want  
2 to put on the record with regard to the jury selection  
3 process.

4 I assumed that since there were no contemporaneous  
5 objections made during the jury selection process that  
6 each side was satisfied with the jury as selected and the  
7 manner in which it was selected?

8 MS. NORVELL: The State has no objections or motions  
9 following the jury selection.

10 MR. LEWIS: We're perfectly satisfied. Thank you,  
11 Judge.

12 THE COURT: Alright. And one more thing. Based  
13 upon juror number 153 as response to the questions about  
14 COVID, I set her aside and she was not included in the  
15 generating list. I didn't want to do that on the record  
16 because I felt like that might encourage other jurors to  
17 change their mind with regard to the answer to that  
18 question.

19 But just so the record is clear, juror number 153,  
20 Ms. Kaufman, was set aside for cause based upon her  
21 response to the questions regarding COVID, her hesitancy  
22 to sit in a jury room with people that she would have  
23 been unaware as to their vaccination status, so I set her  
24 aside based upon her answers.

25 MS. NORVELL: Thank you, Judge. I think that's

1 reasonable.

2 THE COURT: I will do -- as far as scheduling, it's  
3 11:42 now, it's probably not a great idea to start  
4 anything. I think it's better to say start at 1:00 or  
5 1:30, whenever y'all tell me, and then we'll do the  
6 pretrial matters and conclude those this afternoon. But  
7 I don't want to start at this time, so 1:00 or 1:30.  
8 Y'all tell me.

9 MS. NORVELL: So our expert that needs to meet and  
10 assess the defendant has a matter that goes until 1:00 so  
11 she'll be here and have the assessment. She's coming  
12 from MUSC to the courthouse. I think 1:30 is best,  
13 Judge, if that's suitable.

14 THE COURT: It's going to take her a minute -- a few  
15 minutes to meet with him and --

16 MS. NORVELL: Exactly. She will arrive at the  
17 courthouse and need to meet with the defendant  
18 downstairs. She's indicated that that should take no  
19 more than ten to fifteen.

20 MR. LEWIS: Yeah. Usually that's pretty ---

21 THE COURT: --- let's do it this way. I will start  
22 no earlier than 1:30 but if everything is ready and she's  
23 -- it take a little bit longer, that's fine. But I'll be  
24 ready to go at 1:30.

25 MS. NORVELL: Thank you, Judge. And we will keep

1 you advised through the Clerk and everyone -- your law  
2 clerk arrives tomorrow?

3 THE COURT: I'm getting a new law clerk tomorrow.  
4 He's probably going to be a little overwhelmed so.

5 MS. NORVELL: Thank you, Judge. I just do think  
6 it is important that the defendant is assessed and we  
7 have that Blair hearing before starting everything.

8 THE COURT: Alright.

9 MR. DUTREMBLE: Thank you, Judge.

10 MR. D'ANGELO: Thank you, Your Honor.

11 [Whereupon, Court is in recess from 11:45 a.m. to  
12 1:30 p.m.]

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State v Michael A. McNeil  
Blair Hearing-Doctor Emily Gottfried-Direct Examination by Ms. Norvell  
August 16, 2021

1 THE COURT: Ms. Norvell, are we ready to proceed?

2 MS. NORVELL: Yes, Judge we are. Doctor Gottfried  
3 is present and ready for the Blair hearing.

4 THE COURT: Alright. Come around Doctor, please.

5 [Whereupon, Doctor Gottfried comes forward]

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

8 THE CLERK OF COURT: You may be seated. And please  
9 for the record state your full name spelling both your  
10 first and your last.

11 THE WITNESS: Doctor Emily Gottfried, G-O-T-T-F-R-  
12 I-E-D.

13 MS. NORVELL: Thank you, Judge.

14 - - - - -

15 DOCTOR EMILY GOTTFRIED,

16 Having Been First Duly Sworn,

17 Was Examined and Testified as Follows:

18 DIRECT EXAMINATION

19 BY MS. NORVELL:

20 Q. Good afternoon, Doctor Gottfried. Where are you  
21 currently employed?

22 A. I'm an Associate Professor of Psychiatry and  
23 Behavioral Sciences at the Medical University of South  
24 Carolina.

25 Q. And as part of your role as the Associate Professor

1 -- do you regularly conduct competency evaluations with  
2 regard to criminal cases?

3 A. Yes.

4 Q. Did you have the occasion to conduct a competency  
5 evaluation in this case?

6 A. Yes, I did.

7 Q. Can you briefly just discuss your background with  
8 us? Where did you complete your training at?

9 A. Sure. So I have a Bachelors degree in Psychology  
10 from San Diego State University. I have a Masters degree  
11 in Psychology from Columbia University. I have a Masters  
12 in Clinical Psychology and a Ph.D. in Clinical Psychology  
13 from Florida State University.

14 As part of my training I did a number of practicums,  
15 so hands-on experiences at forensic sites to include  
16 forensic state hospitals, Federal Bureau of Prisons,  
17 state hospitals, where I learned to conduct competency-  
18 to-stand-trial evaluations in addition to other kinds of  
19 forensic evaluations.

20 Prior to completing my Ph.D., I did a 2000, a full-  
21 time one-year internship with the Department of State  
22 Hospitals, Patton State Hospital in California on their  
23 forensic track and then after completing my Ph.D. I  
24 additionally did a one-year postdoctoral fellowship in  
25 Forensic Psychology at the Medical College of Georgia in

1 partnership with their state hospital there in Augusta.

2 Q. In your training and experience, approximately how  
3 many forensic evaluations have you completed?

4 A. Thousands.

5 Q. Thank you.

6 MS. NORVELL: Judge, the State would offer Doctor  
7 Gottfried as an expert in Forensic Psychiatry.

8 MR. LEWIS: No objection.

9 THE COURT: Alright. Doctor Gottfried is admitted  
10 as an expert in, well, what field did you say just so the  
11 record is clear?

12 MS. NORVELL: Forensic Psychiatry. I apologize.  
13 I'll speak louder.

14 THE COURT: That was my fault. She is admitted as  
15 an expert in Forensic Psychology.

16 Q. [Ms. Norvell] Doctor Gottfried, you mentioned that  
17 you did complete a competency evaluation in this case; is  
18 that accurate?

19 A. Yes.

20 Q. Did you complete that evaluation pursuant to a court  
21 order?

22 A. Yes.

23 Q. And do you have your report in front of -- did you  
24 complete a report in this case?

25 A. Yes, I did.

1 Q. Do you have your report in front of you?

2 A. I do.

3 Q. When was your evaluation, your initial evaluation,  
4 in this case completed?

5 A. We saw Mr. McNeil on February 14th of 2020.

6 Q. And prior to today's court hearing, did you have an  
7 opportunity to meet with the defendant again and assess  
8 him?

9 A. Yes. I did the standard kind of brief check-in to  
10 make sure that nothing had changed regarding his mental  
11 status or my opinion regarding his competency.

12 Q. At your initial evaluation, approximately how much  
13 time did you spend with the defendant?

14 A. Approximately an hour. He had been seen previously  
15 at MUSC for unrelated charges where they had completed a  
16 background on his so it was a little bit less time in  
17 that I just kind of updated his background and then did a  
18 mental status and the competency evaluation.

19 Q. Thank you. If you can go into a little bit about  
20 what was done during your initial evaluation to determine  
21 if the defendant met the standard competency to stand  
22 trial?

23 A. So we assess competency in a couple of different  
24 ways. So per the statute, if somebody has deficits that  
25 are interfering with their ability to be competent, it

1 has to be due to a mental illness. So we do a really  
2 thorough clinical assessment. Typically we gather all of  
3 their background history, including like educational,  
4 medical and psychiatric.

5 So in this case because he had previously been seen  
6 in 2016, we simply updated that information. And then we  
7 conduct a mental status evaluation where we're looking to  
8 make sure that the examinee is oriented, alert, whether  
9 or not they're currently experiencing hallucinations,  
10 delusional beliefs, suicidal thoughts.

11 So we go through and ask about various kinds of  
12 symptoms and then also make behavioral observations. For  
13 example, does it seem like they are hearing voices and  
14 kind of looking around the room being distracted. After  
15 that, then we do our semi structured interview where we  
16 assess the three prongs of competency.

17 So to assess their factual understanding of the  
18 proceedings against them we ask them to state the names  
19 of their charges, define what the charges mean, are they  
20 felonies, misdemeanors, do they know what the judge's job  
21 is, do they know what a plea bargain is. So kind of go  
22 through all the factual information.

23 To assess their rational prong, we then ask -- we're  
24 generally assessing can they apply their factual  
25 understanding of the legal system to their own case. Are

1 they making logical and rational decisions about their  
2 case and if they're not is that because of a mental  
3 illness. Do they think they're going to be treated  
4 fairly by the Court, and do they have a reasonable  
5 expectation of what could happen in the case?

6 And then to assess the third prong, which is their  
7 ability to rationally assist their defense counsel in  
8 their own defense, do they understand that their attorney  
9 should be on their side, have they had disagreements with  
10 their attorney.

11 Are they able to conduct themselves appropriately in  
12 court? Do they understand the adversarial nature and  
13 that the Solicitor should be against them and they  
14 shouldn't be corresponding with the Solicitor?

15 So going through those three prongs to assess their  
16 competency and then if there's anything unique about the  
17 case or on the basis of the court order for the  
18 evaluation, we'll check in on those things as well.

19 Q. And when -- after you completed your evaluation  
20 subject to those three prongs, did you feel that there  
21 was any evidence that the defendant was suffering from a  
22 mental illness at the time of your evaluation?

23 A. No. We -- there was no either reported or observed  
24 mental health symptoms so we did not diagnose a mental  
25 illness at all.

1 Q. And to your knowledge, during the evaluation did you  
2 learn whether the defendant was prescribed or taking any  
3 medication?

4 A. He was -- he was not. He told me today that he was  
5 prescribed blood pressure medication, so he may or may  
6 not have been prescribed that at the time of my  
7 evaluation, but no psychiatric medications to our  
8 knowledge.

9 Q. And did you find that there to be any mental illness  
10 during your evaluation that would affect the defendant's  
11 competency to stand trial?

12 A. No. He was neither reporting nor exhibiting any  
13 symptoms.

14 Q. Did you have the ability to form an opinion and are  
15 you able to opine on it today to a reasonable degree of  
16 medical certainty about the defendant's competency to  
17 stand trial?

18 A. Yes.

19 Q. What was your -- what is your expert opinion?

20 A. It was my opinion at that time, and it remains my  
21 opinion, that he is competent to stand trial.

22 Q. And you just answered my next question. To  
23 reiterate, your opinion today is consistent with your  
24 findings back in February of 2020?

25 A. Correct.

1 Q. And that's following your reassessment of him prior  
2 to court today?

3 A. That's correct.

4 Q. Did you generate -- you did generate a report  
5 consistent with these findings after your February, 2020  
6 evaluation?

7 A. That's correct.

8 MS. NORVELL: Beg the Court's indulgence.

9 THE COURT: Yes, ma'am.

10 [Whereupon, Ms. Norvell and Mr. DuTremble confer]

11 MS. NORVELL: May I approach court reporter?

12 THE COURT: You may.

13 MS. NORVELL: May we mark this as a Court's Exhibit,  
14 please, for the purposes of pretrial.

15 [Whereupon, Court's Exhibit Number 1 is marked for  
16 identification]

17 MS. NORVELL: Thank you. May I approach the  
18 witness, Your Honor?

19 THE COURT: Yes, ma'am.

20 Q. [Ms. Norvell] Doctor Gottfried, I am handing you  
21 what has been marked for identification as Court's  
22 Exhibit Number 1 for purposes of this hearing. Now, can  
23 you take a look at that and tell me if you recognize  
24 that?

25 [Whereupon, the witness reviews documents]

1 A. Yes. This is the report that I submitted.

2 Q. [Ms. Norvell] And you personally created that  
3 report following your February, 2020 evaluation?

4 A. Yes, I did.

5 MS. NORVELL: Judge, at this time we move to admit  
6 Court's Exhibit 1 for purposes of this pretrial hearing.

7 MR. LEWIS: No objection.

8 THE COURT: Court's Number 1 is admitted.

9 [Whereupon, Court's Exhibit Number 1 is admitted  
10 into evidence by the Court]

11 MS. NORVELL: Thank you, Doctor Gottfried. The  
12 State has no further questions for purposes of this  
13 hearing.

14 MR. LEWIS: Very briefly, Judge.  
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CROSS-EXAMINATION

BY MR. LEWIS:

Q. Doctor Gottfried, if I may, maybe it's just for my own edification, I wanted to follow up on that rational decision-making comment.

And I don't know if there's ever a decision that on its face could lead someone to believe that there could be mental health issues but let's say hypothetically speaking, a person was charged with murder and they could get time served.

Now, I guess there could be different schools of thought on that about whether a rational person would think that or not. But is there ever a point where someone is not self-protective and that becomes incompetence?

A. I -- I would say hypothetically that could definitely weigh in my opinion about whether or not somebody's competent.

So that's one of the examples that I give somebody like the best pie in the sky example of a plea bargain to see especially if somebody has delusional beliefs.

So are these beliefs so strong that you're going to risk a very long sentence when they're, you know, offering you a deal that's really unrealistic. So that is definitely something that we consider. But we also

1 know that people don't always make the smartest legal  
2 decisions and then it's determining whether or not that  
3 is based on a mental illness.

4 So people are free to make not the smartest  
5 decisions, but it would only make them incompetent if  
6 that was based on a mental -- like the symptom of a  
7 mental illness.

8 Q. Okay. So if they said, for example, like God will  
9 protect me and I will get saved by this and the jury will  
10 obviously exonerate me, and maybe take it a little  
11 further than that.

12 But something that rose to that level, that could be  
13 something to give you pause about whether a person was  
14 still competent?

15 A. Definitely. That's an example that I use with our  
16 trainees ---

17 Q. --- okay ---

18 A. --- of assessing rational that, yeah, they  
19 understand they could get the death penalty but because  
20 they believe they're Jesus Christ they think nobody would  
21 sentence them; something like that, yeah.

22 Q. Okay. I know some of these can be more complicated  
23 than others but was there any hesitancy for you at all in  
24 regards to Mr. McNeil and his competence in this case?

25 A. To my memory there wasn't. No symptoms were

1 observed or reported. Typically people report some  
2 symptoms ---

3 Q. --- right ---

4 A. --- distress from being in jail and things like that  
5 but to my memory and from my report he wasn't reporting  
6 any symptoms of a mental illness.

7 There were no collateral records suggesting current  
8 symptoms and he wasn't to my knowledge under the care of  
9 the psychiatrist at Charleston Detention Center.

10 Q. Alright.

11 MR. LEWIS: One moment.

12 [Whereupon, Mr. Lewis and Mr. D'Angelo confer with  
13 the defendant]

14 MR. LEWIS: Thank you. Nothing further, Judge.

15 THE COURT: Alright. Doctor, you may step down.

16 Thank you for being here. Assuming, Ms. Norvell, you had  
17 no redirect?

18 MS. NORVELL: I have no redirect, Judge.

19 THE COURT: Alright.

20 [Whereupon, the witness is excused and exits the  
21 witness stand]

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1 MS. NORVELL: Judge, based on Doctor Gottfried's  
2 testimony that pursuant to her February 14th, 2020  
3 evaluation of the defendant, and her expert medical  
4 opinion the defendant was competent to stand trial,  
5 followed by a subsequent assessment of the defendant  
6 prior to court today, we would ask that Your Honor make a  
7 finding that the defendant is fit to stand trial and that  
8 proceedings in the trial of this case continue  
9 uninterrupted.

10 THE COURT: Thank you, ma'am.

11 MR. LEWIS: Your Honor, I think it appropriate to  
12 say that my hesitancy in the case that was brought up  
13 previously was based -- fleshed out somewhat today on the  
14 difference between a person's rational decision-making  
15 and a decision that's based on a mental health issue.

16 For those reasons, Michael has been in good contact  
17 with me. He's met with me every time I've needed him to.  
18 But there is another issue that we'll need to address  
19 separately but I don't think I have legitimate argument  
20 at this point to delay the trial due to competency.

21 THE COURT: Alright. Based on what I've heard based  
22 upon the testimony of Doctor Gottfried, based on her  
23 testimony that she went through the three prongs to  
24 determine whether an individual is competent to stand  
25 trial, that she observed no signs of mental illness, that

1 the defendant is not being prescribed any psychiatric  
2 medication, pursuant to State v. Blair I find he is  
3 competent to stand trial and there will be no further  
4 delay of these proceedings based upon that issue.

5 MS. NORVELL: Thank you, Your Honor.

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1 MR. LEWIS: Judge, if I may? I guess the next point  
2 that we could bring up could be in regards to a grievance  
3 that was previously filed by my client. I wanted him to  
4 have the opportunity, if he wanted to, to address it with  
5 the Court specifically because it puts us in a weird  
6 posture where he is going to trial this week facing life  
7 without the possibility of parole.

8 But he's also felt like I'm not serving his best  
9 interest or I'm not the best attorney for him. If that's  
10 still true, I wouldn't want that person defending me if I  
11 was looking at life and so I wanted to make sure that  
12 he's at peace with me and Mr. D'Angelo being his  
13 attorneys this week.

14 I find it important to bring to the Court's  
15 attention. I know it's a weird situation, because  
16 oftentimes those are confidential, but I didn't want to  
17 leave an issue on the table for a potential PCR without  
18 raising it here.

19 THE COURT: Alright. Mr. Lewis, based upon the  
20 grievance you received, what are the -- what were the  
21 grounds stated for the grievance? What were Mr. McNeil's  
22 specific complaints?

23 MR. LEWIS: Delay, Judge, that he had not had the  
24 ability to have a trial. That he's been in custody now  
25 for over five years and felt as if I was intentionally or

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1 otherwise delaying this case going to trial. I filed for  
2 a speedy trial, got us put on a date-certain docket.  
3 Yes, it's longer than I've ever had a client be in  
4 custody but it was certainly nothing willful.

5 We were the first case that should have been up at  
6 the beginning of the pandemic and we're the second case  
7 up. I'm not going to say after the pandemic, I'm a  
8 little negative about it, Judge, but right now we're the  
9 second case up in Charleston County since we started  
10 doing trials.

11 THE COURT: Alright.

12 MR. LEWIS: I don't think there was anything else  
13 about my ability to practice law or communication or  
14 anything like that.

15 THE COURT: Okay. So a speedy trial motion was in  
16 fact filed or how did -- procedurally how did the case  
17 come up this week?

18 MR. LEWIS: So several times we actually had filed  
19 for bond.

20 THE COURT: Right.

21 MR. LEWIS: And kept getting shut down. My client,  
22 rightfully so, said, hey, I've been in custody for an  
23 extended period of time, I want a speedy trial. And I  
24 said I'm not going to fight you on it; let's do that. We  
25 had a hearing in front of Judge Jefferson. Part of the

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1 problem on that was because we had filed for a speedy  
2 trial, it placed us on a docketing system run in  
3 Charleston County called Court Plus ---

4 THE COURT: --- right ---

5 MR. LEWIS: --- which moves us from one track to a  
6 plea track because I had filed a motion. So we were not  
7 placed on the docket until last week originally. Had a  
8 hearing in front of Judge Jefferson, asked that we be put  
9 on that docket, said no one has been in jail in  
10 Charleston County longer than Michael McNeil.

11 He has been -- he's been in there longer than  
12 anybody else, he is ready for his trial, he should have  
13 his trial. She added us to that docket and then as court  
14 administrator, my understanding would be that she chose  
15 one case that had already been noticed for that docket to  
16 go last week and then set us for this week as a date  
17 certain.

18 THE COURT: And Judge Jefferson is the Chief  
19 Administrative Judge for General Sessions ---

20 MR. LEWIS: --- yes, Your Honor ---

21 THE COURT: --- in Charleston County?

22 MR. LEWIS: Yes, Your Honor.

23 THE COURT: Okay. Alright. I'll be happy to hear  
24 from Mr. McNeil. And he can stay right there. Mr.  
25 McNeil, if you'll stand up for me, please, sir.

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1 [Whereupon, Mr. McNeil complies]

2 THE COURT: Raise your right hand.

3 [Whereupon, Mr. McNeil is duly sworn by the Court]

4 MR. MCNEIL: Yes, sir.

5 THE COURT: Alright. Mr. McNeil, first let -- first  
6 let me tell you that you have the right to remain silent.  
7 Obviously there's not a jury in this courtroom but if any  
8 of my questions your lawyer feels might elicit a response  
9 that he doesn't want me to hear, if he stops you, you  
10 stop speaking, okay?

11 Alright. Now, you -- it's my understanding you  
12 filed a grievance against your lawyer Mr. Lewis; is that  
13 correct?

14 MR. MCNEIL: Yeah.

15 THE COURT REPORTER: Sir, you're going to have to  
16 speak up for me, okay?

17 THE COURT: Yes. She -- this lady has got to ---

18 THE COURT REPORTER: --- because of your mask. It's  
19 because of your mask.

20 THE COURT: Just speak up a little bit louder than  
21 you normally would. And the basis for that grievance is  
22 what?

23 MR. MCNEIL: I've been in jail five years. I filed  
24 multiple -- I sent him multiple motions that he don't  
25 never file. He just filed the last one and just -- I

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1 don't know why, but he filed it and then they took me off  
2 the docket. And I had multiple trial dates. I ain't  
3 been to trial yet and I can't get a bond. I'm just --  
4 I'm just sitting in jail.

5 THE COURT: Alright. But you understand if I grant  
6 your motion and were to potentially relieve Mr. Lewis  
7 that you would be...

8 MR. MCNEIL: That's why I -- up now ---

9 THE COURT: --- you would be -- hold on. Let's -- I  
10 won't talk over you if you don't talk over me, okay?

11 MR. MCNEIL: Alright.

12 THE COURT: You would be in worse position in terms  
13 of having your case brought to trial because if you got a  
14 new lawyer, that lawyer would have to have an appropriate  
15 amount of time to get up to speed with everything that's  
16 gone on in this case. He would have to have time to  
17 interview witnesses, to go over the discovery, and  
18 familiarize him or herself with your case.

19 So, you know, I think where we are now is probably  
20 the best situation you could be in. Mr. McNeil, I tried  
21 the last -- before last week I believe I presided over  
22 the last criminal trial that was handled in Charleston  
23 County and that was in March of 2020. So this is an  
24 unprecedented, at least in the last hundred years, an  
25 unprecedented pandemic which has caused disruptions to

1 every facet of life, not to mention the court system.  
2 It's probably affected the court system in a -- in a way  
3 that nobody could have ever envisioned. The Chief  
4 Justice has essentially stopped jury trials for various  
5 periods of time over the year 2020 and 2021.

6 So I don't think your failure of being brought to  
7 trial was due to anything that Mr. Lewis has done. You  
8 don't have any complaints against the work he's done in  
9 terms of him being prepared to try your case or anything  
10 like that. You didn't put that in the grievance, did  
11 you?

12 MR. MCNEIL: No.

13 THE COURT: Okay. Mr. Lewis, I understand why you  
14 brought this before the Court. You're certainly doing  
15 the right thing. Anytime a criminal defendant grieves  
16 his lawyer is something that needs to be dealt with on  
17 the record.

18 But I think the nature of the grievance -- because  
19 we're all sitting here ready to go, the nature of the  
20 grievance is essentially moot because, Mr. McNeil, you're  
21 going to get your trial this week and, you know, like I  
22 said before, I don't think it's through any fault of Mr.  
23 Lewis or the Solicitors Office. I mean, when the Chief  
24 Justice, who's the authority on the law in South Carolina  
25 and basically manages the court system, suspends jury

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1 trials for months on end, which has happened in both 2020  
2 and 2021, I don't think anybody has any ability to deal  
3 with what was created through nobody's fault. We're just  
4 -- the court system is doing the best it can to ensure  
5 that people's rights are being preserved.

6 And so, Mr. Lewis, I know you haven't moved to be  
7 relieved or have another lawyer substituted in your  
8 place. But with regard to the grievance, you know,  
9 another ---

10 MR. LEWIS: --- right ---

11 THE COURT: --- panel will determine if there's any  
12 validity to it. But, Mr. McNeil, just from my -- from a  
13 practical standpoint, your day in court is here and we're  
14 going to proceed and Mr. Lewis is going to represent you  
15 during the course of your trial.

16 So I appreciate y'all putting that on the record.  
17 Thank you very much.

18 MR. LEWIS: Thank you, Judge.

19 MS. NORVELL: Judge, if I may respond ---

20 THE COURT: --- yes, ma'am ---

21 MS. NORVELL: --- briefly? I wanted to make a  
22 clarification to the State's pretrial brief. Following  
23 the status conference docket sounding, that Mr. Lewis  
24 mentioned, is when I came on the case. I did not realize  
25 that the bond hearing that was filed for in June of this

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1 year was also a speedy trial motion. When I looked in  
2 our filing system yesterday over the weekend, I did not  
3 see a speedy trial motion listed.

4 THE COURT: Well, that's fine. And this is the way  
5 speedy trial motions are supposed to work. You file them  
6 ---

7 MS. NORVELL: --- and you're on a docket.

8 THE COURT: And you get put on a docket. You know,  
9 I do think it's important to note that since I believe it  
10 was March the 13th of 2020, this is the second jury trial  
11 that's been held in Charleston County and that is one  
12 hundred percent due to the issues surrounding the COVID-  
13 19 pandemic.

14 So even if there has been a speedy trial motion,  
15 which we know now that it has, this is what the net  
16 effect of a speedy trial motion should be, that the case  
17 is brought before the Court and the defendant is given a  
18 trial. So as far as those issues, to the extent that  
19 they exist anymore, we're ready to go forward.

20 MS. NORVELL: And if I may piggyback off of Mr.  
21 Lewis bringing up and addressing the -- his client's  
22 concern with the delay of his trial, one of the pretrial  
23 matters that the State wanted to address and get a  
24 pretrial ruling from Your Honor on is a -- the  
25 limitations that the Court can provide the defense

1 discussing a pretrial delay in front of the jury. If I  
2 need to go into any sort of procedural history it is the  
3 State's trial brief and I'm happy to put that on the  
4 record now.

5       Essentially, it was brought to my attention in the  
6 first trial last week that there had been an argument  
7 made that the defendant had been waiting several years  
8 for his trial. I understand from my conversations with  
9 Mr. Lewis this morning that he does not intend to cast  
10 the -- or he does not intend to impugn the Solicitor's  
11 Office as being willfully responsible for delaying this  
12 defendant's trial.

13       But I just wanted to sort of see if there's any  
14 constraints that we can come up with before that is  
15 discussed in front of the jury. So I don't know if Mr.  
16 Lewis would need to proffer what he intends to elicit or  
17 how to -- how to handle that best. But it is the State's  
18 position that, yes, COVID-19 was an act of God, there was  
19 a speedy trial motion to amend the trial brief filed on  
20 June 17th of this year. We are now on a docket.

21       And prior to the COVID delay, when the trial was  
22 docketed for the March 30th term there had been two prior  
23 consent scheduling orders, one for the purpose of the  
24 evaluation to be held and the second one out of the  
25 frankly the kindness of Mr. Lewis' heart when a new

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1 Solicitor took over the case from a leaving -- from a  
2 Solicitor leaving our office.

3 THE COURT: Alright. Mr. Lewis, what do you have to  
4 say about that?

5 MR. LEWIS: Judge, what I can tell you is the same  
6 thing that I told Ms. Norvell. I do not intend in any  
7 way to blame the Solicitor's Office for the delay. I am  
8 going to throw law enforcement completely under the bus,  
9 as kind of that's my job, that they've had five years to  
10 investigate this case.

11 And during that time you'll hear probably today  
12 during these pretrial arguments there is no evidence in  
13 this case other than the words coming from their one  
14 witness. Two different police departments investigated,  
15 it sounds like for a total of eight days, and there's no  
16 evidence.

17 They've had five years to get any sort of  
18 investigation done, any sort of forensic investigation  
19 they wanted to do, any sort of interviewing of witnesses.  
20 They've wanted to do it. They've had five years to do it  
21 and they didn't.

22 So I'm not going to blame the Solicitor's Office for  
23 that but I am absolutely going to blame North Charleston  
24 Police Department and the Charleston County Sheriff's  
25 Office for not investigating this case.

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1           THE COURT: So your approach is going to be they got  
2 a statement from the victim, and an identification and  
3 case closed?

4           MR. LEWIS: Yeah. Well, and some lies thrown in on  
5 top of that because ---

6           THE COURT: --- well, yeah ---

7           MR. LEWIS: --- yeah ---

8           THE COURT: --- I understand. Ms. Norvell, what do  
9 you have to say about that position?

10          MS. NORVELL: The concern that I have with that is  
11 that it doesn't -- it sort of stops the buck as if this  
12 were the last thing that happened with regarding this  
13 defendant, but it didn't because North Charleston and the  
14 Sheriff's Office also had a subsequent investigation into  
15 the subsequent charges that this defendant is facing.

16          They had an open murder investigation, another  
17 attempted murder investigation, and a third attempted  
18 murder investigation. So the State is not seeking to  
19 bring in any of that information, but it is kind of  
20 untoward, or without painting the full picture, to say  
21 nothing else happened when in fact there were three other  
22 ongoing investigations, the extent of which we are not  
23 here to flesh out because we're here for the trial of the  
24 attempted murder of Maurice Washington, not the other  
25 victims in this case.

1           THE COURT: Well, and I don't -- I don't make it a  
2 practice to make anticipatory rulings now. You know, Mr.  
3 Lewis, depending on how the question is phrased, you  
4 know, you could potentially open the door if you asked,  
5 you know -- you would have to tailor his questions in a  
6 way that he wouldn't open the door.

7           But I think it's certainly within his right to ask  
8 questions about, you know, this investigation stopped.  
9 I'll just have to rule on it as they -- as they come. I  
10 mean, without -- you know, we can't pre-try the whole  
11 case. But I would just caution that there could be some  
12 questions along those lines that might invite a response  
13 that may be prejudicial to the defense.

14           So I'll -- ordinarily, questions like that are  
15 certainly within the realm of cross-examination but if  
16 there are subsequent issues that Mr. McNeil -- and I'm  
17 only going by what I read in the brief. And I assume  
18 he's got some other pending charges, you know, that's  
19 going to complicate those issues a little bit.

20           But I just -- I'm a proponent of if he asks a  
21 question that's objectionable, object and we'll deal with  
22 it at that time because like I said, I don't know what  
23 these officers are going to say. But, you know, it seems  
24 like at least based upon the little bit I know about it  
25 right now, he's going to have somewhat of a tight rope to

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1 walk. So for what that's worth.

2 MR. LEWIS: Judge, within that same vein, I would  
3 hope that the State has discussed if I say you did  
4 nothing else in regard to the shooting of Maurice  
5 Washington, that they don't take that opportunity to then  
6 say, well, we were busy focused on the murder of Zia  
7 Fredericks.

8 THE COURT: Well, if there's any -- if there are any  
9 of those issues and the State believes that the defense  
10 has opened the door to something, that's something that's  
11 going to need to be brought up and taken up outside the  
12 presence of the jury before you just jump in with both  
13 feet.

14 MR. LEWIS: Sounds good.

15 THE COURT: You know, I have had had in the past  
16 some judges that will kind of give you the look when the  
17 door gets opened. The problem is she can't take down a  
18 look.

19 MS. NORVELL: Right.

20 THE COURT: So my preference is if either of you  
21 feel like something -- that the door has been opened to  
22 evidence that would have otherwise been inadmissible,  
23 that we take that up and at least have a conference on  
24 the record outside the presence of the jury so everything  
25 stays clean.

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1 MS. NORVELL: Yes. This is extremely helpful for  
2 me, especially with the North Charleston officers that  
3 are going to testify because I also need to limit them.  
4 They're very clear on what they can respond to me with  
5 but they also -- it is a little bit of like procedurally  
6 muddy because these things happened in such quick  
7 succession and the three investigations were ongoing at  
8 the same time with similar or the same detectives  
9 involved. So certainly I guess how do you want me to  
10 handle that if I have a feeling what my officer is about  
11 to respond to is not what you're looking for?

12 MR. LEWIS: I mean, I think a normal approach of,  
13 Judge, I believe we have a matter of law ---

14 MS. NORVELL: --- yeah, exactly ---

15 MR. LEWIS: --- if you're cool with shutting down  
16 that way.

17 THE COURT: I'll tell you that the last -- and Joy  
18 can tell you this, too, the last case that I tried in  
19 Charleston County, we did that a lot and it got a little  
20 arduous and I think, I think I stated on the record that  
21 this is probably the choppiest record that has ever been  
22 presented in criminal court in South Carolina.

23 But some of the things were absolutely necessary and  
24 it was a complicated case that dealt with we had  
25 interpreters and all sorts of -- it was kind of like a

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1 law school exam, to be honest. But I don't mind sending  
2 the jury out as long as the reasons for it are  
3 legitimate.

4 MS. NORVELL: And I think that we are addressing the  
5 primary issues. But I think that Mr. Lewis and I are  
6 just trying to be very precautionary recognizing the ---

7 THE COURT: --- yeah ---

8 MS. NORVELL: --- collateral consequences of the  
9 resolution of this trial.

10 MR. LEWIS: Yes, Your Honor.

11 THE COURT: Okay.

12 MS. NORVELL: Alright. Would you like to go to the  
13 ---

14 MR. LEWIS: --- sure ---

15 MS. NORVELL: --- prior convictions of the victim?  
16 I have the victim present. He is in the hallway.

17 THE COURT: Okay.

18 MS. NORVELL: And he is here to proffer the  
19 statements that the State seeks to elicit that are  
20 objectionable to the defense.

21 THE COURT: Okay.

22 MS. NORVELL: Would you like me to bring him in?

23 THE COURT: Hold on one second.

24 [Whereupon, the Court reviews documents]

25 THE COURT: Let's talk about his prior record first.

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1 MS. NORVELL: There is an addition, an additional  
2 amendment, to the pretrial brief with regard to this as  
3 well.

4 THE COURT: Okay.

5 MS. NORVELL: There is a charge for giving false  
6 information on his criminal history report from 2014.  
7 Mr. Lewis has procured the certified conviction from the  
8 City of North Charleston Municipal Court that the victim  
9 was in fact convicted of giving false information in  
10 municipal court in 2014.

11 I don't think that we can -- I don't have an  
12 argument against that coming in. I think I acknowledge  
13 that that's firmly within the rules of evidence to  
14 impeach him on, along with as I went through in the  
15 brief, Judge, the victim himself intends to testify about  
16 his daily activities at the time of July, 2016.

17 He's firmly going to implicate himself in drug  
18 dealing and drug using. I -- he will acknowledge his  
19 prior convictions for drug charges and, you know, I don't  
20 know what the impeachment value of that is but I believe  
21 that that will be elicited prior to cross-examination.

22 THE COURT: So looking at this -- this record, you  
23 concede to the 2014 giving false information. This FTA  
24 means failure to appear status?

25 MS. NORVELL: Correct, Your Honor.

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1 THE COURT: So those technically aren't convictions  
2 as of yet?

3 MS. NORVELL: I don't have them as convictions.

4 THE COURT: Okay. So we can strike through anything  
5 with FTA.

6 MR. LEWIS: And, Judge, I can address that, too, if  
7 you want to hear from me.

8 THE COURT: Well, I mean, I'm just assuming that,  
9 you know, back when ---

10 MR. LEWIS: --- well, I -- if I may address the  
11 concern by the State in their pretrial brief seems to  
12 suggest that I will just be portraying their witness  
13 Maurice as a bad guy because of his criminal history. I  
14 will be attacking this from the point of view of bias  
15 completely.

16 At the time that Mr. Washington brought this claim  
17 against Mr. McNeil, he had a PWID third pending with  
18 their office, ten to thirty, eight-five percent. It  
19 wasn't dismissed until he proffered and testified in two  
20 trials and got a murder, kidnapping and burglary first  
21 turned into an accessory after the fact for probation.

22 The State is worried that I'm going to say, hey,  
23 he's a big, bad violent dude. I'm not saying that at  
24 all. My argument would be firmly under Perez, I believe  
25 is the case, the most recent one in South Carolina that

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1 takes the idea that bias is not collateral. It's  
2 absolutely the avenue, and the most important avenue, for  
3 cross-examination. Maurice owes his entire life to their  
4 office.

5 They let him turn these charges, including the most  
6 important one is that ten to thirty was found inside his  
7 pants when he was arrested on a bench warrant. That case  
8 could not have gone away but for this reward. Not from  
9 them, obviously. Sorry; in my gesture at them, they are  
10 the State.

11 THE COURT: I understand.

12 MR. LEWIS: Not these specific prosecutors. But the  
13 State dismissed two life -- cases that carry life and  
14 ninety additional years of exposure as part of his  
15 cooperation. He owes his entire life to them. And  
16 that's what I intended to get out, the false information  
17 to police just shows that he's a previously convicted  
18 liar.

19 THE COURT: Well, yeah, and they're -- I guess the  
20 way I'm viewing these things are the convictions that  
21 weren't pursuant to the deal versus the ones that were.  
22 And I think they're two separate issues and then I think,  
23 you know, if he received a deal on PWID cocaine third  
24 offense and accessory after the fact, well, if a homicide  
25 case was turned into an accessory after the fact of a

1 felony, I think -- I think those are two different  
2 analyses that have to be undertaken. And the evidence  
3 of...

4 MR. LEWIS: So, Judge, I would not actually be  
5 intending to talk about his prior convictions that made  
6 this a third or subsequent.

7 THE COURT: Uh-huh.

8 MR. LEWIS: I would be talking about the fact that  
9 he was on probation. I would be talking about the fact  
10 that his bond was not revoked by them and rearrested;  
11 what happens to most of my clients. But I do have the  
12 certified conviction for the prior PWID crack which makes  
13 him a felon.

14 I would obviously conform with the law and simply  
15 say that he's a convicted felon. I would present that  
16 he's a convicted liar. And then I would say that in  
17 regards to the second part that you addressed that the  
18 case is rife with bias towards -- to benefit the State  
19 because of what he received.

20 MS. NORVELL: And if I may respond?

21 THE COURT: Yes, ma'am.

22 MS. NORVELL: The accessory after the fact is the  
23 only conviction that he has from the charges that Mr.  
24 Lewis wants to talk about in a packet that we -- that the  
25 victim owes his life to. The concerns that I have with

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1 that the PWID crack third was dismissed outright. The  
2 victim pled to the accessory after the fact straight up  
3 and the sentence that the Court gave him was probation.  
4 And then the other burglary, kidnapping, all of that,  
5 that was dismissed.

6 I don't know how Mr. Lewis can get into that, get  
7 into those dismissed charges, because, one, they were not  
8 -- he was not arrested on those charges when he made his  
9 statement to law enforcement. And I don't see how that  
10 goes to bias at all.

11 [Whereupon, Mr. Lewis proffers documents to the  
12 Court]

13 MR. LEWIS: Let me -- I was just showing the Judge  
14 the status change form specifically shows that it was  
15 dismissed when he pled to the -- this is a case of drugs  
16 being found in his pants at the jail.

17 MS. NORVELL: So he pled guilty to charges that  
18 didn't even exist at the time that the victim went in to  
19 speak with police to amend his story in this case, which  
20 I think even furthers the relevance in any way, shape or  
21 form. Obviously, I know, we all know why we want to talk  
22 about these. It's certainly helpful but it's not -- it's  
23 not appropriate, reasonable or relevant.

24 MR. LEWIS: And, Judge, as I said previously, bias  
25 is never collateral and this is specifically going to the

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1 bias of this witness.

2 MS. NORVELL: And the State's position is that it  
3 can't be going to bias considering they did not exist at  
4 the time that the victim spoke to the police. I'm  
5 referring to the burglary, kidnapping.

6 MR. LEWIS: The same department has the hammer,  
7 Judge. They're the same people that decide whether they  
8 dismiss it, whether they try to get life for him, the  
9 same people, the same department is who's having him  
10 testify today. He owes them two life sentences plus  
11 ninety years.

12 MS. NORVELL: It can't be biased that he's changing  
13 his story if it's something that came up after the fact.

14 THE COURT: Alright. This is -- this issue, the  
15 issue of bias, is governed by Rule 608, South Carolina  
16 Rules of Evidence, and the annotations which follow the  
17 Rule are dealing with a case called Smalls v. State, 422  
18 S.C. 174.

19 And that case states that evidence of a witness's  
20 bias can be compelling impeachment evidence and for that  
21 reason considerable latitude is allowed to defense  
22 counsel in criminal cases in the cross-examination of an  
23 adverse witness for purpose of testing bias. Our Courts  
24 have followed the general rule that anything having a  
25 legitimate tendency to throw light on the accurateness,

1 truthfulness, and sincerity of a witness may be shown and  
2 considered in determining the credit accorded his  
3 testimony so that on cross-examination any fact may be  
4 elicited which tends to show interest, bias, or  
5 partiality of the witness. The multiple case is State v.  
6 Brewington, 267 S.C. 97.

7       You know, I think any deal that this witness  
8 received as this trial date was approaching, you know, I  
9 think that based upon the annotation I just read into the  
10 record, you know, certainly the facts of the cases  
11 wouldn't be admissible.

12       But the fact that he was offered a reduced charge or  
13 cases were dismissed, I think that goes directly to bias.  
14 And so I think the PWID cocaine and accessory after the  
15 fact of a felony, I think those issues come in or those  
16 cases can come in based upon Rule 608. The false  
17 information to law enforcement comes in under 609. Bear  
18 with me.

19       [Whereupon, the Court reviews documents]

20       THE COURT: That's 609(a)(2), evidence that any  
21 witness that's been convicted of a crime shall be  
22 admitted if it involved dishonesty or false statement,  
23 regardless of the punishment.

24       Mr. Lewis, I just caution you on making  
25 argumentative statements, you know, at the time of

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1 impeachment. You can certainly ask him about the deals  
2 he received but, you know, I think to talk about being a  
3 convicted felon and a convicted liar, those are -- those  
4 are better left for argument.

5 MR. LEWIS: Yes, Your Honor.

6 THE COURT: So...

7 MS. NORVELL: May I clarify quickly, Judge?

8 THE COURT: Yes, ma'am.

9 MR. LEWIS: May I steal that copy back. I  
10 apologize.

11 THE COURT: That's fine.

12 MR. LEWIS: It's my filed copy.

13 THE COURT: There you go.

14 [Whereupon, the Court proffers documents to Mr.  
15 Lewis]

16 MR. LEWIS: Thank you.

17 MS. NORVELL: Do you mean the 2015 PWID cocaine or  
18 the dismissed PWID?

19 THE COURT: I'm sorry. You're right. The -- I was  
20 speaking more in the dismissed PWID. I don't think the  
21 PWID cocaine conviction from 2015 -- you know, while it  
22 qualifies under 609(a)(1), you know, it's really kind of  
23 immaterial if you're both telling me that the drug use is  
24 going to be talked about.

25 MS. NORVELL: Correct.

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1 MR. LEWIS: They are, Judge. I was going to raise  
2 that in a separate subsection.

3 THE COURT: Well, we -- that's -- then we -- then  
4 we're going to get into the res ---

5 MR. LEWIS: --- I know ---

6 THE COURT: --- res gestae argument and then the  
7 subsequent bad acts analysis, based upon what I've read  
8 in the brief. But, you know, I don't think the prior  
9 drug conviction necessarily has any real probative value  
10 if the State is going to admit that the victim in this  
11 case had sold drugs.

12 So, you know, I just -- I don't see how, based upon  
13 what I've been presented, how that's really probative of  
14 anything, given that they're going to admit it so.

15 MS. NORVELL: And is Mr. Lewis limited to the  
16 discussion of the conviction as accessory after the fact  
17 or is he permitted to discuss all of the charges that  
18 were dismissed nol prossed and subsequently reduced?

19 THE COURT: I think anything that was a basis of  
20 that bargain is fair game. Certainly if he was  
21 originally charged with murder, I mean, that fact can be  
22 brought out. Now, none of the facts ---

23 MS. NORVELL: --- right ---

24 THE COURT: --- of the case are to be brought out  
25 but the fact that he got a deal is -- I just think it's

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1 clear that those issues are subject for impeachment under  
2 608.

3 MR. LEWIS: And I'm sure she's wondering what I'm  
4 going to say and I'll briefly ---

5 MS. NORVELL: I was just going to clarify that the  
6 accessory after the fact was derivative of the murder and  
7 I think the other firearms charge with regard -- and  
8 maybe an attempted murder, with regard to that. The  
9 burglary and the kidnapping, that was dismissed because  
10 he was cleared from any involvement in that so I don't  
11 know that the burglary and the kidnapping...

12 MR. LEWIS: They're all the same course of events,  
13 by the same prosecutor dismissing them all, to give the  
14 same testimony against two other codefendants at that  
15 trial.

16 THE COURT: I looked. The prosecutor was Anne  
17 Williams?

18 MR. LEWIS: Yes.

19 MS. NORVELL: Correct.

20 THE COURT: Ms. Norvell, you -- before we bring the  
21 jury in, you may want to talk with her about the  
22 specifics of how everything ---

23 MR. LEWIS: --- you were second chair on that,  
24 right?

25 MS. NORVELL: I was second on the last codefendant,

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1 correct. However, it was my understanding that the  
2 burglary and the kidnapping were dismissed far prior to  
3 him actually -- Maurice actually resolving his murder and  
4 whatever the...

5 MR. LEWIS: Judge, my argument on that is while  
6 still pending, this cooperating witness from this  
7 department still had charges that carried life dismissed.  
8 For whatever reason they want to put on their status  
9 change form, it still a benefit to this man that's going  
10 to be testifying.

11 MS. NORVELL: I think it's tough for you to argue  
12 like the other side of the coin with regard to getting  
13 this in when you are just arguing that the -- that the  
14 PWID crack was dismissed because he pled to accessory  
15 after the fact.

16 So do we rely on whatever we put on our status form  
17 or do we rely on the fact that the burglary and the  
18 kidnapping was dismissed prior to any sought-out  
19 resolution on the murder and the other one because he was  
20 not involved in that separate act.

21 THE COURT: Let me -- I will look at the we call  
22 them disposition sheets back home. For the -- you said  
23 there was a burglary and a kidnapping that was apparently  
24 disposed of prior, far prior, to the burglary ---

25 MS. NORVELL: --- accessory after the fact.

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1 THE COURT: I need to see...

2 MR. LEWIS: Dismissed in 2019, Judge.

3 MS. NORVELL: And the accessory after the fact plea  
4 was I believe this calendar year.

5 THE COURT: Uh-huh.

6 MR. LEWIS: That should -- that should be both,  
7 Judge.

8 THE COURT: Mr. Lewis, I -- you know, the fact that  
9 this was almost two calendar years before the other issue  
10 and the reason is stated evidence has surfaced that  
11 clears him of this charge, I mean, absent some showing  
12 that this was part of a deal in exchange for him to  
13 testify I'm having a hard -- I'm having a harder time  
14 with these two.

15 MR. LEWIS: Yes, Your Honor. And I'm at peace with  
16 the Court if the Court allows me to talk about his murder  
17 becoming probation.

18 THE COURT: Yeah. I mean, I -- I think that's -- I  
19 think that's fair game. But these two ---

20 MR. LEWIS: --- yes, sir ---

21 THE COURT: --- I don't see -- I don't see any tie  
22 to any benefit or any bargain that would have been made.  
23 So those, the burglary, the kidnapping ---

24 MR. LEWIS: --- yes, Your Honor ---

25 THE COURT: --- those are off limits.

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1 MS. NORVELL: Thank you, Your Honor.

2 MR. LEWIS: The gun is still in, right?

3 THE COURT: Okay. What --

4 MR. LEWIS: I'm sorry. The possession of weapon  
5 during commission of a violent crime also said dismissed  
6 as part of this, pleading to the accessory ---

7 THE COURT: --- I mean those things that were dealt  
8 with in June of this year?

9 MR. LEWIS: Yes, sir.

10 THE COURT: I mean, that's -- those are -- yeah.  
11 Those are fair -- that's fair game for impeachment under  
12 608.

13 MR. LEWIS: Thank you, Judge.

14 MS. NORVELL: I'm just struggling with the way that  
15 you are -- that you sort of pictured it or phrased it  
16 just then talking about how this murder turned into  
17 probation. I think that there has to be a full faith  
18 effort to explain that this was a straight-up plea and  
19 the Court gave the sentence; it was not a recommendation  
20 negotiation.

21 MR. LEWIS: And that's fine. He could not have  
22 gotten probation for a charge that carries thirty to life  
23 ---

24 MS. NORVELL: --- then ---

25 THE COURT: --- well, there are two ways to handle

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1 it, Ms. Norvell. You can either -- you can either own it  
2 on the front end or you ---

3 MS. NORVELL: --- yes ---

4 THE COURT: --- or you can come back on a redirect  
5 and ask him the specifics about what he was promised, if  
6 anything. You know, law school professors would tell you  
7 to own it on the front end but, you know, I'll leave that  
8 up to y'all.

9 But, you know, any characterization of, I mean, you  
10 were facing life and you walked out of the courtroom with  
11 probation, I mean, I think that's a fair question and  
12 then -- you know, then you could get up on redirect and  
13 say were you promised probation, was that a part of your  
14 deal? No, I just had my charge reduced and the judge  
15 gave me what he gave me.

16 MS. NORVELL: Perfect. Thank you.

17 THE COURT: Uh-huh.

18 MS. NORVELL: Ready for Mr. Washington?

19 THE COURT: I think so, unless somebody needs a  
20 recess before we start.

21 [Whereupon, Court is in recess from 2:40 p.m. to  
22 2:48 p.m.]

23 MS. NORVELL: Ready, Judge?

24 THE COURT: Yes, ma'am.

25 MS. NORVELL: The State calls Maurice Washington.

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1 THE COURT: Mr. Washington, please come around to  
2 the witness stand for us.

3 MS. NORVELL: Come up here.

4 [Whereupon, Mr. Washington comes forward]

5 THE CLERK OF COURT: Would you please place your  
6 left hand on the Bible and raise your right.

7 [Whereupon, Mr. Washington was duly sworn by the  
8 Clerk of Court]

9 THE CLERK OF COURT: You may be seated.

10 [Whereupon, Mr. Washington takes the witness stand]

11 THE CLERK OF COURT: And for the record, please  
12 state your full name, spelling both your first and your  
13 last.

14 THE WITNESS: Maurice Washington, M-A-U-R-I-C-E  
15 W-A-S-H-I-N-G-T-O-N.

16 MS. NORVELL: Thank you, Maurice.

17 - - - - -

18 MAURICE WASHINGTON,

19 Having Been First Duly Sworn,

20 Was Examined and Testified as Follows:

21 DIRECT EXAMINATION

22 BY MS. NORVELL:

23 Q. In July of 2016, did you see Michael McNeil every  
24 day?

25 A. Yeah.

1 Q. How long had you known Michael McNeil in July of  
2 2016?

3 A. My whole life.

4 Q. How did you know him?

5 A. My cousin's cousin, and just the knowledge from  
6 around the same neighborhood.

7 Q. Can you say that last thing one more time?

8 A. We're from the same neighborhood.

9 Q. From the same neighborhood? When you would see Mr.  
10 McNeil, what would you do together?

11 A. Ride around, tracking, smoking cabs, chilling.

12 Q. When you say you rode around together tracking, what  
13 does that mean?

14 A. Selling drugs.

15 Q. Selling drugs?

16 A. [No response]

17 THE COURT REPORTER: Is that yes?

18 A. Yes, ma'am.

19 Q. [Ms. Norvell] And I'm -- I'm only clarifying  
20 because I can barely hear you here and the jury will be  
21 sitting behind me, so I think if you just talk into the  
22 microphone as best you can. I know that one is kind of  
23 quiet.

24 And then you said that you were -- you would ride  
25 around smoking cabs. What -- what are cabs?

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1 A. Cocaine and cigarettes.

2 Q. Cocaine and cigarettes?

3 THE COURT REPORTER: And are you saying cabs?

4 MS. NORVELL: C-A-B-S is what I am saying.

5 THE COURT REPORTER: Okay. Thank you.

6 Q. [Ms. Norvell] And were you with Mr. McNeil on July  
7 20th, 2016?

8 A. Yes.

9 Q. What -- were y'all doing the same thing on that day  
10 that you just described?

11 A. Yeah.

12 Q. Okay. Can you talk about -- tell me about you  
13 getting -- meeting him that day, July 20th of 2016.

14 A. Me and my homeboys was riding around doing something  
15 and we had end up at Wendy's on Ashley Phosphate. And I  
16 saw his old girlfriend and I had called him.

17 I'm like, yeah, when's the last time you see her or  
18 whatever and he was like he ain't seen her in a little  
19 second. I'm like I at Wendy's right now and she work  
20 there. And he was like which Wendy's, right there? I  
21 been like, yeah, right across the street.

22 He was like stay there. I'm like we -- we at the  
23 drive-through window, we can't just -- you know, we got  
24 to go, there's traffic. So he said where you going at?  
25 I was like I going back to the house. And he was like

1    alright.  And what -- what else you asked me?

2    Q.    How did you meet him, meet up with him, that day?

3    A.    Oh, yeah.  By the time I get back to the apartments,  
4    probably like ten minutes, I been sitting in the car  
5    still eating my food and I hear the loud music come  
6    blasting and so I looked in between the cars.

7           And I see Little Mike pulling up so I hurry up and  
8    jump out the car and go in his car.  I'm like cut the  
9    music down or whatever and he cut the music down.  He  
10   asked if I had a cigar.  I'm like, no.  He asked if my  
11   homeboy had a cigar.  I was like, no.

12           And I reach inside his car.  I opened the passenger  
13   door to reach inside the car to get one of his  
14   cigarettes.  Ranch got his lighter and we each light a  
15   cigarette.

16           I'm just sitting there halfway in the car.  My feet  
17   like on the concrete, but I was sitting on the seat, and  
18   he put the car in reverse.  I'm like, man, where you  
19   going at.  He was like chill, man, chill, man, I'm going  
20   to get a cigarette and I'll come right back.

21           And I was like where at and he said Food Lion.  But  
22   he already had the car in reverse so I put my feet inside  
23   the car and closed the door.  I still had all my stuff  
24   over there in the car so, you know, I'm figuring I'm like  
25   you going right there and coming right back.  So we leave

1 out, turn to the light, we passed Food Lion. I'm like,  
2 Little Mike, where you going at? Chill, man, chill. So  
3 I'm -- I'm sitting in the passenger seat. I'm still  
4 smoking my cigarette.

5 We riding down Ashley Phosphate, passing all the gas  
6 stations. I'm like, man, where you going, man? He's got  
7 this smirk on his face. I'm like, man, for real, what  
8 are you doing; it's hot. I ain't been trying to come  
9 outside there.

10 I already had tell him earlier to come back and get  
11 me because I would have been outside. He could have come  
12 and get me around 5:00 or six o'clock when the sun starts  
13 going down.

14 So we riding and passing all the gas stations every  
15 time. I'm like, man, what are you doing, man. We got  
16 all the way down Ashley Phosphate going back towards the  
17 interstate but not -- not that far so.

18 Q. Did you meet up with another person while you were  
19 riding around with Mr. McNeil?

20 A. Yeah. So we get up on Star Road and my phone rang.  
21 I looked down and it was Zia. He say where y'all at? So  
22 I was like where we at? I'm looking at Little Mike.  
23 He's still smirking. So...

24 Q. You said Zia. Is that Zia Fredericks?

25 A. Yeah.

1 Q. And is that your first cousin?

2 A. Uh-huh.

3 THE COURT REPORTER: Is that a yes?

4 A. Yes, ma'am. So -- so we turned on Star. When he  
5 turned on Star he was like right, right, meet me at the  
6 Hyatt. So I was like, alright, man. So I hang up. And  
7 he said where is Zia and I said he at the Hyatt. So we  
8 going down Star Road. We...

9 Q. [Ms. Norvell] Did you ultimately meet Zia at the  
10 Hyatt Hotel?

11 A. Yes, ma'am.

12 Q. And what were you going -- what did you do with Zia?

13 A. Well Zia get out, Zia pull up -- as soon as we pull  
14 up Zia pull up probably like two minutes later.

15 He gather all his stuff up and his hoodie and walked  
16 over to the car. He grabbed the -- on the back door  
17 behind me and jumped in and he throw Little Mike some --  
18 some -- some clean.

19 Q. What is that?

20 A. Some cocaine.

21 Q. Okay.

22 A. And he gave me some weed and a pack of cigars. He  
23 tell me to roll up, but he was like pull out first, take  
24 me to Five Guys.

25 Q. Did you roll a blunt?

1 A. No. I rolled -- I rolled up Little Mike's weed but  
2 I never get a chance to roll up Zia's weed.

3 Q. You never rolled up Zia's weed?

4 A. No, ma'am.

5 Q. So Little -- so when you said Little Mike is that --  
6 are you talking about Michael McNeil?

7 A. Yes, ma'am.

8 Q. Is that the name that you know him as?

9 A. Yes, ma'am.

10 Q. Okay. At what point did he give you weed?

11 A. He give me weed after we left the Corner Store in  
12 Mellon Park.

13 Q. Okay. Alright.

14 THE COURT REPORTER: Which corner store?

15 THE WITNESS: On Mellon Park.

16 THE COURT REPORTER: Okay.

17 THE WITNESS: Yes, ma'am.

18 A. I bought some cigarettes and a pack of blunts while  
19 I was in there. And I called my homeboy while I was in  
20 there and I'm like Little Mike playing around.

21 And I was like in a couple of minutes call me, act  
22 like you got a sale for me so I can get back in the house  
23 because it's hot out here. So he was like alright. He  
24 was like, man, you done leave? I'm like, yeah, I leave  
25 all my stuff in the car, too. He was like, yeah,

1    alright.  So...

2    Q.    [Ms. Norvell]  I'm sorry that I'm being confusing  
3    and not letting you tell your whole story.  What I'm  
4    trying to do for purpose of this pretrial hearing is  
5    elicit specific remarks that the defense attorney and I  
6    have to argue in front of the judge about.

7            So I'm not trying to be too, too choppy for you.  So  
8    you will have an opportunity to tell your whole story but  
9    if you can just answer the questions that I am asking  
10   you, if you don't mind.

11   A.    Alright.

12   Q.    Okay.  So Zia ultimately did meet you at the Hyatt  
13   hotel in North Charleston?

14   A.    Uh-huh.

15   Q.    And he handed you -- he handed you weed?

16   A.    He handed me weed and a pack of blunts.  And he  
17   handed Little Mike the weed but Little Mike give me the  
18   weed and tell me to roll out some cabs.

19   Q.    Okay.

20   A.    I think he tell me not -- to hold up on the weed  
21   because we be trying to go to Five Guys because he was  
22   hungry inbetween his classes.

23   Q.    Did you roll a cab?

24   A.    Yeah, I rolled like two cabs.

25   Q.    And did you, Zia and Little Mike use the cabs?

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1 A. No. Zia, he can't even -- he didn't smoke cabs.  
2 Just me and little Mike had smoked the cabs.

3 Q. Did you smoke a cab with Little Mike that day?

4 A. Uh-huh.

5 Q. Okay.

6 THE COURT REPORTER: Is that a yes?

7 THE WITNESS: Yes, ma'am.

8 Q. [Ms. Norvell] And did you ever use the weed that  
9 Zia gave you?

10 A. No.

11 Q. What did you -- did you use all of the cocaine that  
12 Little Mike gave you?

13 A. No.

14 Q. What did you do with that?

15 A. I -- I rolled up two cabs and I give them back. I  
16 gave them back to Little Mike.

17 Q. Were you -- why were you the person rolling?

18 A. Because I -- I just roll stuff. I'm good at  
19 rolling.

20 Q. Okay. And what did you do with the -- did you say  
21 that Little Mike gave you some weed, too?

22 A. Uh-huh.

23 Q. What did you do with that?

24 A. He was smoking it and I had liked it so by the time  
25 Zia pull up and I realized he be jumping in the car with

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1 us I out it.

2 Q. Okay. So prior to Zia arriving, you and Little Mike  
3 were smoking weed?

4 A. Uh-huh.

5 Q. And after Zia arrived you and Little Mike were  
6 smoking cabs?

7 A. Uh-huh.

8 THE COURT REPORTER: And when you say uh-huh ---

9 THE WITNESS: --- yes, ma'am ---

10 THE COURT REPORTER: --- I need you to say yes or  
11 no.

12 THE WITNESS: Yes, ma'am. Sorry. Yes.

13 THE COURT REPORTER: Thank you.

14 Q. {Ms. Norvell} And what -- did you ultimately leave  
15 the Hyatt hotel?

16 A. Yes, ma'am.

17 Q. Did you -- who did you leave the Hyatt hotel with?

18 A. Little Mike.

19 Q. Was Zia with you still?

20 A. No.

21 Q. Where were you going when you left the Hyatt hotel?

22 A. I thought I was going back home, but we jumped on  
23 the interstate and we headed towards Charleston and we  
24 got off on Montague. Little Mike called Chin.

25 Q. Was there -- before you left the Hyatt hotel, was

1 | there any conversation about sales?

2 | A. Yeah.

3 | Q. Can you tell me about that?

4 | A. Little Mike's phone rang like two times and I could  
5 | -- well, me and Zia could hear the conversation. He had  
6 | two sales. And Zia like, man, that's our route and me  
7 | and Zia was like man, that's our route, you might as well  
8 | catch your sales and take me to Five Guys. And I been  
9 | egging it on because I been trying to smoke Zia's weed.

10 | Q. You were trying to smoke Zia's weed?

11 | A. Yes, ma'am.

12 | Q. And you thought that Little Mike catching the sales  
13 | would get him to take you home?

14 | A. To Five Guys because Zia ---

15 | Q. --- to Five ---

16 | A. --- because Zia could get him something to eat.

17 | Q. Okay. Do you know where the sales were supposed to  
18 | occur at?

19 | A. In Dunlap.

20 | THE COURT RREPORTER: In where?

21 | THE COURT REPORTER: Dunlap.

22 | Q. [Ms. Norvell] Is that a street?

23 | A. Uh-huh.

24 | Q. Okay. And did you end up going to Dunlap Street  
25 | with Little Mike to make those sales?

1 A. No.

2 Q. Did you end up on Dunlap Street with Little Mike?

3 A. Yes, ma'am.

4 Q. And there was no sale?

5 A. No.

6 Q. Okay. What happened with Little Mike when you were  
7 on Dunlap Street?

8 A. Well, I -- I had already called Boo, because I  
9 thought I had seen him, so I called him on the phone and  
10 told him to pick me up at the trailer park.

11 THE COURT REPORTER: In the what park?

12 A. Inside Kindlewood Trailer Park and ---

13 Q. [Ms. Norvell] --- trailer park.

14 A. And I had my visor down so I was looking behind me  
15 when each car turning in. And I been just looking. Then  
16 I saw some neon lights so I thought that was Boo so I  
17 gathered all my stuff and got out of the car and I was  
18 reaching back in.

19 I had to tap Little Mike like three or four times  
20 because he was talking to Sed in his window, and finally  
21 he -- he look up and he was like that's Boo, that's Boo?  
22 I'm like, yeah, that's Boo.

23 I've been trying to -- him up, I been leaning back  
24 inside the car and then he just pulled his gun out and,  
25 boom, he shoot me. So I slammed the door and I was like,

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1 Little Mike, you shoot me. I slammed the door and take  
2 off running.

3 Q. [Ms. Norvell] Did you recognize the gun that you  
4 were shot with?

5 A. Yes.

6 Q. How did you recognize it?

7 A. Well, I deal with him every day.

8 Q. Okay. Do you know what kind of gun it was?

9 A. XP.

10 Q. What is that? What kind of gun is that?

11 A. A Springfield.

12 Q. And do you know what caliber

13 A. .9.

14 Q. .9?

15 A. Yes, ma'am.

16 Q. Okay. Had you seen that gun before?

17 A. Yes, ma'am.

18 Q. How often?

19 A. Every time I'm with Little Mike.

20 Q. Okay. Do you know how long Little Mike had that  
21 gun?

22 A. 2014.

23 Q. Okay. Did you know that that was the gun that  
24 Little Mike carried?

25 A. Yeah.

1 Q. Did you know anything -- did you know that he  
2 carried any other kind of gun?

3 A. Yeah.

4 Q. You did?

5 A. Uh-huh.

6 Q. Okay. Do you know what kind of other gun Little  
7 Mike had?

8 A. Yeah. He had another XP .9. He had two XP .9s.  
9 One was just bigger than the other one.

10 Q. One was a regular -- I'm sorry. I can't understand  
11 you.

12 A. One was bigger than the other one.

13 Q. I see.

14 THE COURT REPORTER: And are you saying XP?

15 THE WITNESS: XP Springfield.

16 MS. NORVELL: Beg the Court's indulgence.

17 THE COURT: Yes, ma'am.

18 [Whereupon, Ms. Norvell and Mr. DuTremble confer]

19 Q. [Ms. Norvell] After you were shot, did you -- did  
20 you ever find out why you were shot?

21 A. No. Later on I heard something about some tapes,  
22 but I still don't even know what that means.

23 Q. [Ms. Norvell] Okay. Can you explain that to me a  
24 little more? What do you know?

25 A. Me and Zia been trying to get to the bottom of it

1 like and, I don't know why Little Mike shoot you that day  
2 -- you know, a couple of days later or probably the next  
3 day he be like, man, I don't know, he talking about some  
4 tapes or some recording that you been trying to give to  
5 detectives or his lawyer or something. I don't know.

6 Something about some tapes. I ---

7 Q. --- who told you that?

8 A. Zia told me that.

9 Q. And who is 'he's' been talking about some tapes?

10 A. Little Mike.

11 Q. So Zia spoke to Little Mike about that?

12 A. Uh-huh.

13 THE COURT REPORTER: Is that yes?

14 THE WITNESS: Yes, ma'am.

15 Q. [Ms. Norvell] And what were those tapes supposed  
16 -- supposed to have been done with?

17 A. To give it to his lawyer or some detectives or  
18 something like that. I still don't know. I don't know  
19 what he's talking about.

20 Q. Did you -- after you -- you learned that you were  
21 shot apparently over what were some tapes, did you tell  
22 the police that at any point?

23 A. No, ma'am.

24 Q. At any point when you met with the police did you  
25 tell them about the tapes?

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August 16, 2021

1 A. No, ma'am.

2 Q. When you met with Detective Bailey and Detective  
3 Glenn eight days after you were shot, did you tell them  
4 about that?

5 A. No.

6 MS. NORVELL: Beg the Court's indulgence.

7 THE COURT: Yes, ma'am.

8 [Whereupon, Ms. Norvell and Mr. DuTremble confer]

9 Q. [Ms. Norvell] At what point did you talk with Zia  
10 and learn this information about the tapes?

11 A. After I had got out of the hospital.

12 Q. When you had gotten out of the hospital?

13 A. Uh-huh.

14 Q. The night that you were shot?

15 A. Uh-huh.

16 Q. Okay. And I understand -- scratch that.

17 You spoke with law enforcement at North Charleston  
18 City Hall after you had gotten out of the hospital?

19 A. Uh-huh. Yes, ma'am.

20 Q. Okay. And do you remember the detectives that you  
21 spoke with?

22 A. No.

23 Q. You don't know their names?

24 A. No, ma'am.

25 Q. Okay. And are -- at that point, when you met with

1 the detectives after you had gotten out of the hospital,  
2 do you remember how many days it was later?

3 A. Not exactly, but it was some days later.

4 Q. It was some days later?

5 A. Yes, ma'am.

6 Q. Okay. If I played the tape for you would it refresh  
7 your recollection as to what you discussed with the  
8 officers as to whether you discussed the tapes with them  
9 at all?

10 A. Yeah.

11 Q. It would?

12 A. [No response]

13 MS. NORVELL: Judge, I have the recorded interview  
14 of the defendant's interview with North Charleston Police  
15 Department eight days afterwards.

16 MR. LEWIS: The witness.

17 MS. NORVELL: I'm sorry?

18 MR. LEWIS: The witness, not the defendant.

19 MS. NORVELL: The -- excuse me; the victim's  
20 interview.

21 THE COURT: Right.

22 MS. NORVELL: I apologize. I completely missed  
23 that. I am going to locate that and I may need a few  
24 moments to technologically set it up.

25 THE COURT: Take your time.

1 MS. NORVELL: I apologize.

2 [Off the record momentarily]

3 MR. LEWIS: For purposes of this hearing, Judge, he  
4 -- he absolutely told two North Charleston detectives he  
5 just doesn't remember it today. You know, it was -- it  
6 was Bailey and it was Glenn.

7 MS. NORVELL: Uh-huh.

8 MR. LEWIS: And I'm not -- I'm not fighting about  
9 that part yet. We'll get to that later, unless we need  
10 to get the...

11 THE COURT: It's however -- however Ms. Norvell  
12 wants to present ---

13 MS. NORVELL: --- I have a transcript that we  
14 completed of that which may be easier if you don't have  
15 an issue with me refreshing his recollection with the  
16 transcript.

17 MR. LEWIS: Not -- not for right now.

18 MS. NORVELL: Perfect.

19 Q. [Ms. Norvell] Alright. Maurice, I am approaching  
20 you and I'm going to show you a transcript of your  
21 interview. If you'll just take a -- if you will read  
22 through this and read the highlighted portion and let me  
23 know once you're completed reading that.

24 [Whereupon, Ms. Norvell proffers documents to the  
25 witness]

1 [Whereupon, the witness reviews documents]  
2 THE COURT: Ms. Norvell, this is offered pursuant to  
3 Rule 612?  
4 MS. NORVELL: That's correct, Judge, and it will be  
5 marked as Court's Exhibit 2 for the purposes of this  
6 pretrial hearing.  
7 [Whereupon, Court's Exhibit Number 2 is marked for  
8 identification by the court reporter]  
9 A. Yeah.  
10 Q. [Ms. Norvell] May I have that transcript back  
11 please?  
12 [Whereupon, the witness returns documents to Ms.  
13 Norvell]  
14 Q. So, Maurice, do you remember telling anyone at North  
15 Charleston about the tapes?  
16 A. Yeah. When they -- when they -- when they did the  
17 interview with me.  
18 Q. When they did their interview with you? Okay. And  
19 that's when you indicated what you believed to be the  
20 reason why you were shot?  
21 A. [No response]  
22 THE COURT REPORTER: Is that a yes? Was that yes?  
23 THE WITNESS: Yes, ma'am.  
24 Q. [Ms. Norvell] Thank you, Maurice. At this point,  
25 for purposes of this hearing I do not have any more

1 questions for you. The defense attorney is going to ask  
2 you questions based on your testimony here today.

3 MR. LEWIS: Briefly, Judge. Thank you.

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1 CROSS-EXAMINATION

2 BY MR. LEWIS:

3 Q. So, Maurice, you're saying today that the reason  
4 that Little Mike shot you is because of some tapes?

5 A. That's what he told Zia.

6 Q. That's what he told Zia? But you didn't know  
7 anything about that until you talked to Zia; right?

8 A. Right.

9 Q. So that's something that Zia told you. We've never  
10 heard about any tapes before?

11 A. I mean, I never talked -- talked to Little Mike  
12 after that.

13 Q. Okay. Have you ever talked to him about any tapes  
14 before that?

15 A. No.

16 Q. Has he ever said, man, I'm going to kill you because  
17 you've been giving my tapes to the police?

18 A. No.

19 Q. Never said anything about any tapes to you ever  
20 before?

21 A. No.

22 Q. The only person that ever mentioned any tapes is Zia  
23 Fredericks?

24 A. Uh-huh.

25 Q. And that was just to you? Nobody else heard that.

1 A. I'm not sure.

2 Q. Nobody was like listening on your phone; you weren't  
3 sitting there talking to other people? Just the two of  
4 y'all?

5 A. Oh, yeah, just me and him. That's all.

6 Q. Okay. Two other points I need to hit on. Those two  
7 detectives that you talked to after you got out of the  
8 hospital, those aren't the first guys you talked to in  
9 this case; right?

10 A. No. I talked to some detectives when I been in the  
11 back of the ambulance.

12 Q. Yeah. Let's get to that. The first guy, the guy  
13 from North Charleston, came in while you were getting  
14 stitched up; right?

15 A. Uh-huh.

16 Q. You refused to get your tetanus shot? That was the  
17 same time?

18 A. Right.

19 Q. Okay. After that did you -- now, do you know his  
20 name?

21 A. No.

22 Q. Okay. But uniformed North Charleston cop?

23 A. Right.

24 Q. And you told him a lie about Antonio?

25 A. Uh-huh.

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1 Q. And about it happened at this other apartment  
2 complex?  
3 A. Yeah.  
4 Q. And it was this guy in this kind of car and you just  
5 lied about everything?  
6 A. Right.  
7 Q. Okay. And you told those same lies again to a guy  
8 in the ambulance; right?  
9 A. Uh-huh.  
10 Q. Don't know his name either though?  
11 A. Uh-huh.  
12 Q. But that was another cop --  
13 THE COURT REPORTER: Wait. I -- I need you to ---  
14 MR. LEWIS: --- sorry. Am I too fast?  
15 A. Oh. No.  
16 THE COURT REPORTER: -- give me verbal yes or no, as  
17 opposed to --  
18 A. No.  
19 Q. [Mr. Lewis] To another cop in the ambulance?  
20 A. Uh-huh.  
21 Q. Same set of lies; right?  
22 A. Sir?  
23 Q. So it was a different cop in the ambulance?  
24 A. Uh-huh. Yes, sir.  
25 Q. And you told that same set of lies about Antonio to

1 that guy?

2 A. Yes, sir.

3 Q. Alright. Then after lying to him, you went to the  
4 hospital?

5 A. Yes, sir.

6 Q. Or actually that's taking you to MUSC?

7 A. Right.

8 Q. When you get to MUSC, the detectives show up.

9 A. Yes, sir.

10 Q. Right? And then you lie to them.

11 A. Right.

12 Q. You tell them the same lie that you told the other  
13 two guys already?

14 A. The people in the back of the ambulance?

15 Q. Yeah.

16 A. Yeah.

17 Q. Okay. So you tell that detective again, this is  
18 June 20th, the same day you got shot.

19 A. Uh-huh.

20 Q. Antonio, this other apartment complex, black Mazda;  
21 right?

22 A. Right.

23 Q. Smoking two blunts with him, don't know who shot me,  
24 gave a very specific description of the guy; right?

25 A. Right.

1 Q. Twenty-three to twenty-four-year-old black male  
2 wearing a skully?

3 A. Right.

4 Q. Yeah. Black pants, black shoes --

5 MS. NORVELL: Judge, I hate to do this but I do just  
6 want to object. This is outside of the scope of direct  
7 and it is not relevant to the purpose of the hearing,  
8 which is to proffer the objectionable 404(b) statements  
9 of the victim.

10 MR. LEWIS: I'll refocus, Judge.

11 THE COURT: Sounds good.

12 MR. LEWIS: I kind -- I kind of intend to agree with  
13 part of that.

14 Q. [Mr. Lewis] So you mentioned that right when you  
15 got shot, the real time, the time you're telling the  
16 truth, right, that Sed is right here when it happened?

17 A. Right.

18 Q. That man is right there?

19 A. Right.

20 Q. He sees it?

21 A. Correct.

22 Q. Can't not see it?

23 A. Correct.

24 Q. Probably blew his ears out hearing this gunshot;  
25 right?

1 A. Right.

2 Q. Alright. And most importantly, again, and -- and I  
3 want to make sure I didn't miss this. The only person  
4 that ever mentions tapes to you is Zia Fredericks?

5 A. Yes, sir.

6 Q. Not Michael McNeil?

7 A. Correct.

8 MR. LEWIS: Alright. No further questions.

9 THE COURT: Any redirect?

10 MS. NORVELL: I don't have any redirect, Your Honor.

11 THE COURT: Alright. Mr. Washington, you can step  
12 down.

13 [Whereupon, the witness is excused and exits the  
14 witness stand]

15 THE COURT: Ms. Norvell, is Mr. Washington under  
16 subpoena?

17 MS. NORVELL: Yes, Judge.

18 THE COURT: Mr. Washington?

19 THE WITNESS: Yes?

20 THE COURT: You realize that you're under subpoena  
21 and that you've got to come to court when the Solicitor's  
22 Office instructs you to do so. Do you understand that?

23 THE WITNESS: Yes, sir.

24 THE COURT: And you understand that that's a court  
25 order; right?

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THE WITNESS: Yes, sir.

THE COURT: Alright. Thank you.

1 MS. NORVELL: Alright. Judge, elicited in the  
2 victim's pretrial testimony were statements such as the  
3 fact that the victim saw the defendant every day, they  
4 sold drugs together, and they used drugs together. He  
5 specifically references using cocaine and marijuana while  
6 with the defendant, including on the day that he was  
7 shot.

8 We are seeking to admit that testimony, Judge, along  
9 with statements including the fact that the defendant and  
10 the victim went to the area of the incident location of  
11 Dunlap Street for the purposes of the defendant receiving  
12 a call about a sale.

13 Next, the statement was testified to that the  
14 defendant believed that the victim and Zia Fredericks had  
15 tapes that would be used to set him up. I think that one  
16 maybe we can address first or last.

17 THE COURT: That one -- that one is going to be  
18 tough because I counted the number of times he said I  
19 don't know as he was testifying and it was at least  
20 three. You know, I -- I don't know how that gets to  
21 clear and convincing if he -- if he is unsure.

22 And, also, evidence submitted under -- I guess this  
23 is kind of a quasi res gestae and Lyle issue. But  
24 ultimately the issues -- the evidence has got to be  
25 admissible, and I think this is pretty clear hearsay at

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1 this point, so I'll go ahead and tell y'all I think -- I  
2 think anything that occurs prior to the shot is going to  
3 come in under res gestae.

4 MS. NORVELL: Uh-huh.

5 THE COURT: I think the talk about the tapes, unless  
6 there's something more, and I understand that -- is the  
7 witness who may have heard the thing about the tapes, is  
8 -- is he -- has he ---

9 MS. NORVELL: --- deceased ---

10 THE COURT: --- passed away?

11 MS. NORVELL: Shot two days after this.

12 THE COURT: Alright.

13 MS. NORVELL: My only argument would be that it is a  
14 statement of a party opponent. But I understand, Judge,  
15 that it was made -- it's sort of hearsay in hearsay. It  
16 was made to an unavailable witness who arguably was made  
17 unavailable by this defendant.

18 THE COURT: Well, yeah and I --

19 MS. NORVELL: Which we're not going to get into.

20 THE COURT: I just don't -- I don't think ---

21 MS. NORVELL: --- I -- I understand, Judge.

22 THE COURT: I -- I think that that's just a bridge  
23 too far, especially -- you know, you think you would have  
24 a better argument on that one if the witness were a  
25 little more firm in -- in his knowledge of these tapes.

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1 But like I said, he said -- he said I don't know much  
2 about that, I don't know, he's been talking about tapes,  
3 I don't know what he's talking about. I just don't --  
4 even if it were admissible it's certainly, at least in my  
5 mind, not clear and convincing at this point.

6 MS. NORVELL: Certainly, Judge, I think that if I  
7 would be interpreting what the victim is explaining based  
8 on my -- my interactions with him, I think he's saying  
9 that he didn't actually make any tapes so he doesn't know  
10 ---

11 THE COURT: --- right ---

12 MS. NORVELL: --- what's being talked about, rather  
13 than he doesn't -- so that would be the basis of it. But  
14 I think that your ruling is very understood.

15 THE COURT: And I'll be happy to hear from you, Mr.  
16 Lewis, on the -- on the interaction prior to the shots.  
17 I mean, I -- I think it's -- well, let me hear from you  
18 and then I'll tell you what I think.

19 MR. LEWIS: Judge, the only -- the only reason I  
20 would think it would become relevant is if the suggestion  
21 is that because Little Mike for the first time was  
22 incredibly overcome by cocaine and marijuana that he had  
23 no choice but to start shooting people. Then it might be  
24 relevant. If they're just saying it to be like, hey,  
25 he's being thuggish, riding around doing drugs, making

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1 drug deals, what does it possibly have to do with whether  
2 or not he shot Maurice Washington on that day? And, more  
3 importantly, how has anything to do with the fact that  
4 Maurice Washington started by lying throughout the whole  
5 case before he decided to change his story eight days  
6 later? It's just -- I mean, yeah, he can make Mike look  
7 like a bad guy because he likes to do drugs, but what  
8 does it have to do with attempted murder?

9 THE COURT: I understand. Well, State v. King is  
10 kind of the most recent res gestae, or one of the seminal  
11 res gestae cases. And res gestae evidence is admissible  
12 when it furnishes part of the context, number 1, is  
13 necessary to a full presentation of the case or is it  
14 intimately connected with the explanation of the crime  
15 charged and so much a part of the setting of the case  
16 that proof is appropriate to complete the story of the  
17 crime.

18 Mr. Lewis, respectfully, I think that all three of  
19 those prongs are met. I think it just would be  
20 fundamentally unfair for -- to limit the State to we were  
21 riding around in a car, I went to get out and he shot me.  
22 I think evidence of drug use is certainly material in a  
23 case for the case where someone is alleged to have shot  
24 another person. That would certainly have an impact on  
25 an individual's ability to control their emotions,

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1 ability to -- to conform to the law. I -- I just think  
2 that what they were doing that day sets the stage for why  
3 what is alleged to have occurred occurred, you know. And  
4 it cuts -- it cuts both ways. It cuts to ---

5 MR. LEWIS: --- yes, sir ---

6 THE COURT: --- it cuts to the victim's  
7 credibility, as well, and, I mean, that -- while that's  
8 not necessarily a factor that I'm to consider. But, you  
9 know, I -- I don't think the State is going to hide that  
10 -- that the victim was using drugs, selling drugs. I  
11 mean, he admitted to smoking -- smoking cabs and that  
12 they were rolling blunts. I think all of that prior to  
13 the shot satisfies or falls within the res gestae.

14 So my ruling would be that those things come in and  
15 the talk -- any talk about the tapes and any suggestions  
16 that these tapes were why Mr. Washington was shot, it  
17 just doesn't rise to the level of clear and convincing  
18 evidence in my mind.

19 MS. NORVELL: And your ruling includes the admission  
20 of the firearm? I did not articulate that prior to us  
21 talking about the...

22 THE COURT: Well, he -- he can certainly say if he  
23 knows -- if he knows that an individual carries a  
24 particular type of weapon, he saw it, I've seen it for  
25 multiple years, I mean, that's -- yeah, I think that's

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1 probably the most clear-cut decision. He's got personal  
2 knowledge of ---

3 MS. NORVELL: --- right ---

4 THE COURT: --- of this gun.

5 MS. NORVELL: And Mr. Lewis and I need to address  
6 the -- the guns. So the relevance to the -- the -- or  
7 the relevance is to another officer's testimony. When  
8 Mr. McNeil was arrested, Judge, he was arrested and a  
9 search warrant was conducted of the vehicle that he was  
10 in.

11 During the search warrant and the inventory there  
12 was .9 millimeter ammunition in there. Mr. Washington  
13 testifies that he knows that the two firearms that the  
14 defendant owned are .9 millimeter. The arrest was -- and  
15 the inventory was pursuant to a search warrant in one of  
16 the subsequent cases.

17 However, one of the officers is able to testify that  
18 it is in his knowledge, based on his involvement in the  
19 case, that a search warrant was conducted pursuant to  
20 that, on the inventory there was a -- the .9 millimeter  
21 ammunition was located.

22 And we would be seeking to introduce that. Mr.  
23 Lewis has I believe a hearsay objection to it. The  
24 State's position, there is State v. Weaver is the case  
25 that we're relying on, which speaks about -- I'll provide

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1 the site for the Court if you would like it.

2 THE COURT: Yes, ma'am.

3 MS. NORVELL: 361 S.C. 73. It is okay for law  
4 enforcement, the finding in this case, to discuss hearsay  
5 statements of witnesses where law enforcement is not  
6 repeating statements made to him but only testified to  
7 the conclusions that were revealed in the investigation.

8 And there was a search warrant, again, not in this  
9 case. We're not seeking to -- to get into that case at  
10 all. But he is just only explaining what was done in the  
11 investigation and his knowledge thereof.

12 THE COURT: These .9 millimeter shell casings, were  
13 they collected?

14 MS. NORVELL: The ammunition?

15 THE COURT: The ammunition.

16 MS. NORVELL: That was collected from the vehicle.  
17 However, we do not have any physical evidence in this  
18 case. We are not -- there -- the officers didn't respond  
19 to the crime scene because they didn't know where it was.

20 MR. LEWIS: Right.

21 THE COURT: So the ammunition that was found, it  
22 wasn't logged into evidence anywhere or...

23 MS. NORVELL: The ammunition that was found is  
24 logged into evidence in the pending other murder case.

25 THE COURT: Okay.

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1 MR. LEWIS: And there's no officer -- my answer,  
2 Judge, is that there's obviously no officer here from  
3 Campton County, Georgia, no officer with any personal --  
4 like there's no chain, one. You can't just start talking  
5 about evidence that's seized, without a witness with  
6 firsthand knowledge. Yeah, it flies in evidentiary  
7 hearings, yeah, it flies in prelims.

8 We're talking about saying, hey, he must have shot  
9 Maurice with a .9 because Maurice knows he has a .9 and  
10 he had .9 millimeter bullets in his car, but they  
11 wouldn't have the bullets or photos of the bullets or the  
12 chain for the bullets.

13 MS. NORVELL: So it's just corroboratory evidence of  
14 the victim's testimony that is in the officer's personal  
15 knowledge that it was collected and logged in a chain of  
16 custody in a murder case against this defendant.

17 MR. LEWIS: Right.

18 MS. NORVELL: Three days after.

19 MR. LEWIS: And that's obviously my problem, too.

20 MS. NORVELL: And that's -- I guess the other part  
21 of it is why I think that I think it's relevant and  
22 permissible, because this ammunition was located in the  
23 vehicle the defendant was driving three days after the  
24 shooting and it corroborates the victim's testimony that  
25 he only knows him to have .9 millimeters.

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1 THE COURT: What was the case name that you -- that  
2 you cited?

3 MS. NORVELL: State v. Weaver, Your Honor.

4 THE COURT: Weaver?

5 MS. NORVELL: Weaver. W-E-A-V-E-R.

6 [Whereupon, the Court reviews documents]

7 THE COURT: So, Ms. Norvell, when this -- when this  
8 search was done in Georgia and these -- this .9  
9 millimeter ammunition was found, what happened? What  
10 happened to it?

11 MS. NORVELL: It was transferred back to the custody  
12 of the North Charleston Police Department, the  
13 investigative agency for the other case.

14 THE COURT: Okay. So I guess the issue then turns  
15 to is unspent ammunition fungible.

16 MS. NORVELL: I argue no because...

17 THE COURT: Because here's what I'm thinking. If  
18 the ammunition was documented and sent to North  
19 Charleston, it's in evidence, it's been into evidence --  
20 it's been in evidence this whole time, I mean, any  
21 officer can go -- and assuming that the chain is proven,  
22 as far as practicable, any officer could identify, well,  
23 this is .9 millimeter -- .9 millimeter ammunition.

24 Do you have any -- any indication as to how the  
25 evidence ended up in North Charleston from where it was

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1 found in Georgia?

2 MS. NORVELL: It was transferred via a property  
3 receipt that is illegible. It was -- so this defendant  
4 was arrested in that county. And I don't know if he  
5 waived extradition or was extradited. Maybe Mr. Lewis  
6 could speak to that.

7 MR. LEWIS: He waived it. He was actually trying to  
8 get back here quickly.

9 MS. NORVELL: And everything was transferred  
10 interagency following the conduct, the conducted search.

11 I do have, Judge that it was -- the chain of  
12 custody, which I can barely make out, the case agent at  
13 North Charleston on that other offense, received it from  
14 the Campton County Sheriff's Office.

15 THE COURT REPORTER: From?

16 MS. NORVELL: From the Campton County Sheriff's  
17 Office in Georgia in July of 2016; that is a date that  
18 begins with the 20s.

19 MR. LEWIS: May I?

20 THE COURT: Yes, sir.

21 MR. LEWIS: May I respond to that?

22 THE COURT: Yes, sir.

23 MR. LEWIS: I guess my issue with it is we don't  
24 have anyone who can testify to it specifically. Let's  
25 say if it said -- it also included a note that said, I

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1 shot Maurice and I enjoyed doing it. Would this officer,  
2 because he received it, be able to authenticate it?  
3 Putting -- the idea would be to put into evidence  
4 something just because it was contained on the document  
5 from another state. That, in and of itself, without a  
6 testifying witness, without authentication, just can't  
7 fly.

8 MS. NORVELL: It's not equivocal to a document that  
9 needs to be authenticated. It is an animate like object  
10 that was located in a -- it is well-documented located in  
11 the search warrant, located on the property receipt, with  
12 a chain of custody that shows the case agent for the  
13 murder case picked it up from Campton County.

14 The case agent is of the same agency as the  
15 detective who conducted the interview and learned this  
16 information and his explanation to the jury is serving to  
17 corroborate, one, it's part of the overall investigation,  
18 two, trying to find any links.

19 And as Mr. Lewis has already indicated that he's  
20 arguing that there was no investigation to further limit  
21 my explanation of any investigation is ---

22 MR. LEWIS: --- and that's why it's bad is because  
23 you would be able to say that something we don't have  
24 that we can't authenticate, you need to put value in it.  
25 That's why it's super problematic. If they had the

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1 person here to say, yes, we did this, yes, we collected  
2 it. We believe it's from the same gun because it's  
3 something of the most common caliber in the United  
4 States, so be it. But...

5 MS. NORVELL: That's not what ---

6 MR. LEWIS: --- it's not valid because of all that.  
7 You can't just...

8 MS. NORVELL: But that's not what I'm arguing is --  
9 I'm not arguing that it's the same gun, I'm just -- I'm  
10 -- it's corroborative of the victim's testimony. It is  
11 an inference that can be drawn during closing. It is not  
12 to prove that this is definitively from that firearm, it  
13 is to -- I mean, it's to show -- it's just tough.

14 MR. LEWIS: Then I would say, Judge, because of that  
15 it's not relevant.

16 MS. NORVELL: I mean ---

17 MR. LEWIS: --- then it's not relevant if it's not  
18 relevant ---

19 MS. NORVELL: --- well, it's -- it's tough because  
20 it's tough because you want to argue that there's no  
21 investigation done. It's with the same agency. It has a  
22 chain of custody. It has the property receipt. It's not  
23 like it's something that needs to be preserved. It does  
24 exist. And we're not -- I'm not eliciting that it is  
25 fired from ---

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1 THE COURT: --- here's -- here's what I'm thinking.  
2 Assuming the case agent from North Charleston can testify  
3 that he went to Georgia, retrieved these items, testifies  
4 to who he retrieved them from and what he did with them  
5 after he retrieved them, you know, I think that -- even  
6 notwithstanding whether an unspent bullet is fungible  
7 versus non-fungible.

8 I think even if it were fungible, if he could  
9 testify as to those things, who collected it, who he  
10 received it from, when he got it, what he did with it,  
11 and where it's been since he collected it, then I think  
12 you probably get there. But I don't know what he's going  
13 to say.

14 MS. NORVELL: Well, the other problem with that is  
15 that we're now bringing in the fact that this is another  
16 case agent for a murder case and that ---

17 THE COURT: --- you don't have to say that. You can  
18 just say ---

19 MS. NORVELL: --- well, of course not ---

20 THE COURT: --- you can just say he was -- Mr.  
21 McNeil was arrested in Georgia. A search warrant was  
22 executed on the vehicle that he was driving at the time  
23 of his arrest, these items were found. I went to  
24 Georgia, I retrieved them from -- from John Doe, they  
25 were in my care, custody and control. I brought them

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1 back to North Charleston, put them into evidence and  
2 that's where they have remained. That's -- if he can  
3 testify as to all that, that's -- that's -- you know,  
4 that's -- that's pretty strong. But I don't know whether  
5 he can do that or not ---

6 MR. LEWIS: --- who went to Georgia?

7 MS. NORVELL: Coffman.

8 MR. LEWIS: Right. That's -- that's not one of our  
9 detectives, Judge.

10 MS. NORVELL: And that's -- and then the other  
11 problem is that they're going to testify that he was  
12 arrested in Georgia three days later and that ---

13 MR. LEWIS: --- well, I -- I certainly don't like  
14 that.

15 MS. NORVELL: Well, exactly. That's my point. It's  
16 like we -- like obviously there's -- nobody likes  
17 evidence that's prejudicial to their client in any way,  
18 shape, or form.

19 MR. LEWIS: But I'm saying it's not evidence because  
20 you can't authenticate it and you can't document the  
21 chain of it. And that's my issue, Judge. If you can --  
22 why not ---

23 MS. NORVELL: --- as the investigator in this case  
24 he has access to all of the property receipts where it is  
25 well documented ---

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1 MR. LEWIS: --- you would still have to show chain  
2 to show relevance.

3 THE COURT: Well, that's where -- that's where the  
4 issue is to whether an unspent bullet ---

5 MR. LEWIS: --- right ---

6 THE COURT: --- fungible versus non-fungible,  
7 because if it's -- if it's non-fungible, then the chain  
8 is far less of a hurdle. And then there's a case, State  
9 v Freiburger, where it held that a gun is non-fungible.  
10 And that is 366 S.C. 125.

11 And this was a cold murder case that was solved  
12 many, many years after the murder occurred. And the  
13 rationale behind finding that a gun is a non-fungible  
14 item was because it had the distinct serial number and  
15 markings. And I know bullets are imprinted with markings  
16 from the manufacturer.

17 MS. NORVELL: Certainly when they're unspent.

18 THE COURT: And that's -- you know, if this were --  
19 if this were the spent round after it had been ejected  
20 from the shell casing, then it would be obvious that, you  
21 know, that's fungible, it's got to be maintained with  
22 strict chain of custody.

23 You know, this case in State v. Freiburger, it was a  
24 case where an individual who was a soldier at Fort  
25 Jackson apparently committed a murder in 1961. And

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1 Freiburger was a private in the Army stationed at Fort  
2 Jackson in 1961. Pawnshop records revealed that on  
3 February 28th, 1961, Freiburger purchased a .32 Caliber  
4 H&R revolver with a serial number from Capital Loan and  
5 Pawn on 1214 Main Street.

6 A month later Freiburger was stopped by Tennessee  
7 Highway Patrolman Donald Meredith at approximately 11:00  
8 p.m. for hitchhiking in Newport, Tennessee. Meredith  
9 testified he stopped Freiburger because it was dangerous  
10 to be out walking or hitchhiking on a road, as people had  
11 been struck by cars in the vicinity.

12 Patrolman Meredith questioned Freiburger and then  
13 patted him down, discovering a .32 caliber loaded H&R  
14 revolver with the same serial number. Meredith testified  
15 that although Freiburger was not under arrest at the time  
16 of the pat-down search, he was going to be for  
17 hitchhiking or I was going to take him back to jail.  
18 Upon finding the weapon Meredith arrested Freiburger for  
19 carrying arms and the gun was confiscated.

20 And the Court analyzes the Terry search aspect of  
21 this, which we don't have here. Then it gets to chain of  
22 custody. Freiburger next to search failed. The State  
23 failed to prove a sufficient chain of custody of the gun  
24 such that it should have been excluded from evidence on  
25 this basis. While the chain of custody requirement is

1 strict where fungible evidence is involved where the  
2 issue is the admissibility of non-fungible evidence that  
3 is evidence which is unique and identifiable, the  
4 establishment of a strict chain of custody is not  
5 required.

6       If the offered item possesses characteristics which  
7 are fairly unique and readily identifiable and if the  
8 substance of which the item is composed is relatively  
9 impervious to change, the trial court is viewed as having  
10 broad discretion to admit merely on the basis of  
11 testimony that the item -- item is the one in question  
12 and is in a substantially unchanged condition.

13       Given the serial number and markings on the gun and  
14 the fact that the gun is a non-fungible item, we find the  
15 chain of custody as established by the State in this case  
16 was sufficient.

17       So that's the long way of saying I need to hear from  
18 this officer before I make a ruling on this. It doesn't  
19 have to be before we start the case. If it -- if it  
20 comes up on the middle of the case, y'all just alert me  
21 that we need to proffer his testimony.

22       But I need to hear more about how these items were  
23 located, how they were transferred to the authorities in  
24 North Charleston, and how they've been maintained since  
25 they were retrieved. But, you know, absent a case

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1 directly on point, I think that assuming these unspent  
2 bullets are marked with serial numbers or other  
3 identifying markers by the manufacturer, I would lean  
4 towards concluding that unspent ammunition is non-  
5 fungible. But, again, I'll need to hear from a witness  
6 before I can make a final decision.

7 MS. NORVELL: Thank you, Judge.

8 THE COURT: And if -- if anybody in -- I'm assuming  
9 since the State is the proponent in this evidence, if  
10 anybody -- and since I am without a law clerk, if anybody  
11 in the Solicitor's Office would -- would like to do a  
12 search and to find if there is a case on point that would  
13 certainly be constructive. Although I did find  
14 Freiburger, so I'm not totally inept at Westlaw.  
15 Anything else we need to take up?

16 MR. LEWIS: References to Zia Fredericks'  
17 unavailability. I know that they have said they're not  
18 going to bring up the connection. And I think that that  
19 will be resolved if the tapes aren't going to be  
20 mentioned, there shouldn't be that, hey, this is a motive  
21 for the shooting.

22 THE COURT: Right.

23 MR. LEWIS: But I just ---

24 THE COURT: --- if -- if -- and he is a he; right?

25 MR. LEWIS: Zia? Yes, sir.

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1 THE COURT: If it does come up, I certainly don't  
2 think that he is deceased is prejudicial in any way, as  
3 long as there's no implication that -- for the reason  
4 behind why he is deceased.

5 MR. LEWIS: Exactly.

6 MS. NORVELL: That's our intention, purely only to  
7 explain why the victim came to North Charleston that Zia  
8 is deceased. Now, I think there's also a fine line. If  
9 like ---

10 MR. LEWIS: --- and that's my problem with it,  
11 Judge.

12 MS. NORVELL: Right. I would never elicit anything  
13 without having a sidebar hearing or a matter of law come  
14 up that we discuss, like whatever. Maybe you...

15 THE COURT: Because y'all know what's likely to  
16 happen. If he's talked about ---

17 MR. LEWIS: --- right ---

18 THE COURT: --- the first -- the first question,  
19 assuming this case goes to the jury, the first question  
20 we're going to get ---

21 MR. LEWIS: --- right ---

22 THE COURT: --- why didn't he -- why didn't  
23 Frederick testify. So, you know, I think about as far as  
24 anybody can go is he's no longer with us, he's deceased.

25 MR. LEWIS: And that's my issue is the implication,

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1 so I got shot.

2 THE COURT: Uh-huh.

3 MR. LEWIS: I decided to come forward, though,  
4 because someone else gets -- someone else dies? That's  
5 based on hearsay and also provides absolutely no context  
6 unless the suggestion is going to be, I came forward  
7 because he killed him.

8 THE COURT: Well, now, Mr. Washington didn't testify  
9 as to any of that in the ---

10 MR. LEWIS: --- no ---

11 THE COURT: --- in the pretrial so...

12 MR. LEWIS: But she did not present her whole.

13 MS. NORVELL: He will be testifying that he came  
14 forward because Zia died.

15 MR. LEWIS: Right.

16 MS. NORVELL: And that's what -- he changed his mind  
17 because. And I think this is the context. One, it's not  
18 hearsay. He knows for a fact that Zia died, because Zia  
19 is his first cousin. And so his first cousin, who was  
20 his closest cousin, died and that's why he was like...

21 MR. LEWIS: And why, is my problem. What's the --  
22 what's the leap thing. My cousin died. Okay, what does  
23 that have to do with you getting shot by Mike? And I  
24 hope you're -- I hope our jury is listening and they're  
25 not sitting there -- that they're following the rules and

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1 not sitting there, typing in Michael McNeil and seeing  
2 arrested for murder of Zia Fredericks, before we even get  
3 started. But the only reason to even bring that out is  
4 to connect these two men and that's what is  
5 impermissible. That's my problem.

6 MS. NORVELL: Well, it's not to connect the two.  
7 It's to explain why -- one, is to not fragmentize the  
8 State's case.

9 MR. LEWIS: Right.

10 MS. NORVELL: I mean -- and, two, it's to articulate  
11 this is the victim's rationale.

12 THE COURT: Well, wasn't his rationale also that he  
13 was hesitant to identify the defendant because they had  
14 known each other for so long and that he didn't want to  
15 get him in trouble? I mean, I think those are obvious --  
16 obvious -- obviously admissible reasons for -- for why he  
17 came forward and I -- and I think the issue about  
18 Fredericks passing away -- is that his last name?

19 MR. LEWIS: Fredericks. Yes, Your Honor.

20 THE COURT: I think that gets in -- that's back into  
21 more of a subsequent bad act analysis.

22 MR. LEWIS: Exactly. And, again, it was from  
23 hearsay because his original statement -- I know we're  
24 trying to find a way to get something in to explain it.  
25 His original statement was, my family, my mom kept

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1 harassing me to come forward and do the right thing  
2 because Zia couldn't. That's what he would love to say.

3 THE COURT: Uh-huh.

4 MR. LEWIS: But that's exactly what he can't say.

5 My second chair handed me a note, I chose to do the right  
6 thing several days later. What does Zia's death, unless  
7 the implication is that Michael killed him, have to do  
8 with anything?

9 MS. NORVELL: It has to do with -- with the fact  
10 that -- so, yes, initially he's not telling the truth  
11 because he's known him and he's not -- that's not how he  
12 reacts or that would that not be his standard reaction.

13 And then with Zia's passing away and the  
14 conversations with his family, he decides to do the right  
15 thing, which is the right thing perceivably to us, coming  
16 forward and telling the truth is the right thing, not  
17 telling that Mike -- there's -- there's no intention of  
18 eliciting anything about...

19 MR. LEWIS: Then what other explanation is there?  
20 Why are ---

21 MS. NORVELL: --- well, frankly...

22 THE COURT: Well that's...

23 MS. NORVELL: He did -- like he is ---

24 THE COURT: --- that's where this -- that's an  
25 issue that the jury has got -- I mean, they've got to

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1 judge the witnesses' credibility. If he testifies that I  
2 didn't want to get him in trouble, I've been knowing him  
3 my whole life, and I talked with my family and I decided  
4 to do the right thing, that's obviously -- I think that's  
5 fine because he's not -- we're not offering what he's --  
6 what he's said in the conversations with his -- it's not  
7 being offered for the truth of the matter asserted.

8 You know, I think it muddies it up a little bit when  
9 he -- if he were to say, I came forward because my cousin  
10 got killed.

11 MS. NORVELL: But that is why he came forward.

12 THE COURT: Well, I understand that, but I -- I've  
13 got to make sure that -- that we don't run afoul of Lyle.

14 MS. NORVELL: So the Court's ruling is that nothing  
15 about Zia's death ---

16 THE COURT: --- no, I haven't -- I haven't made a  
17 ruling yet. I'm -- I'm just -- I'm thinking through  
18 this.

19 MS. NORVELL: Okay.

20 THE COURT: I think he can testify that he came  
21 forward and changed his story after his cousin died. I  
22 think that's -- I think that's fine. The jury is going  
23 to make whatever inference they make. But he can't say,  
24 my cousin got murdered and I came forward.

25 MR. LEWIS: So we're limiting it died?

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1 THE COURT: Yes.

2 MR. LEWIS: Not killed ---

3 THE COURT: --- I mean, that's ---

4 MR. LEWIS: --- not was murdered ---

5 THE COURT: --- because I would assume he doesn't  
6 know -- unless he was there, he doesn't know who shot ---

7 MS. NORVELL: --- correct ---

8 THE COURT: --- his cousin. So he can say, I got  
9 shot, I didn't want to get the defendant in trouble,  
10 we've been knowing each other forever. We're -- I think  
11 he said we're cousins of cousins or something like that.  
12 I talked with my family, then my cousin died and I  
13 decided to do the right thing. I don't think there's  
14 anything objectionable about that testimony.

15 But unless he has some clear and convincing evidence  
16 to offer that Mr. McNeil was the one who killed his  
17 cousin, you know, I -- I don't think that we could -- I  
18 don't think that there's any threshold established under  
19 Lyle could be met because it is -- it clear that it's --  
20 that it's got to be clear and convincing evidence.

21 So he can testify that those things went into his  
22 decision-making process when he changed his mind and came  
23 forward but, you know, no implication that I know that --  
24 that Michael McNeil killed my cousin, that kind of thing.  
25 That's -- that's where -- that's where we've got to...

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1 MS. NORVELL: Absolutely ---

2 THE COURT: --- in order to keep this thing clean,  
3 those are -- that's kind of the tightrope that has to be  
4 walked.

5 MS. NORVELL: I think that's absolutely appropriate,  
6 Your Honor. And just making sure that I have everything,  
7 my Ps and Qs, before I ---

8 THE COURT: --- right ---

9 MS. NORVELL: --- before I talk back to the victim.  
10 We are limiting it to my cousin died; I talked to my  
11 family and wanted to do the right thing; not my cousin  
12 was killed?

13 THE COURT: Right.

14 MS. NORVELL: Perfect. Thank you.

15 THE COURT: Right. My cousin died. I mean, and  
16 assuming -- I'm -- you know, I'm making some assumptions  
17 as to what his testimony is going to be, based upon what  
18 I've heard him say and what I've read in the brief. But  
19 I think if those are -- if those are the factors he  
20 considered in his mind, I don't think we can keep him  
21 from testifying to that.

22 But no reference to murder. I don't even want any  
23 reference to he was shot. My -- my cousin died and based  
24 upon all of that, I decided to do the right thing. And I  
25 think that is enough of a link, you know, and keeps

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1 everybody's rights preserved.

2 MS. NORVELL: I appreciate you working with us to  
3 find a way to ---

4 THE COURT: --- no problem ---

5 MS. NORVELL: -- explain his -- yeah.

6 THE COURT: No problem. I've been faced with these  
7 decisions before in both of those seats ---

8 MR. LEWIS: --- right ---

9 THE COURT: --- that y'all are sitting in.  
10 So anything else?

11 MR. LEWIS: Were we talking about Campton County,  
12 Georgia, now, or you're going to find out? Because I  
13 didn't want...

14 THE COURT: I -- I think that needs to be proffered.

15 MR. LEWIS: Okay.

16 THE COURT: I want to hear -- I want to hear  
17 whatever witness from North Charleston, what they can say  
18 about how these items were retrieved and maintained. And  
19 just basically I want to see what kind of condition  
20 they're in, you know, to help me.

21 You know, like I said, preliminarily, I view these  
22 unspent -- this unspent ammunition similar to a firearm  
23 has got identifying characteristics. But, you know, as  
24 we all know, the difference as far as chain of custody  
25 from fungible versus non-fungible is pretty big. So I

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1 want to hear from the witness who proposes to get -- get  
2 these items into evidence before I -- outside the  
3 presence of the jury before I make a decision.

4 MR. LEWIS: Thank you, Judge.

5 [Whereupon, Mr. Lewis and Mr. D'Angelo confer]

6 MR. LEWIS: I guess -- sorry, Judge, one last  
7 question. What are y'all going to say in opening, that  
8 he was arrested in Campton County, Georgia, or anything  
9 like that or?

10 MS. NORVELL: No.

11 MR. LEWIS: Okay.

12 MS. NORVELL: I was trying to stay away from that

13 ---

14 MR. LEWIS: --- no, I appreciate that.

15 THE COURT: Yeah. We don't have any -- any  
16 statements from the defendant?

17 MR. LEWIS: No, Your Honor.

18 THE COURT: No out of court I.D., no...

19 MR. LEWIS: They're ---

20 MS. NORVELL: No, Judge.

21 THE COURT: No Biggers issues?

22 MR. LEWIS: I'm not challenging the I.D.

23 THE COURT: Okay.

24 MR. LEWIS: I mean, yeah, they knew each other.

25 MS. NORVELL: Honestly I was just going to do it in

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1 court one.

2 THE COURT: They know each other so.

3 MR. LEWIS: Yes.

4 MS. NORVELL: Exactly.

5 THE COURT: I just want to make sure. I'm just  
6 trying to think through ---

7 MS. NORVELL: --- they just ---

8 MR. LEWIS: --- the traditional pre-trials are not  
9 -- there's -- there will not, there should not be any --  
10 I'm not going to object to their experts. They've got  
11 some surgeons. There's not going to be any issues with  
12 that.

13 I've stipulated to the CAT scan, the dude got shot  
14 in the groin; Mr. Washington got shot in the groin. No  
15 issue there. I don't think there are any -- there's no  
16 forensics that we need to talk about.

17 THE COURT: So you boil in down this isn't a -- this  
18 isn't a we question that you were shot, we say we didn't  
19 do it?

20 MR. LEWIS: Right.

21 THE COURT: Okay.

22 MR. LEWIS: Correct. And he said he didn't.

23 THE COURT: Well...

24 MS. NORVELL: I believe that Your Honor and the  
25 court reporter have copies of the two stipulations.

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1 There should be the CVs for the experts. We may have one  
2 more CV coming. I can't decide if I'm amending the Roper  
3 guy as a -- the Roper doctor as an expert or just let him  
4 testify.

5 MR. LEWIS: I mean, again, I'm not going to be  
6 contesting anything about whether he was shot unless he  
7 starts to come in and say I can tell how the bullet  
8 looks, that it was a .9 millimeter from an XP.

9 MS. NORVELL: Okay. And we have no testimony like  
10 that.

11 MR. LEWIS: Okay.

12 THE COURT: Okay.

13 MR. LEWIS: But, no, no issues.

14 THE COURT: Well, as far as any medical testimony, I  
15 mean, if you want to just do a brief recount of the  
16 witness' education, training, and experience. I mean, I  
17 never make anybody well judge we'll stipulate to this.  
18 You still have the right to ---

19 MS. NORVELL: --- hear it ---

20 THE COURT: --- to have the jury hear yeah, they  
21 stipulate that this guy is an expert, you still get the  
22 right to say that he went to -- he went to Harvard for  
23 undergrad and he went to John's Hopkins for medical  
24 school. You know, I mean, that's --

25 MS. NORVELL: I'm really not trying to grandstand

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1 here.

2 THE COURT: Well, I know. I'm just saying ---

3 MR. LEWIS: -- I'm just saying people voir dire  
4 their witnesses ---

5 THE COURT: --- even though all of this is  
6 essentially agreed to, you know, I'm not going to limit  
7 ---

8 MS. NORVELL: --- I appreciate that, Your Honor ---

9 THE COURT: --- limit you in how you present your  
10 case.

11 MR. LEWIS: Anything else?

12 MS. NORVELL: I don't. The State has nothing  
13 further pretrial.

14 THE COURT: Okay.

15 MR. LEWIS: I think that's it. Thank you, Judge.

16 THE COURT: Can we go off the record?

17 THE COURT REPORTER: Sure.

18 [Whereupon, the Court holds an off the record  
19 discussion with counsel]

20 [Whereupon, the jury trial adjourns at 4:05 p.m.]

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C E R T I F I C A T E

I, the undersigned, Joyce C. Rueger, Official Circuit Court Reporter for the Ninth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Charleston County, South Carolina on the 16th day of August, 2021.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

October 9, 2021

\_\_\_\_\_  
Joyce C. Rueger, CVR-M  
Court Reporter

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PROCEEDINGS

THE COURT: Good morning, everybody. Are we ready to bring in the jury?

MS. NORVELL: I wanted to briefly address the victim will be testifying first. During pretrials yesterday he was a little quiet. I asked him if he thought he would be able to project a little better if he pulled his mask down. He has indicated that he would.

And I don't know if there's another microphone we could add up there. I just have concerns about the jury being able to hear him all the way in the back of the courtroom.

THE COURT: And I'm going to require when witnesses are on the stand that they pull their mask down. I think it's important that the jury is able to see the facial expressions of a witness as they testify. The only reason I didn't ask him to do it yesterday is because there wasn't a jury in the room. So all witnesses will pull their masks down and we'll certainly sanitize the area between witnesses.

I know things are done a little bit different because of COVID but, Ms. Norvell, I don't have the indictments.

MS. NORVELL: I will provide those to the clerk.  
[Off the record momentarily]

1 THE COURT: And just so the record is clear, Ms.  
2 Norvell, the indictments which are before the Court in  
3 this particular case are indictment 2017-GS-10-03652 and  
4 653?

5 MS. NORVELL: Yes, Judge.

6 THE COURT: Just a couple of matters of housekeeping  
7 before we get started.

8 I don't usually bring up the notion of note taking  
9 with the jurors. If they ask to take notes I usually  
10 allow it but I don't -- I'm not the one who says you can  
11 take notes if you want to. If they ask, they are able to  
12 take notes, it's my practice to allow it, and certainly I  
13 require them to leave their notes.

14 They don't take them back into their jury room until  
15 their deliberation room until the case is closed. I  
16 think if they do have notes, that could potentially  
17 foster the notion of, well, let's talk about this and  
18 let's compare notes kind of thing. So I just wanted  
19 y'all to know if they do ask, I usually allow it.

20 And since I didn't qualify the jury yesterday, I  
21 don't know these folks' professions or anything beyond  
22 their age. And so I'm going to ask the jurors at the --  
23 when we take our first break to elect a foreperson  
24 because if I were to do it I would just be -- it would  
25 just be a random chance because I don't know a whole lot

1 about these folks and their professions and what they've  
2 done in their lives. So when we take our first break, if  
3 I don't remember it, y'all please help me -- please help  
4 me figure out -- or please remind me to ask them to  
5 select a foreperson.

6 MS. NORVELL: Thank you, Judge. And my investigator  
7 is in the hall and he is trying to get in with the  
8 evidence ---

9 THE COURT: --- okay ---

10 MS. NORVELL: --- for our first witness.

11 THE COURT: Let's go ahead and have him brought in  
12 before we bring the jury in.

13 MS. NORVELL: And the other thing, the rest of our  
14 witnesses are being sequestered in courtroom 4-B, and as  
15 long as the bailiffs know that and can escort them once  
16 they are called. Our first witness is already present in  
17 the courtroom so we'll be able to go right into that.

18 THE COURT: Okay.

19 MR. D'ANGELO: Your Honor, I just have one matter to  
20 bring up for scheduling purposes, if the Court will be  
21 able to help me. I have a hearing that needs to happen  
22 with Judge Price this morning. My client is not  
23 competent and we're trying to get him sent to Columbia.  
24 He's supposed to be reporting tomorrow. He's not wanting  
25 to, understandably. Judge Price is free at 12:00. I

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1 told him that obviously we're in court but that I would  
2 request if we could take a break somewhere around 12:00.  
3 Obviously if it's not right at 12:00 on the dot, if it's  
4 not until 12:30, Judge Price understands, you know. But  
5 I just -- if the Court could help me.

6 THE COURT: That's fine. We -- that -- we should be  
7 getting close to a lunch break at that time so we'll ---

8 MR. D'ANGELO: --- okay ---

9 THE COURT: --- we'll accommodate you on that ---

10 MR. D'ANGELO: --- thank you, Judge ---

11 THE COURT: --- on that request.

12 MR. LEWIS: And, lastly, I think we addressed the  
13 issue with Campton County? Or have we...

14 MS. NORVELL: As far as calling Detective Kauffman  
15 ---

16 MR. LEWIS: --- right. And needing to proffer him  
17 or anything like that.

18 MS. NORVELL: --- the ammunition? I have not talked  
19 to him this morning.

20 MR. LEWIS: Okay. Alright. And the other was, you  
21 know, sort of for our own edification we were sitting  
22 here sort of chit-chatting, is what's going on here  
23 getting broadcast down to the other room? Do we know?

24 THE CLERK OF COURT: Yes.

25 MR. LEWIS: Is -- are bench conferences?

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1 THE CLERK OF COURT: No.

2 MR. LEWIS: Okay. Alright.

3 MS. NORVELL: But our conversations at the table  
4 are?

5 MR. LEWIS: Yeah. I guess so.

6 THE CLERK OF COURT: The Court -- what's happening  
7 in the Court trial wise is being shown downstairs.

8 MR. LEWIS: Can I unplug my mic just for like my  
9 table?

10 THE CLERK OF COURT: I can mute you.

11 MR. LEWIS: Yeah ---

12 THE COURT: --- let's do that. You know, we don't  
13 want any ---

14 MR. LEWIS: --- yeah ---

15 THE COURT: --- any conversations between the ---

16 MR. LEWIS: --- we do not ---

17 THE COURT: --- defendant and his lawyers,  
18 certainly. But it works the same for the prosecution.  
19 They may not want their trial strategy broadcast. So if  
20 we could mute the microphones on both counsel tables, I  
21 think that would be our best course of action.

22 MR. LEWIS: Thank you.

23 THE COURT: Alright. Are we ready for the jury?

24 MS. NORVELL: Yes, Judge.

25 MR. LEWIS: Yes, sir.

1           THE COURT:  Alright.  When the jury is brought in  
2 I'll have them sworn and then I will give them the  
3 recommended pretrial remarks which were given to us by  
4 the Supreme Court.

5           They're fairly lengthy but they're strongly  
6 suggested, so I'm going to give them and I will -- since  
7 we didn't necessarily do it yesterday, I will read out  
8 the allegations in the indictment and tell the jury that  
9 they are not evidence of anything in this case, they're  
10 just the formal documents which bring these cases before  
11 the Court.

12          MS. NORVELL:  May I beg the Court's indulgence for  
13 one moment?

14          THE COURT:  Yes, ma'am.

15          MS. NORVELL:  I have just misplaced a document that  
16 I want to make sure we have before we bring the jury in.

17          THE COURT:  Yes, ma'am.

18          MR. D'ANGELO:  Does Your Honor have a preference on  
19 us standing for the jury?

20          THE COURT:  It's up to you.  I don't stand when they  
21 come in so that's -- I'll leave that up to the individual  
22 attorneys.

23          [Off the record momentarily]

24          MS. NORVELL:  I'm sorry.  I had my hand on it a  
25 moment ago.

1 THE COURT: That's okay.

2 MS. NORVELL: There is a -- I may need to -- my co-  
3 counsel is going to print this. I'm so sorry, Judge.

4 THE COURT: That's okay.

5 MS. NORVELL: And if I locate it...

6 THE COURT: He -- I mean we -- he's -- he should be  
7 able to -- unless he's leaving the building he should be  
8 able to get back before my preliminary remarks and the --  
9 and the opening statements are done so he can just slip  
10 back in.

11 MS. NORVELL: I'm really sorry, Judge.

12 THE COURT: That's okay.

13 [Off the record momentarily]

14 MS. NORVELL: We're ready to proceed, Your Honor.

15 THE COURT: Alright. If we could have the jury  
16 brought in, please.

17 [Whereupon, the jury enters the courtroom at  
18 9:53 a.m.]

19 THE BAILIFF: The panel is all here, Your Honor.

20 THE COURT: Alright. Thank you very much. Ladies  
21 and gentlemen of the jury, thank you for your prompt  
22 return as instructed here this morning. We are about to  
23 begin the trial of the case.

24 But before we get started, Madam Clerk, if you would  
25 please swear the jury.

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JURY SWORN

THE CLERK OF COURT: Yes, sir.

Ladies and gentlemen, will you please stand and  
raise your right hands to be sworn.

[Whereupon, the jury complies]

THE CLERK OF COURT: The defendant, will you please  
stand, as well.

[Whereupon, the defendant complies]

[Whereupon, the jury is duly sworn by the Clerk of  
Court]

THE CLERK OF COURT: If you accepted this oath,  
please say I do.

[Whereupon, all jurors say I do]

THE CLERK OF COURT: You may be seated]

[Whereupon, the jury complies]

THE COURT: Thank you, ma'am.

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Court's Preliminary Remarks to the Jury  
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1           THE COURT: Ladies and gentlemen of the jury, the  
2 case we are about to try is the case of the State versus  
3 Michael Anthony McNeil. Mr. McNeil is before the Court  
4 on two separate indictments.

5           The first is indictment number 2017-GS-10-03652.  
6 That is for possession of a weapon during the commission  
7 of a violent crime. And in that indictment -- that  
8 indictment states that in Charleston County, South  
9 Carolina, on or about July 20th of 2016, the defendant,  
10 Michael Anthony McNeil, did possess a firearm or visibly  
11 display what appeared to be a firearm or did visibly  
12 display a knife during the commission of an -- or an  
13 attempted commission of a violent crime, to wit,  
14 attempted murder, in violation of Section 16-23-490 of  
15 the Code of Laws of South Carolina.

16           The second indictment is indictment 2017-GS-10-  
17 03653. It is for the charge of attempted murder and it  
18 states that in Charleston County, South Carolina, on or  
19 about July 20th, 2016, the defendant, Michael Anthony  
20 McNeil, did, with intent to kill and malice aforethought,  
21 attempt to kill Maurice Deon Washington in violation of  
22 Section 16-3-29 of the Code of Laws of South Carolina.

23           The indictments are not evidence in this case. They  
24 are merely the formal charging documents which bring  
25 these charges before the Court's jurisdiction.

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Court's Preliminary Remarks to the Jury  
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1           Now, ladies and gentlemen, before this trial I want  
2 to tell you that this trial probably will be different  
3 from what you might expect. Many people do not have a  
4 chance to attend actual court sessions as you are doing  
5 now and they think from watching television or movies or  
6 reading books that trials are always full of high drama,  
7 intense action, and riveting circumstances.

8           While all these things may be true at times, this  
9 trial is not for our entertainment. It is a fundamental  
10 part of our democracy. Trials are often slow,  
11 deliberate, and repetitive, the opposite of what you may  
12 have seen on television or in movies or read in books.

13           This courtroom is a place of honor, dedicated to the  
14 protection and preservation of citizens' rights through  
15 what many have called the greatest justice system ever  
16 created. The attorneys appearing before you are  
17 advocates for the parties they represent but first and  
18 foremost they are officers of the Court, sworn to uphold  
19 the integrity and fairness of our judicial system.

20           You should expect them to be professional,  
21 competent, and ethical in the representation of their  
22 clients' interests. Remember that you have taken an oath  
23 to try this case and reach a fair verdict and you are  
24 also expected to be professional, reasonable, and  
25 ethical. Thank you for accepting the important

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1 responsibility of jury service and for your contribution  
2 today to our justice system.

3       What I will say now is intended to serve as an  
4 introduction to the trial of the case. These remarks are  
5 not a charge on the law in the case. I will instruct you  
6 on the law applicable to this case at the end of the  
7 trial before you retire to consider your verdict. This  
8 is merely an explanation of the procedure that we will  
9 follow in the trial of this case so that you may better  
10 understand what may be happening.

11       As I stated before, the defendant is charged under  
12 two indictments. And the indictments are simply the  
13 charges by which the case is brought into court and they  
14 are not in any sense evidence of the allegations they  
15 contain. The defendant has pled not guilty to these  
16 indictments. The State, therefore, has the burden of  
17 proving each of the elements of the indictment beyond a  
18 reasonable doubt and it will be your duty, ladies and  
19 gentlemen, to decide whether the State has met that  
20 burden.

21       Your purpose as jurors is to find and determine the  
22 facts. You are the sole judge of the facts. If at any  
23 time I make any comment regarding the facts, you must  
24 disregard it. You are to determine the facts from the  
25 testimony you hear and the other evidence introduced in

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1 court. It is up to you to determine the inferences which  
2 you may feel properly may be drawn from the evidence. It  
3 is especially important that you perform your duty in  
4 determining the facts diligently and conscientiously  
5 because ordinarily there is no way to correct an  
6 erroneous determination of the facts by the jury.

7 On the other hand, and with equal emphasis, the same  
8 law that makes you the judges of the facts makes me the  
9 judge of law. The law as given by the Court is the only  
10 law you may consider. You must accept and follow it even  
11 though you may disagree with it. I cannot tell you what  
12 the facts are and you cannot disagree with me about what  
13 the law is or should be.

14 Your job is to take the law as I give it to you and  
15 apply it to the facts as you find them from the testimony  
16 of the witnesses and any other evidence that is  
17 introduced. After doing that, you will render a verdict  
18 under the solemn oath that you took as jurors.

19 Until I advise you to begin your deliberations, you  
20 must not discuss this case with anyone including your  
21 fellow jurors, friends, family members, and anyone  
22 involved in the case. This includes discussions face-to-  
23 face and those by telephone, email, text or any other  
24 method of electronic or other communications. You may  
25 not use a computer, cell phone, or other electronic

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1 device with communication capabilities at any time while  
2 in the courtroom or during your deliberations. During  
3 your breaks for meals or overnight, if necessary you may  
4 use these devices. However, you may not at any time use  
5 these devices to get or send information about the case.

6 This includes information about a party, a witness,  
7 an attorney, or court officer, news accounts about the  
8 case, research any topics raised, any topics you may  
9 think would be helpful in deciding the case, or any  
10 testimony presented by any witness.

11 During the trial do not read, listen to, or watch  
12 any news reports about this case. This includes anything  
13 that may be in newspapers or on the internet, radio or  
14 television. You must not consider anything you may have  
15 read or heard about this case outside the courtroom,  
16 whether before or during the trial. After the case is  
17 submitted to you, you must discuss it only in the jury  
18 room with your fellow jurors.

19 The attorneys and parties in this case have been  
20 advised that they are not to talk to you at all, so if  
21 you see anyone involved in the case and they do not even  
22 say hello, they are not being unfriendly, they are just  
23 following my instructions.

24 It is important that you keep an open mind and not  
25 decide any issue in the case until all of the evidence

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1 has been presented, the parties have made their closing  
2 arguments, and I have instructed you on the law in this  
3 case. It is your solemn responsibility to determine the  
4 guilt or innocence of the defendant and your verdict must  
5 be based solely on the evidence as it is presented to you  
6 in this trial and on the law as I instruct you during and  
7 at the close of the trial.

8 In just a moment the Solicitor will make what is  
9 called an opening statement in which the Solicitor will  
10 explain to you the issues in this case, or at least what  
11 the Solicitor thinks the issues in this case are. The  
12 attorney -- the attorneys for the defendant may also make  
13 an opening statement, although they are not required to  
14 do so.

15 What the attorneys tell you during their opening  
16 statements is not evidence in this case and is only their  
17 contention as to what the issues are. The evidence in  
18 this case will be presented to you by the testimony of  
19 the sworn witnesses from this witness stand and/or by  
20 exhibits that may be introduced into evidence.

21 From time to time during the trial you may hear one  
22 of the lawyers say something like Your Honor I believe we  
23 have a question of law or a matter of law to discuss with  
24 you, or, Your Honor, may we approach the bench.  
25 Sometimes I, myself, might find it necessary to excuse

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1 you from the courtroom for a short while so the attorneys  
2 and I can discuss a matter of law. The reason for this  
3 is because you are the judges of the facts in this case  
4 and sometimes when I'm discussing matters of law with the  
5 attorneys it may be necessary for me to make some comment  
6 as to the facts in connection with a ruling on whether or  
7 not a particular law applies.

8 I'm not supposed to tell you what I think the facts  
9 are, so I will excuse you from the courtroom while these  
10 discussions take place so that in no way will you be  
11 influenced by anything that I might say or do in  
12 connection with the facts.

13 In determining what the facts are in this case, you  
14 must decide whether or not the testimony of a witness is  
15 believable. It will be my responsibility to rule as a  
16 matter of law as to whether certain testimony is  
17 admissible at all or not. But once the testimony is  
18 admitted, whether or not you believe it is solely for you  
19 to determine.

20 In determining whether to believe a witness you have  
21 the right to consider the interest of any witness, the  
22 bias of any witness, the prejudice of any witness, the  
23 opportunity for the witness to have seen the matters and  
24 things about which the witness may testify, and the way  
25 the witness acts on the witness stand. You have a right

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1 to consider anything that is in the record that will help  
2 you evaluate the testimony of the witnesses. That means  
3 that it is your duty to pay close attention to these  
4 witnesses, to observe the witnesses, to listen to the  
5 witnesses and to pay close attention to the attorneys and  
6 the Court.

7 Don't let your thoughts wander, but give strict  
8 attention to the testimony in this case so that at the  
9 end of all testimony, after the arguments of counsel, and  
10 the charge of the law by the Court, you will then be in a  
11 position to determine what the facts are and apply the  
12 law to those facts and thus render a verdict.

13 It is your added duty -- ladies and gentlemen, when  
14 we take our first break this morning, after the trial  
15 gets started, when you retire to your jury room I'm going  
16 to ask that the fourteen of you elect a foreperson to be  
17 the jury's spokesperson in this case.

18 The foreperson has no greater authority than any  
19 other juror but their -- the foreperson's job will be to  
20 write the verdict in this case but I will give you  
21 further instructions about that at the conclusion of the  
22 trial.

23 Now, in order to preserve everyone's rights, I will  
24 give the parties an opportunity to object to anything I  
25 have said. Any exceptions to anything that I've said to

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1 the jury by the State?

2 MS. NORVELL: Nothing from the State, Judge.

3 MR. LEWIS: No, Your Honor.

4 THE COURT: Alright. Folks, thank you. We will now  
5 begin the trial. Ms. Norvell?

6 MS. NORVELL: Thank you, Your Honor. Does the Court  
7 believe that it is appropriate for me to remove my mask  
8 when addressing the jury, Your Honor?

9 THE COURT: As long as you stay six feet away from  
10 them, if you feel comfortable doing that you may.

11 [Off the record momentarily]

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Opening Statements-Remarks by Ms. Norvell  
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1 and shoot a firearm at him. You will hear from Maurice  
2 during this trial and he'll tell you the entire timeline  
3 of the day that he spent with Maurice -- excuse me --  
4 with McNeil on July 20th, 2016.

5 He'll tell you everything. He'll tell you how he  
6 knows McNeil and he'll tell you about their day,  
7 ultimately concluding with him being shot. And after you  
8 hear from him, you will hear Maurice explain to you that  
9 even when someone does something as messed up as shooting  
10 you, it was not in his nature to talk to the police about  
11 what happened.

12 Ultimately, he did and he'll explain to you why he  
13 had that change of heart and what came about as his basis  
14 for coming forward and talking to officers and telling  
15 them that he knows this defendant and he watched him as  
16 he pulled a gun and shot him.

17 Michael McNeil, the defendant in this case, is  
18 charged with two charges. You heard the judge read the  
19 indictments just a few moments ago, attempted murder and  
20 possession of a weapon during the commission of a violent  
21 crime.

22 At the beginning of the case I would just like to  
23 briefly go over what to listen out for just so you can  
24 have your ears perked up during testimony and just know  
25 what the elements of the offense are. At the end of this

1 trial, the judge will go through in his charge what the  
2 elements of each offense are. And if anything he says  
3 differs from what I'm telling you now, please defer to  
4 him. But I'm just trying to give you a structure of  
5 building blocks to look out for.

6 Attempted murder must be proved by showing that the  
7 defendant had a specific intent to kill Maurice, an  
8 intent to kill another person. It also requires a  
9 showing of an attempt to kill another person, Maurice.  
10 Lastly, this attempt and intent to kill must be done with  
11 malice. Malice is ill will.

12 As to the weapons charge that is shown by proving  
13 that McNeil possessed or displayed a weapon at the time  
14 that he was committing a violent crime. In South  
15 Carolina, violent crimes are defined by statute and  
16 attempted murder is one of those here.

17 After you hear from Maurice, from the police who  
18 followed up and investigated, and the others involved in  
19 this case, you will be firmly convinced that McNeil is  
20 guilty of those two charges, attempted murder and  
21 possession of a weapon during a violent crime.

22 You will be firmly convinced because you will hear  
23 that Maurice Washington knows Michael McNeil. He knows  
24 what he saw and he knows what happened to him. I will  
25 stand up before you again at the end of this trial and I

1 will return -- and I will request that you return a  
2 verdict of guilty. Thank you.

3 THE COURT: Mr. D'Angelo?

4 MR. D'ANGELO: Thank you, Your Honor.

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1 where another friend of his, Boo, is there in his car and  
2 drives Maurice to the hospital.

3 Story two. Maurice is hanging out with his friend  
4 Little Mike. They meet up in Little Mike's car, driving  
5 around joy-riding, just cruising. Little Mike decides he  
6 wants some cigarettes, stops at a convenience store,  
7 gives Maurice some money. Maurice goes into the  
8 convenience store, gets some cigarettes, comes back out  
9 to the car. They keep joy-riding.

10 Maurice gets a phone call from a friend Zia. Zia  
11 wants to meet up with the three of them so they go to the  
12 Hyatt hotel parking lot, hanging out in the car, having a  
13 good time, smoking some weed. Zia leaves. Maurice wants  
14 to go home. Tells Little Mike, bring me home. Alright.  
15 Little Mike's, having fun joy-riding. Maurice tells him  
16 bring me home.

17 Maurice drives -- Little Mike drives, doesn't drop  
18 Maurice at home but drops him at Little Mike's aunt's  
19 house, pulls into the trailer park, drives to lot 11.  
20 Little Mike stops his car, starts talking to a friend,  
21 Sed, that's standing at this car.

22 Maurice gets out of the car, goes to say goodbye to  
23 Little Mike. Little Mike pulls out a gun and shoots him.  
24 Maurice has been shot, starts to run, drops his phone,  
25 runs to the entrance of the trailer park where a friend

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1 of his, Boo, is waiting in his car and drives Maurice to  
2 the hospital.

3 Two stories. Which one is true? Y'all need to  
4 decide right now. Go. Can't do it, right? Exactly.  
5 You need more information. If I'm telling you the story  
6 and I'm asking you to believe it, you need to be able to  
7 verify that story. You need to be able to corroborate  
8 that story.

9 That's what this trial is going to be about.  
10 Maurice Washington has told two stories. At a minimum,  
11 one is a lie. Undisputed, Maurice Washington is a liar.  
12 And the police have woefully investigated this.  
13 Fabrication without corroboration.

14 Your roles as we go through this trial -- as you've  
15 just heard from the judge, y'all are the jurors and the  
16 triers of the facts. As we go through this trial, you'll  
17 be listening to the testimony on that witness stand.  
18 You'll be listening and seeing the evidence that is  
19 presented.

20 Your job as jurors is to weigh the credibility of  
21 that evidence. That's why we picked each and every one  
22 of you, to bring your life experiences with you as you  
23 look, to use your common sense. And I ask just as  
24 important as the evidence that you are going to see from  
25 that witness stand is the evidence that you are not going

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1 to see from that witness stand. I ask pay attention for  
2 the facts, for the corroboration, that should be there.

3 As we go through this trial the State bears the  
4 burden of proof, as you've heard. What does that mean?  
5 The State and the government's lawyers must prove this to  
6 you.

7 Just as important as that burden of proof is the  
8 presumption of innocence. Michael McNeil, as he sits  
9 here today, is innocent. Michael McNeil is innocent  
10 because you, as the triers of the facts, have not  
11 rendered your verdict yet. The State has to prove.

12 This isn't a multiple choice test. There isn't  
13 option A, option B, and that's it. You don't have to  
14 believe any of these stories. The State bears that  
15 burden and must prove. How do they prove it to you?  
16 Look at the evidence that is shown, look for the evidence  
17 that they can't show.

18 It's a tale of two stories; stories with no backing,  
19 lies, an investigation incomplete, fabrication with no  
20 corroboration. Thank you.

21 THE COURT: The State may call its first witness.

22 MS. NORVELL: Thank you, Judge.

23

24

25

1 MS. NORVELL: The State calls Maurice Washington to  
2 the stand.

3 THE COURT: Mr. Washington, please come forward.

4 [Whereupon, Mr. Washington comes forward]

5 [Whereupon, Mr. Washington is duly sworn by the  
6 Clerk of Court]

7 THE CLERK OF COURT: For the record, will you please  
8 state your name and spell your last name.

9 THE WITNESS: Maurice Washington, W-A-S-H-I-N-G-T-O-  
10 N.

11 THE CLERK OF COURT: Okay. You can have a seat.

12 [Whereupon, the witness takes the witness stand]

13 THE COURT: Mr. Washington, you can lower your mask  
14 while you testify, please.

15 [Whereupon, the witness complies]

16 MS. NORVELL: Maurice, I would just ask that at the  
17 beginning of your testimony you remember to speak  
18 directly into the microphone and project your voice so  
19 that everybody in the back of the courtroom can hear you.  
20 Okay?

21 THE WITNESS: Yes, ma'am.

22 MS. NORVELL: Thank you so much.

23 - - - - -

24 MAURICE WASHINGTON,  
25 Having Been First Duly Sworn,

1                   Was Examined and Testified as Follows:  
2                                   DIRECT EXAMINATION  
3 BY MS. NORVELL:  
4 Q.   Maurice, I want to talk a little bit about yourself.  
5 Where do you work?  
6 A.   Currently?  
7 Q.   Currently, where do you work?  
8 A.   Landscaping at U.S. Lawns on Ashley Phosphate.  
9 Q.   Okay. Do you have a girlfriend?  
10 A.   No, ma'am.  
11 Q.   Do you have any children?  
12 A.   No, ma'am.  
13 Q.   And who are you living with currently?  
14 A.   My mom.  
15 Q.   Does anyone else live with you?  
16 A.   My brother, and my sister and her husband.  
17 Q.   And do these days living with your mom, working at  
18 U.S. Lawns, a little bit different from you than your  
19 life in July of 2016?  
20 A.   Yes, ma'am.  
21 Q.   Were you living with your mom and your brother back  
22 in 2016?  
23 A.   No, ma'am.  
24 Q.   Who were you living with then?  
25 A.   My homeboy, Boo.

1 Q. Your homeboy, Boo? And you weren't working doing  
2 landscaping back in 2016; is that right?

3 A. No, ma'am.

4 Q. How were you making money back then?

5 A. Selling drugs.

6 Q. Okay. And back in 2016 had you been getting in  
7 trouble with the law?

8 A. Yes, ma'am.

9 Q. Did you have a pending drug charge back in July of  
10 2016?

11 A. Yes, ma'am.

12 Q. And you've previously been convicted of drug  
13 charges?

14 A. Yes, ma'am.

15 Q. Are you currently on probation, Maurice?

16 A. Yes, ma'am.

17 Q. Is that for a drug charge or something else?

18 A. Something else.

19 Q. What charge are you on probation for right now?

20 A. Accessory after the fact of murder.

21 Q. Accessory after the fact of a murder?

22 A. Yes, ma'am.

23 Q. And you're on probation for that charge?

24 A. Yes, ma'am.

25 Q. Were you originally charged with another crime

1 before you pled to the accessory?

2 A. Yes, ma'am.

3 Q. And was that in fact the murder?

4 A. Yes, ma'am.

5 Q. And you did not plead to the murder, you pled to the  
6 accessory?

7 A. Yes, ma'am.

8 Q. And did -- when you pled guilty to that charge of  
9 accessory, was there a recommendation or a negotiation  
10 that your sentence would be probation?

11 A. No, ma'am.

12 Q. And is it -- is it also accurate that the prosecutor  
13 that was handling your case asked that you receive a  
14 fifteen-year sentence?

15 A. Yes, ma'am.

16 Q. But you didn't receive that fifteen-year sentence,  
17 obviously. You're on probation; right?

18 A. And he said since I sat in jail so long that it will  
19 be more effective for me to get five years probation  
20 versus them sending me to prison because I would have  
21 been in prison for like four months and got out.

22 Q. So effectively a longer time to supervise you?

23 A. Yes, ma'am.

24 Q. And as part -- prior to you pleading guilty, did you  
25 sign a contract with the State prosecutors under that

1 charge of murder?

2 A. Say it again.

3 Q. Sorry for being confusing. Did you sign a proffer  
4 contract with the State prior to pleading guilty to that  
5 charge and having a resolution in your case?

6 A. A proffer?

7 Q. Yes.

8 A. Yeah I signed a proffer.

9 Q. And as a part of that proffer did you testify  
10 against the codefendants in your case?

11 A. Yes, ma'am.

12 Q. How many times?

13 A. Twice.

14 Q. You came to court and you testified about that case?

15 A. Yes, ma'am.

16 Q. Okay. Maurice, was that case pending when you were  
17 shot in July of 2016?

18 A. No, ma'am.

19 Q. You were arrested on that after?

20 A. Yes, ma'am.

21 Q. Okay. But there was a drug charge pending in 2016  
22 when you were shot?

23 A. Yes, ma'am.

24 Q. Okay. Maurice, did your charge that you're on  
25 probation for have anything to do with you being shot?

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1 A. No, ma'am.

2 Q. Okay. And did that drug charge that was pending at  
3 the time that you were shot have anything to do with you  
4 being shot?

5 A. No, ma'am.

6 Q. Okay. I want to talk with you about July 20th of  
7 2016. Do you know who shot you on July 20th of 2016?

8 A. Yes, ma'am.

9 Q. Who was that?

10 A. Little Mike.

11 Q. And what is -- you call him Little Mike. What is  
12 his real -- his full name?

13 A. Michael Anthony McNeil.

14 Q. And how do you know Michael Anthony McNeil?

15 A. I know him my whole life.

16 Q. How do you know him?

17 A. How do I not know him?

18 Q. Did you grow up in the same neighborhood?

19 A. Yes, ma'am.

20 Q. Have you known him as long as you can remember?

21 A. I don't know a time I don't know him.

22 Q. Okay. Do you see Michael Anthony McNeil in the  
23 courtroom today?

24 A. Yes, ma'am.

25 Q. Can you point him out for me?

1 A. He's sitting right there [indicates].

2 Q. What color shirt is he wearing?

3 A. Blue. Got a smirk on his face.

4 Q. Okay.

5 MS. NORVELL: And, Judge, please let the record  
6 reflect that the victim has identified the defendant in  
7 this case.

8 THE COURT: The record shall reflect it.

9 Q. [Ms. Norvell] How frequently in July of 2016 were  
10 you seeing Little Mike?

11 A. Every day.

12 Q. Little Mike is his nickname and that's what you  
13 called him?

14 A. Yes, ma'am.

15 Q. You didn't call him Michael or anything like that?

16 A. No.

17 Q. Okay. And what did -- what did y'all do together  
18 when you saw each other every day?

19 A. Get high, sell drugs, chill, ride around.

20 Q. You were friends?

21 A. Right.

22 Q. Did you -- were you guys in the same friend group?  
23 Did you have the same friends?

24 A. Yes, ma'am.

25 Q. So all of your friends were also Little Mike's

1 friends?

2 A. Yes, ma'am.

3 Q. Okay. Will you tell me about your day on July 20th?  
4 Tell me how you came to see Little Mike on July 20th of  
5 2016?

6 A. Me and Boo went to go catch a sale. I can't  
7 remember, I think in Goose Creek or something. But ---

8 Q. --- what is a sale?

9 A. A sale?

10 Q. Yeah. You said you went to catch a sale. What is  
11 that?

12 A. Sell drugs.

13 Q. Okay. I am just asking for clarification so that  
14 the jury understands what you're talking about. So you  
15 and Boo went to catch a sale and then what happened?

16 A. So we coming back toward Ashley Phosphate and I told  
17 Boo to stop at Wendy's, I was hungry. So we stopped at  
18 Wendy's and we in the drive-through and I saw Little Mike  
19 old girlfriend in the drive-through window so I got on  
20 the phone and called him.

21 I'm like, hey, when the last time you see Kesha  
22 [phonetic]? And he was like I ain't see her in a long  
23 time. I say, I'm at Wendy's right now and she's right  
24 here, she look bad. We starting laughing and tripping  
25 and he was like, yeah, you right there. I been like,

1 yeah. He been like stay right there. I told him, man,  
2 we at the drive-through window, we got to pull out.

3 There's like twelve cars behind us, we got to go.

4 Where you going at? I going back in the house, it's  
5 hot out here. Alright, man. And he hang up.

6 Q. It was hot out there because it was July?

7 A. Yeah. It was like 95 degrees outside.

8 Q. And it's not -- was not abnormal for you to call  
9 Little Mike to joke around about seeing his ex-  
10 girlfriend?

11 A. No.

12 Q. Okay. And he asked you to stay at the Wendy's?

13 A. Yeah.

14 Q. Did you stay at the Wendy's to meet him?

15 A. No, ma'am.

16 Q. Okay. So you went back to your house?

17 A. Yes, ma'am.

18 Q. And is that the house that you lived at with Boo?

19 A. Yes, ma'am.

20 Q. And did anyone else come once you got back to your  
21 house?

22 A. Yeah when I got back home I sat in the car and  
23 finished eating my food. And probably live five, ten  
24 minutes later I hear loud music. So I look in between  
25 the cars and I see Little Mike's Impala pulling up so I

1 hurry up and got out the car, because it was a nice  
2 apartment complex and he would have had all the neighbors  
3 looking crazy out their windows or whatever and I didn't  
4 want that kind of attention.

5 So I hurry up, got out the car, went to his car,  
6 told him to turn the music down, what are you doing. So  
7 he cut the music down. Asked if I had a cigar. I'm  
8 like, no, I ain't got no blunt. He said Boo got a blunt?  
9 I say no Boo ain't got no blunt. You know Boo about to  
10 smoke all of them.

11 So I reached inside the car and got one of his  
12 cigarettes, used his lighter to light the cigarette. I  
13 sat down like halfway in the car with my feet on the  
14 ground still and he threw the car in reverse. I'm like  
15 where you going at, what you doing. Chill, man.

16 I already had told him I wasn't coming outside yet  
17 because it was hot so he like, no, we just about to go  
18 right there and get a blunt and come right back. So I  
19 was like, alright, man. So I still got my feet dangling  
20 so I put my feet in the car, closed the door and we pull  
21 off.

22 Q. And is that car the car that you knew Michael McNeil  
23 to drive?

24 A. Yes, ma'am.

25 Q. And what did you say it was?

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- 1 A. An Impala.
- 2 Q. An Impala? And you grabbed one of his cigarettes?
- 3 A. Yes, ma'am.
- 4 Q. Do you know what kind of cigarettes he preferred?
- 5 A. Newports.
- 6 Q. Newports? And how do you know this about Little
- 7 Mike?
- 8 A. I know Little Mike.
- 9 Q. Okay. And saw him every day?
- 10 A. Every day.
- 11 Q. Okay. So you had no plans at this point to go for a
- 12 ride with him but you ultimately did put your feet in the
- 13 car and take off?
- 14 A. Yeah.
- 15 Q. And what did you believe that you guys were doing?
- 16 A. Going right to Food Lion to get a cigar, or to the
- 17 gas station, somewhere close right there to get a blunt.
- 18 Q. Okay. And did you anticipate coming back to your
- 19 apartment after that?
- 20 A. Yeah. I was anticipating going right there and
- 21 coming right back.
- 22 Q. Okay. Did you go right to pick up a blunt and come
- 23 right back to your apartment?
- 24 A. No. We passed by Food Lion and all the gas
- 25 stations.

1 Q. Okay. Where did you go?

2 A. So we go, start going down Ashley Phosphate towards  
3 the interstate from Windsor Hill way towards ---

4 Q. --- towards the interstate?

5 A. Yes, ma'am.

6 Q. If you could talk just a little bit more into the  
7 microphone. I just want to make sure that everybody  
8 hears you.

9 A. Yes, ma'am. We start going back towards down Ashley  
10 Phosphate towards the interstate from Windsor Hill way on  
11 Ashley Phosphate.

12 And we passing by all the gas stations. I'm like,  
13 Little Mike, what are you doing. He's giggling and got  
14 this dumb look on his face. I was like, man, ain't  
15 nobody playing, man, it's hot out here. He ain't had no  
16 tint on his windows so all the sun directly beaming  
17 straight in his car.

18 So I'm like, Brah, what are you doing, nobody  
19 playing, man, come on, man, take me back home. So he was  
20 like chill, man, we got to just get the blunt, chill. So  
21 I was like, man, come on, man. So we riding down Ashley  
22 Phosphate. We still passing gas stations.

23 I'm looking at him. Every time we passed a gas  
24 station I was looking at him like, Brah, what are you  
25 doing. So we end up crossing the train tracks getting up

1 on Stahl Road. My phone rang. Looked down. Zia calling  
2 me so I answered the phone. Zia was like, where y'all  
3 at. I said, where we at? Yeah, Little Mike say he about  
4 to come get you. Little Mike say he about to come get  
5 me. He right there. He got this dumb smirk on his face  
6 ---

7 MR. LEWIS: --- objection, Your Honor ---

8 A. --- and I'm like I tell ---

9 THE COURT: --- hold on one second. Hold on one  
10 second.

11 MR. LEWIS: I'm giving him a little leeway but  
12 hearsay.

13 THE COURT: Specifically what?

14 MR. LEWIS: Any statements by Zia. The direction  
15 they're going, what people said to each other. I guess  
16 he said smirk on his face again or something like that.

17 A. What? My phone ring ---

18 THE COURT: --- whoa, whoa, whoa, whoa, whoa. I  
19 understand he's talking about what some other person said  
20 but I don't believe that it's being offered for the truth  
21 of -- what I've heard so far I don't believe has been  
22 offered for the truth of the matter asserted so I'll  
23 overrule your objection.

24 MR. LEWIS: Yes, Your Honor.

25 MS. NORVELL: Thank you. Thank you, Judge.

1 Q. [Ms. Norvell] While we're at a stopping point, I  
2 just want to clarify. This person that called you, is it  
3 Zia, Zig? What are you ---

4 A. --- yeah, Zia. That's -- Zia -- Zig is Zia's  
5 nickname.

6 Q. Okay. And who is Zia to you?

7 A. That's my first cousin.

8 Q. Okay. And so at this point have you realized that  
9 y'all aren't just going to the gas station or Food Lion  
10 and coming right back to your apartment?

11 A. After we got all the way down Ashley Phosphate,  
12 yeah, and then Zia called me and said -- asked me where  
13 we was at.

14 Q. Okay. And so after Zia called you, what did you and  
15 Little Mike do? Did you go back to your apartment then?

16 A. No. We -- Zia told us to pull up at the Hyatt. Zia  
17 said, y'all meet me at the Hyatt. And then we turned on  
18 Stall Road, went down Stall Road, made a left on Midland  
19 Park, went to the Corner Store on Midland Park.

20 Little Mike gave me some money to go get a fresh  
21 pack of cigarettes and a pack of cigars. While I was  
22 inside the Corner Store I called Boo because I already  
23 knew how this day would have went with Little Mike. I  
24 wouldn't have never get back inside the house. So I  
25 called Boo. I'm like, hey, Boo, in an hour or so call

1 me, act like you got a sale so Little Mike can drop me  
2 back off because he ain't not going to -- not make me  
3 miss my sale. Alright. So I leave out the store.

4 Q. Did you buy the cigarettes and cigars?

5 A. Yes, ma'am.

6 Q. What did you buy?

7 A. Newports and a pack of cigars, White Owls. So I  
8 left out the corner store, got back in the car with  
9 Little Mike. He hand me the weed he had. I roll it up  
10 and start smoking weed, start smoking it.

11 Q. Both of you or just you?

12 A. No. Me and Little Mike.

13 Q. Okay.

14 A. So we smoking it and I'm talking trash because it  
15 ain't even worth coming all the way down here for no  
16 cigar, the weed ain't even all that. So I'm talking  
17 trash. But we get closer to the Hyatt. Zia pull in.

18 Q. Where's the Hyatt at?

19 A. On the back end of Stall Road, like by the  
20 interstate.

21 Q. Okay.

22 A. By I-Hop and...

23 Q. By I-Hop?

24 A. Yes. By I-Hop and Cracker Barrel.

25 Q. Okay. And you -- who did you meet at the Hyatt?

1 A. Zia.

2 Q. Okay. And what did you do at the Hyatt?

3 A. Zia got out of his car. He been driving his mama  
4 car at the time. He got out. He just -- he been on a  
5 break from school, a little three-hour break or something  
6 like that so he gathered up all his stuff out the car,  
7 come to Little Mike car, got in the back seat.

8 He handed Little Mike some clean, or some cocaine,  
9 and hand me another pack of blunts and some weed. And I  
10 outed Little Mike weed because Zia weed was way better.  
11 So Little Mike hand me the cocaine. I started rolling up  
12 some cabs.

13 Q. You're saying cabs?

14 A. Yeah.

15 Q. What are those?

16 A. Cocaine and cigarettes.

17 Q. Okay.

18 A. So I started rolling up some cabs, lighting and  
19 smoking. Zia was trying to go get something to eat.

20 Q. Are you the only one smoking at this point?

21 A. No. Me and Little Mike smoking the cabs back and  
22 forth.

23 Q. Okay.

24 A. So Zia was trying to go get something to eat. He  
25 tell me to hold up on rolling his weed and said, Little

1 Mike, take me to Five Guys. So Little Mike like, hold  
2 on, hold on. I was like take him; I'm ready to smoke Zia  
3 weed. He had some good weed that he just had get from  
4 Cali. So I was like man ---

5 THE COURT REPORTER: --- just had gotten from?

6 THE WITNESS: From Cali.

7 THE COURT REPORTER: Cali?

8 THE WITNESS: Yeah, from California.

9 THE COURT REPORTER: Okay.

10 A. So I was like, man, take the man to get something to  
11 eat. So he right there man chill hold on, I'm going to  
12 go.

13 So his phone rang. He got a sale on Dunlap, that's  
14 one sale. So we like go catch your sale, that's in route  
15 to Five Guys. Take me to Five Guys and catch your sale.

16 Q. [Ms. Norvell] Two birds with one stone?

17 A. Exactly. So he still ain't moved. We sit there. I  
18 roll up another cab and me and him smoking it. Zia in  
19 the back seat. He talking. His phone rang again. He  
20 got another sale. You couldn't hear it because his phone  
21 ain't ---

22 Q. --- who? Whose phone rang again?

23 A. Little Mike's phone rang again. He got another  
24 sale. Now he got two sales at Dunlap and so we like, go  
25 catch your sale, what are you doing? Chill, Brah, that's

1 what y'all be doing, y'all like stalling when somebody  
2 needs something done. So we like, man, you tripping,  
3 man, come on Little Mike, go catch your sale, take the  
4 man to go get something to eat.

5 So he still sitting right there, sitting right there  
6 so eventually Zia ended up getting -- he getting agg  
7 [phonetic] and he get out the car.

8 Q. Getting what?

9 A. Aggravated.

10 Q. Okay.

11 A. He gathered up all his stuff, getting out of the  
12 car, and he was going to get to Five Guys his self. So  
13 as he's grabbing all his stuff, he -- he always got a  
14 registered gun so he -- Little Mike seen it and he, man,  
15 you been had that the whole time?

16 Like, yeah, you know Zia always got it so he ain't  
17 -- he ain't even know why he asked that. So Zia end up  
18 leaving or whatever. He was like, hey, y'all ---

19 Q. --- Zia left?

20 A. Yeah. He -- but before he leave he's been like,  
21 y'all about to still be right here. Little Mike, yeah,  
22 we about to be right here. I was like, yeah, we about to  
23 be right here. Alright, man, I going right there and  
24 coming right back.

25 Q. At that point were you resigned to you weren't

1 getting home any time soon?

2 A. Yeah. But after Zia pull off, Little Mike crank up  
3 and pull off, too. So I'm like, Brah, what you doing,  
4 just tell the man you about to be right here. And he  
5 said -- I can't remember what he said but I know I said  
6 take me home.

7 So we didn't go. Zia went back like towards the  
8 interstate. The interstate right there. Zia turned and  
9 went that way towards the interstate. We went this way  
10 back towards Stall Road and Midland Park. I was like,  
11 Brah, what you doing. So we get to the end of the street  
12 we was on, Fassett, Fassett Street.

13 THE COURT REPORTER: Bassett?

14 THE WITNESS: Fassett.

15 A. We got to the end of Fassett Street, made a right on  
16 Stall Road going back toward Ashley Phosphate. I was  
17 like, man, you tripping, man, you joy-riding around --

18 So he got this dumb smirk back on his face again.  
19 I'm like, man, come on, ain't nobody playing, man -- he  
20 always playing like that, you know. I was like, man, you  
21 tripping, man.

22 So we get to the end of Stall Road and I'm thinking  
23 he's about to make a left to take me back in the house.  
24 I told him to come get me when the sun about to go down.  
25 And so he made a right instead, going toward the

1 interstate. I was like what are you doing. So we end up  
2 getting on the interstate. We get on the interstate  
3 going towards Charleston. And we get by Montague. He  
4 called my other cousin Ched [phonetic]. So he was like,  
5 where you at. Ched was like I in the house with -- I  
6 mean, I in the apartment with A.J.

7 Q. [Ms. Norvell] Who's A.J.?

8 A. That's his son.

9 Q. Okay.

10 A. And he was like yeah me and Crum about to pull up on  
11 you.

12 Q. Who's Crum?

13 A. Me. That's my nickname.

14 Q. Okay.

15 A. He like, yeah, me and Crum about to pull up on you,  
16 and said, we'll holler at you. We get on Montague, bust  
17 a U-turn, get back on the interstate. I'm like, alright,  
18 now I can go in the house.

19 No. Came back this way towards Columbia way. He  
20 passed Ashley Phosphate. So I'm like, Little Mike, what  
21 is you doing. The whole time I keep saying this over and  
22 over, like, Brah, what are you doing, you joy-riding  
23 around and I -- ain't no tint on the car, not even the  
24 little strip on the front windshield. I'm like, Brah,  
25 what are you doing. Straight sun coming in. So we pass

1 Ashley Phosphate and the little Goose Creek exit and we  
2 got off on -- we got off the interstate on the Charleston  
3 Southern, the 78 exit, 52. We got off right there and we  
4 pulled back up at Wendy's. You hungry?

5 I'm like, man, I just eat. I just been on the phone  
6 to tell you I been at Wendy's, I just eat Wendy's, I  
7 don't want no more Wendy's. So we bust a U-ey -- a U-  
8 turn in the Wendy's parking lot, get back on the main  
9 Charleston Southern road, went back toward Otranto Way,  
10 ride all the way down, back on Rivers Avenue.

11 Q. All the way down to where?

12 A. Like the little loop to get back on Rivers.

13 Q. To get back on where?

14 A. Rivers Avenue.

15 Q. Rivers Avenue? Got you.

16 A. So we go back. We pass Otranto and all that. We  
17 going straight up Rivers Avenue and pass the mall. We  
18 bust a right on Ashley Phosphate.

19 So we bust a right on Ashley Phosphate. Dunlap was  
20 like right here so he put the left blinker on, turned on  
21 Dunlap.

22 Q. What was on Dunlap?

23 A. That's where he had lived at at the time.

24 Q. Okay.

25 A. So as we in the ---

1 Q. --- is that also where he had gotten the two calls  
2 from?

3 A. Uh-huh.

4 Q. Okay.

5 THE COURT REPORTER: Is that a yes?

6 THE WITNESS: Yes, ma'am.

7 A. So as we in the middle lane about to turn onto the  
8 street to go on Dunlap, I see Boo at the gas station  
9 right there, Kangaroo, so I get on the phone. You got to  
10 take me to -- back to Windsor Hill, you can drop me off  
11 right here.

12 So he ride past the gas station. I'm like, Brah,  
13 what you doing. So we get to the stop sign. He coast  
14 through the stop -- he ain't even stop at the stop sign.  
15 Coast through the stop sign.

16 Now I'm in my -- I'm still not thinking like Little  
17 Mike about to shot me or he got something going on, but  
18 my spider senses tell me like what is it Little Mike got  
19 going on?

20 Q. [Ms. Norvell] This is the first time that ---

21 A. --- yeah, that's the first time I even thought of  
22 anything. But it's still not like he's about to shoot  
23 me, so ---

24 Q. --- just that this isn't ---

25 A. --- like he's got some weird business going on. I'm

1 like, what is Little Mike, really doing. So we coast  
2 through the stop sign. We didn't go towards the trailer  
3 park that he live at. We made a left instead. And then  
4 it was like some buildings they done made it like a tire  
5 shop or something now.

6 But we made a left, turned into this -- this  
7 building parking lot. He ride through the parking lot,  
8 turned, he ride slow looking around, looking crazy. I  
9 was looking at him the whole time, not directly, but in  
10 my peripheral I'm looking at him now because he like --  
11 he wouldn't take me and I'm like, well, Little Mike, he  
12 got something weird going on.

13 I don't know what it is but I can just feel it, like  
14 he got something going on. Alright. So we ride through  
15 the -- the building parking lot, came back out to the  
16 front. Now we made a right to go back towards his  
17 trailer park.

18 We went in the trailer park. I got on the phone  
19 once I realized we was going in his trailer park, I  
20 called Boo. I said, hey, you still at that Kangaroo?  
21 Hell, yeah. Come and get me. We in the -- I'm by Little  
22 Mike's spot right now. Shit, alright. I waiting on my  
23 cab but alright. Alright. So ---

24 Q. --- so Boo does agree to come pick you up?

25 A. Yes, ma'am.

1 Q. And this changes your earlier plan for him to call  
2 you and tell you to come home?

3 A. Uh-huh.

4 Q. Okay.

5 A. So, matter of fact -- hold up, let me backtrack. He  
6 did end up calling. Boo end up -- Boo end up calling  
7 when we was by Wendy's and said tell him like he had a  
8 sale for me. Little Mike say where the sale at, I'm  
9 going to take you to it.

10 Q. I see.

11 A. Alright fast forward back.

12 Q. So you're at Dunlap Street at the trailer park that  
13 Little Mike lives at?

14 A. Yes, ma'am.

15 Q. Okay.

16 A. We get in the trailer park, drive through the  
17 trailer park. We get by his trailer. He's slanted in  
18 the street. His cousin is standing inside the street in  
19 like the middle of the street. So he pull up, slanted,  
20 talking to him. And ---

21 Q. --- do you know what number house Little Mike lived  
22 at in the trailer park?

23 A. 11 or something like that. 12, something --  
24 something -- 10; something like that.

25 Q. 10, 11 or 12?

1 A. Yeah, something like that. I know where it's at.  
2 He's slanted in the street talking to his cousin in the  
3 street. So I know a Kangaroo right there.

4 I got my visor down with the flap up, looking behind  
5 me inside the passenger mirror in the visor so I could  
6 see when Boo pulling up. Some cars coming in and some  
7 cars coming in.

8 So I see some neon lights coming. Boo got neon  
9 lights. I thought it was Boo but it wasn't. So I  
10 started gathering my stuff up out Little Mike car. He's  
11 still talking to his cousin in his window. So I done get  
12 out the car, I was standing outside the car. I got my  
13 stuff inside of my hand with in my arm.

14 So I'm leaning back inside the car tapping him like,  
15 hey, Brah, that's Boo, that's Boo. I'm tapping him but  
16 he's still talking out his driver's window so I tapped  
17 him like, Brah, that's Boo, I'm going to holler at you to  
18 come get me later on.

19 So he look up at me, that's Boo, that's Boo? And he  
20 just pulled the gun out and pow. So I like, Little Mike,  
21 you shoot me. He got this dumb look on his face. I  
22 stand there for like three seconds, then I slammed the  
23 door and I took off running.

24 Q. Who was Little Mike talking to when he shot you?

25 A. His cousin, Sed.

1 Q. And is that his -- what relative cousin is that?

2 A. His first cousin.

3 Q. Okay. Are they -- do you know Sed?

4 A. Yes, ma'am.

5 Q. How do you know Sed?

6 A. Because I grew up around him, too.

7 Q. So you grew up with both Little Mike and Sed?

8 A. Yes, ma'am.

9 Q. Have you known Sed as long as you've known Little  
10 Mike?

11 A. Yes, ma'am.

12 Q. And Sed was there when you were shot?

13 A. Yes, ma'am.

14 Q. And can you just stand where you are and show me how  
15 you were leaning when you were shot?

16 A. [Witness complies]. I been standing up. I was  
17 leaning back down inside the car because I had like my  
18 head inside the passenger doorway and tapping on him like  
19 this right here [indicates] trying to get his attention.  
20 I'm tapping him like this right here [indicates]. I'm  
21 like, Little Mike, that's Boo, that's Boo, and he shoot  
22 me.

23 Q. Okay. Do you -- did you recognize the firearm that  
24 you were shot with?

25 A. Yes, ma'am.

1 Q. How?

2 A. Because a couple of years back him, and Ched  
3 [phonetic] had stole it from ---

4 MR. LEWIS: --- objection, Your Honor.

5 Q. [Ms. Norvell] Did you ---

6 THE COURT: --- sustained.

7 Q. [Ms. Norvell] Did you know that -- have you seen  
8 Little Mike carry that gun before?

9 A. He had the gun for a couple of years, probably five  
10 or six years.

11 Q. Okay. And what -- do you know what kind of gun it  
12 was?

13 A. Yes, ma'am.

14 Q. What kind of gun was it?

15 A. An XD.

16 Q. An XD?

17 A. XD Springfield.

18 Q. And do you know what caliber that gun is?

19 A. A nine.

20 Q. Okay. And you have seen that gun is it fair to say  
21 frequently?

22 A. Yes, ma'am.

23 Q. How frequently?

24 A. All the time. I had an XD, too.

25 Q. Okay. Did you have an XD on you that day?

1 A. I left it in the car. I left all my stuff in the  
2 car when he pulled up. I wasn't expecting to leave so I  
3 had -- like I had my drugs on the floor. My gun was on  
4 the floor. My half eaten Wendy's on the floor of Boo  
5 car.

6 Q. Of Boo's car? So you had nothing with you in Little  
7 Mike's car?

8 A. Exactly.

9 Q. What did you say that you had in your arms that you  
10 were holding when you reached back in to tap him?

11 A. I had my hoodie, I had my phone charger and  
12 something else. I had left them in Little Mike car like  
13 two days before that.

14 Q. Okay. And after you were shot, what did you do?

15 A. I ran.

16 Q. Where did you run?

17 A. I ran on the side of the trailers up to the front of  
18 the trailer park.

19 Q. Why did you run along the side of the trailers to  
20 the front instead of down the street?

21 A. Because if he starting shooting again he couldn't --  
22 couldn't just shoot me.

23 Q. Okay. And what did you do once you got to the front  
24 of the trailer park?

25 A. That car that I did see, the neon lights, it wasn't

1 Boo because when I first got -- when I got to the front  
2 of the trailer park Boo was just pulling up to the front  
3 of the trailer park.

4 So I'm grabbing his door. I'm like, Brah, Brah,  
5 Little Mike just shoot me, Little Mike just shoot me, He  
6 was like quit playing, man. I'm like, open the door and  
7 let me in.

8 And he opened the door and he seen me bleeding.  
9 Like, boy, you ain't playing. I'm like, I'm for real.  
10 And we pull off and went to the hospital.

11 Q. Which hospital did you go to?

12 A. River North, across the street.

13 Q. And did the police come speak to you?

14 A. Yes, ma'am.

15 Q. And did you call the police to come speak with you?

16 A. No.

17 Q. Did they come speak with you at the hospital?

18 A. Yes, ma'am.

19 Q. Did you want to talk to the police at the hospital  
20 about the shooting?

21 A. No.

22 Q. And did you tell the police, when they came to talk  
23 to you at the hospital, the same story that you just told  
24 this jury?

25 A. No, ma'am.

1 Q. Why not?

2 A. Because I wasn't going to get him in trouble. I was  
3 going to let things play out itself. And, you know, I  
4 know him my whole life so we was -- I was going to handle  
5 it my way.

6 Q. Okay. Where did you come up with the information  
7 for the story that you told the police at the hospital?

8 A. Just out of left field.

9 Q. Were you only answering the questions that they told  
10 you versus volunteering the information?

11 A. I don't understand.

12 Q. Were you responding to their questions about the  
13 shouting or were you providing them details about the  
14 story that you were making up?

15 A. They was asking me stuff and, yeah, so you -- yeah,  
16 you could say I was answering their questions.

17 Q. Did you try intentionally to mislead the police the  
18 night that you were shot?

19 A. Yes, ma'am.

20 Q. And did you try to oversimplify and give generic  
21 descriptions and information?

22 A. Yes, ma'am.

23 Q. And do you even remember what you told the police?

24 A. Honestly, no.

25 Q. How ---

1 A. --- I know bits and pieces. I don't remember word  
2 for word detail. Like I know this story right here.

3 Q. And why is that?

4 A. Because I made it up.

5 Q. Were you able -- so you were not able to keep that  
6 lie straight?

7 A. No, ma'am.

8 Q. Did you ever plan to tell the truth to the police,  
9 that the defendant shot you, on the night you were shot?

10 A. If I was going to -- if I was planning on telling  
11 them the night I got shot?

12 Q. Right.

13 A. No, ma'am.

14 Q. You had no intention that night of telling them that  
15 Little Mike shot you?

16 A. No, ma'am.

17 Q. Did you at some point change your mind and tell the  
18 police the truth?

19 A. Yes, ma'am.

20 Q. Was it the night that you were at the hospital?

21 A. No.

22 Q. Was it another day?

23 A. Yes, ma'am.

24 Q. What changed?

25 A. Well, a lot changed and just a lot transpired in

1 that -- those couple of days that made me change my mind.

2 Q. Anything in particular?

3 A. Well, my cousin died -- and Zia died like three days  
4 later, and I changed my mind.

5 Q. Your cousin and Zia being the same person?

6 A. Huh? Yeah. Zia -- Zia died like three days later,  
7 so I changed my mind and went down there.

8 Q. Okay. Did you make this decision yourself to go  
9 change -- to go to the police and tell the truth?

10 A. Well, my family helped me but ultimately it was my  
11 decision.

12 Q. You talked to your family about this?

13 A. Yes, ma'am.

14 Q. Okay. Did you immediately change your mind to go  
15 tell the police the truth after you talked to your  
16 family, or did you still have to think about it?

17 A. I mean I smoked a blunt or two and then I like, you  
18 know what, I'm going to go down there and let them know  
19 what happened.

20 Q. Okay. Did you go? Did you reach out to North  
21 Charleston Police Department?

22 A. Yes, ma'am.

23 Q. And did you go meet with them?

24 A. Yes, ma'am.

25 Q. And that's when you changed your story from the

1 generic one at the hospital?

2 A. Yes, ma'am.

3 Q. Did anybody drive you to North Charleston Police  
4 Department?

5 A. No. I had Boo car that morning.

6 Q. So you called North Charleston and you drove up  
7 there?

8 A. Yes, ma'am.

9 Q. And did you meet with them?

10 A. Yes, ma'am.

11 Q. You don't remember the exact day?

12 A. No, ma'am.

13 Q. Okay. Is anyone forcing you to come forward?

14 A. No, ma'am.

15 Q. Did anyone force you to go talk to them that day?

16 A. No, ma'am.

17 Q. Okay. What did you tell the police at your  
18 interview?

19 A. This story right here.

20 Q. Okay. Do you know how many times you asked Little  
21 Mike to take you home on July the 20th when you were  
22 riding around before he shot you?

23 A. Plenty of times.

24 Q. Do you know why Little Mike shot you on July 20th?

25 A. No ma'am, I don't.

1 Q. Okay. Did you tell anyone right after you were shot  
2 that Little Mike shot you? Did you tell anyone the  
3 truth? We know you lied to the police.

4 A. Oh, yeah. I told Boo and I told Zia and Zia told  
5 everybody.

6 Q. Zia told everyone?

7 A. Yeah.

8 Q. Okay. Did Boo or Zia tell the police?

9 A. No, ma'am.

10 Q. Who was the last ---

11 MR. LEWIS: --- objection, Your Honor. Speculation  
12 at this point. He's testifying about other witnesses.

13 MS. NORVELL: It's not speculation if he knows the  
14 answer.

15 MR. LEWIS: Then it would be hearsay.

16 MS. NORVELL: It wouldn't be hearsay if he knows  
17 that the witnesses did or did not speak to the police.  
18 Not what they said to the police.

19 THE COURT: Objection overruled.

20 Q. [Ms. Norvell] Who was the last person to see you  
21 and the defendant together on July 20th, 2016?

22 A. Sed.

23 Q. Sed? And that's this defendant's cousin?

24 A. Yes, ma'am.

25 Q. Okay. Do you still talk to Boo?

1 A. Yes, ma'am.

2 Q. Okay. Without telling us what was said at all, have  
3 you and Boo discussed this case?

4 A. Yes, ma'am.

5 Q. And have you and I, this -- me, the prosecutor and  
6 you, the witness, met to prepare for trial?

7 A. Yes, ma'am.

8 Q. And we've discussed what happened and prepared for  
9 your testimony?

10 A. [No response]

11 Q. Is that a yes or a no?

12 A. Yes, ma'am.

13 Q. Okay. And is it your understanding that my office  
14 attempted to locate Boo?

15 A. Yes, ma'am.

16 MR. LEWIS: Objection, Your Honor.

17 THE COURT: I sustain that objection.

18 MS. NORVELL: Okay. Beg the Court's indulgence.

19 [Whereupon, Ms. Norvell and Mr. DuTremble confer]

20 Q. [Ms. Norvell] At this point, Maurice, have you  
21 changed your daily life and patterns?

22 A. Yes, ma'am.

23 Q. And why are you telling the truth now? Why are you  
24 cooperating now versus initially lying to the police?

25 A. Because it's the right thing to do. And, honestly,

1 me knowing Little Mike, that -- he about to get up. Me  
2 knowing -- me knowing Little Mike my whole life, it'll be  
3 very dangerous for him to get up ---

4 MR. LEWIS: --- objection.

5 THE COURT: Sustained.

6 A. -- get out of jail ---

7 THE COURT: --- the jury -- the jury will disregard  
8 that last statement.

9 MS. NORVELL: Judge, may I approach the witness?

10 THE COURT: You may.

11 Q. [Ms. Norvell] Maurice, I am showing you three  
12 documents that have been marked for identification as  
13 State's Exhibit 7, 8 and 9.

14 MR. LEWIS: Sorry; I'll wait until you've done the  
15 last.

16 MS. NORVELL: I'm going to show the witness State's  
17 7, 8 and 9. Would you like to see them?

18 MR. LEWIS: Sure.

19 [Whereupon, Ms. Norvell shows photographs to Mr.  
20 Lewis]

21 MR. LEWIS: Okay. You're good.

22 Q. [Ms. Norvell] Alright. Maurice, I am approaching  
23 you with what's been marked for identification as State's  
24 7, 8 and 9. Will you take a look at these and just tell  
25 me if you recognize what's in them?

1 [Whereupon, the witness reviews photographs]

2 A. Yes, ma'am.

3 Q. How do you recognize that?

4 A. It was a place that I be at every day.

5 Q. Okay. And does these -- do these photos -- what are  
6 these photos of?

7 A. The place where Mike was living at, and the front of  
8 it, the sign.

9 Q. Do you know what street that is off of?

10 A. Off of Dunlap.

11 Q. Okay. And does it fairly and accurately represent  
12 the incident location on the day that you were shot on  
13 July 20th, 2016?

14 A. Yes, ma'am.

15 Q. Okay. May I grab those three from you?

16 [Whereupon, the witness returns exhibits to Ms.  
17 Norvell]

18 MS. NORVELL: I'm going to -- Judge, at this point I  
19 move to admit into evidence State's 7, 8 and 9, and  
20 publish.

21 MR. LEWIS: Without objection.

22 THE COURT: State's 7, 8 and 9 are admitted without  
23 objection.

24 [Whereupon, State's Exhibit Numbers 7, 8, and 9 are  
25 admitted into evidence by the Court]

1 MS. NORVELL: May I publish?

2 THE COURT: Yes, ma'am.

3 MS. NORVELL: I ask to publish on the Elmo.

4 [Whereupon, State's exhibit 7 is shown]

5 Q. [Ms. Norvell] Maurice, I have published State's 7.

6 Can you tell me what this is?

7 A. The front of the trailer park.

8 Q. Okay. And this is Dunlap Street?

9 A. Yes, ma'am.

10 [Whereupon, State's exhibit 8 is shown]

11 Q. State's 8, what is this a photo of?

12 A. Little Mike trailer where he was living at.

13 Q. The screen in front of you is touch-screen. Can you  
14 please circle that trailer?

15 [Whereupon, the witness complies]

16 Q. [Ms. Norvell] Is this the location where you were  
17 when you were shot on July 20th, 2016?

18 A. I been shot like right here [indicates].

19 Q. Is that where you were standing, where you just  
20 circled?

21 A. Yeah. Yes, ma'am.

22 Q. Okay. And can you draw where the vehicle was?

23 A. Like slanted. So this is my -- this my passenger  
24 door right here [indicates].

25 Q. Okay. And ---

1 A. --- the car's like slanted.

2 Q. After you were shot, where did you go?

3 A. I ran.

4 Q. Okay. State's 9?

5 [Whereupon, State's exhibit 9 is shown]

6 Q. On the touch screen you can clear it by touching it.

7 I think there should be that top button that came up in

8 the corner. And then clear it. Perfect.

9 What is State's 9 showing?

10 A. This the front of the trailer park right here

11 [indicates]. But I ran this way [indicates].

12 Q. Okay. And then did you run to the front of the

13 trailer park?

14 A. Yeah. Yes, ma'am.

15 Q. Okay. And that's where you were picked up by Boo?

16 A. Yes, ma'am.

17 Q. Okay. You can clear that again.

18 [Whereupon, the witness complies]

19 MS. NORVELL: May I approach the witness, Judge?

20 THE COURT: Yes, ma'am.

21 Q. [Ms. Norvell] I am approaching you with what has

22 been marked for identification as State's Exhibit 3. Can

23 you look at this and tell me if you recognize it?

24 [Whereupon, the witness is shown exhibit 3]

25 A. Yes, ma'am.

1 Q. [Ms. Norvell] Okay. What are you holding?

2 A. The pants I had on when he shoot me.

3 Q. Can you say that last thing louder? I can barely  
4 hear you and I'm only ten feet away from you.

5 A. These the pants I had on when Little Mike shoot me.

6 Q. And are they substantially the same or exactly the  
7 same pants that you were wearing when you were shot?

8 A. Yes, ma'am, minus my blue shoes I had on.

9 Q. So just your pants and belt?

10 A. Yeah. This is just the pants and the belt.

11 Q. Okay.

12 A. They took everything I had on that day.

13 Q. And they? Who's they took it?

14 A. The police.

15 Q. Okay.

16 MS. NORVELL: Judge, the State moves Exhibit 3 into  
17 evidence.

18 MR. LEWIS: Without objection.

19 THE COURT: State's Number 3 is admitted without  
20 objection.

21 [Whereupon, State's Exhibit Number 3 is admitted  
22 into evidence by the Court]

23 Q. [Ms. Norvell] And would you show -- is there  
24 anything on those pants that indicates where you were  
25 shot?

1 A. Here. It's a hole in my Gucci belt and a hole in my  
2 pants.

3 Q. Could you please hold that up and show me where it  
4 is?

5 A. A hole right here [indicates] in my Gucci belt and  
6 it went through my pants up here [indicates]. There's a  
7 hole right there [indicates].

8 Q. Okay.

9 A. And a hole in my belt right here [indicates].

10 Q. Can you, Maurice, describe your injuries from the  
11 shooting? Where were you shot?

12 A. Well, I was leaning down. It was only one shot and  
13 since I was leaning down like that right there  
14 [indicates] I got shot in my finger right here  
15 [indicates] and this finger and right here [indicates].

16 Q. And it entered your groin?

17 A. Yes, ma'am.

18 Q. Okay. Did -- was the bullet removed from your body?

19 A. No, ma'am.

20 Q. Okay. If you will put those pants back in that bag,  
21 I would appreciate it.

22 [Whereupon, the witness complies]

23 MS. NORVELL: Beg the Court's indulgence.

24 THE COURT: Yes, ma'am.

25 [Whereupon, Ms. Norvell and Mr. DuTremble confer]

1 Q. [Ms. Norvell] Maurice, you indicated that you did  
2 not call the police to the hospital; is that right?

3 A. Correct.

4 Q. Did you have your cell phone?

5 A. No.

6 Q. What happened to it?

7 A. I dropped it when I was running.

8 Q. When you were running when?

9 A. After Little Mike shoot me, I dropped my phone.

10 Q. If you had your phone, would you have called the  
11 police?

12 A. No.

13 Q. Okay.

14 MS. NORVELL: Judge, at this time I have no further  
15 questions for this witness.

16 Q. [Ms. Norvell] Maurice, please answer cross-  
17 examination questions.

18 MR. LEWIS: Thank you, Judge.

19 THE COURT: Mr. Lewis.

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CROSS-EXAMINATION

BY MR. LEWIS:

Q. Lies come easy to you, don't they, Maurice?

A. Huh?

Q. It's easy for you to lie, isn't it? You do it pretty easily?

A. Depends on the situation. If I need to lie.

Q. Right. Like to the cops if they ask you why you got shot and where you got shot?

A. Right.

Q. Okay. So you started out this whole case lying; right?

A. When? Today?

Q. When you got shot you started out the whole case by lying to the police?

A. Oh. Right.

Q. Right? A guy came in while you were sitting there getting treated?

A. Uh-huh.

Q. And you start lying from the very beginning?

A. Correct.

Q. Yeah. You told him specific lies, each of those law enforcement officers that you met July 20th, 2016, the same ones, the same lies; right?

A. Right.

1 Q. You met with a guy in the hospital room; right?

2 A. Uh-huh.

3 THE COURT REPORTER: Is that yes ---

4 Q. [Mr. Lewis] --- you met with another guy in the  
5 ambulance?

6 A. Hold on. No, that's the same -- the -- the people  
7 in the hospital is the people in the ambulance. I only  
8 met with two sets of police that day.

9 Q. And then another one at MUSC?

10 A. Yeah. The -- the people in the ambulance and the  
11 people at MUSC. That's all.

12 Q. Okay. Right. But four officers total? Four  
13 people?

14 A. I don't remember how much, but yeah.

15 Q. I got you. You were in an incredible amount of  
16 pain; right, when you got shot in the groin? It hurt?

17 A. You could say that. But the pain ain't really came  
18 until it start trying to heal.

19 Q. Okay. You told these lies without hesitation?

20 A. Right.

21 Q. You just did it?

22 A. Uh-huh.

23 Q. It came natural?

24 THE COURT REPORTER: Is that a yes?

25 THE WITNESS: Yes, ma'am.

1 Q. [Mr. Lewis] But now you're claiming that all of  
2 those lies that you told so naturally are lies now?

3 A. Yeah, correct.

4 Q. Okay. I want to talk to you about the specific lies  
5 that you told. You said you were with a friend named  
6 Antonio; right?

7 A. Yes, sir.

8 Q. You gave him a name; right?

9 A. Yes, sir.

10 Q. Does he exist?

11 A. No.

12 Q. You just made him up?

13 A. Made him up.

14 Q. Driving a black Mazda?

15 A. Made him up.

16 Q. Made it up. Okay. Smoking two joints with this  
17 made-up person?

18 A. Made that up. Fabricated that whole story.

19 Q. Yeah. Okay. They had to take you to the second  
20 building on the left?

21 A. Huh?

22 Q. That's where Antonio, the made-up guy, went, to the  
23 second building on the left in the apartment complex;  
24 right?

25 A. Oh. Right.

1 Q. That's what you told all these officers?

2 A. Uh-huh.

3 THE COURT REPORTER: Is that a yes ---

4 Q. [Mr. Lewis] --- and now you're claiming that was a  
5 lie; right?

6 A. Yes, sir.

7 Q. Alright. Antonio went inside the bottom floor  
8 apartments. Another specific detail; right?

9 A. Right.

10 Q. They didn't ask, you just came up with that?

11 A. Correct.

12 Q. Naturally? It was easy? Easy for you?

13 A. Well, it's -- it's easy because I frequent that  
14 neighborhood.

15 Q. I got you. Okay. Yeah. So you were able to make  
16 up a story about it?

17 A. Correct.

18 Q. Got you. Okay. You said specifically you were  
19 there for seven to eight minutes smoking a cigarette in  
20 the parking lot?

21 A. Uh-huh.

22 THE COURT REPORTER: Is that yes?

23 THE WITNESS: Yes, ma'am.

24 Q. [Mr. Lewis] Another detail?

25 A. Yes, sir.

1 Q. Another lie to four officers; right?

2 A. [No response]

3 Q. Okay. You described the shooter in detail to each  
4 of these officers? Light-brown skin, low hair; right?

5 A. I guess.

6 Q. But you don't even remember now the lies that you  
7 told?

8 A. No.

9 Q. Okay. Did you say he was wearing a skully, a skully  
10 cap?

11 A. Yeah, I think so. Yeah.

12 Q. And a black shirt, blue jeans, low haircut, twenty-  
13 three, twenty-four years old? Sound about right?

14 A. Something like that, yeah.

15 Q. Yeah. Because you were making it all up; right?

16 A. Uh-huh.

17 Q. Okay.

18 THE COURT REPORTER: Is that yes?

19 THE WITNESS: Yes, ma'am.

20 Q. [Mr. Lewis] Did you ever get charged for that,  
21 filing a false police report?

22 A. Say it again.

23 Q. Lying to cops for it?

24 A. I didn't file a report. They wanted to know what  
25 happened. I wasn't trying to press no charges on nobody

1 right then so, yeah.

2 Q. But you just lied to them anyway?

3 A. Exactly.

4 Q. Got you. Okay. In fact, not just these lies, but  
5 you've been convicted for lying before; right?

6 A. I'm pretty sure, yeah.

7 Q. Yeah. Two years before this you got convicted for  
8 false information to police, November 28th, 2014?

9 A. Yeah.

10 Q. Convicted for lying?

11 A. Yeah. I had -- I -- I think I had a warrant or  
12 something and I used somebody else name.

13 Q. I got you. So again you used a lie to help you get  
14 out of trouble? Try to get out of trouble. You got  
15 caught. But to try to help you?

16 A. I tried to use ---

17 Q. --- yeah ---

18 A. --- somebody name.

19 Q. And you're a convicted felon?

20 A. Uh-huh.

21 THE COURT REPORTER: Is that yes?

22 THE WITNESS: Yes, ma'am.

23 Q. [Mr. Lewis] And, specifically, a little bit before  
24 you claim all this stuff happened you had a charge  
25 pending for possession with intent to distribute crack

1 cocaine third offense; right?  
2 A. Okay.  
3 Q. Right?  
4 A. Yes, sir.  
5 Q. It carried ten years to thirty years at eighty-five  
6 percent.  
7 A. Okay.  
8 Q. Right?  
9 A. Yes, sir.  
10 MS. NORVELL: Objection.  
11 A. He ---  
12 THE COURT: --- hold on ---  
13 A. --- he bond me out on that charge ---  
14 MS. NORVELL: I ---  
15 THE COURT: --- hold on one second. Hold -- whoa.  
16 A. --- Little Mike bond me out on ---  
17 THE COURT: Mr. Washington?  
18 A. --- that charge ---  
19 MS. NORVELL: --- Maurice.  
20 THE COURT: Sir, hold on a second.  
21 THE WITNESS: Oh. Alright.  
22 MS. NORVELL: May we approach, Judge?  
23 THE COURT: Yes.  
24 [Whereupon, an off-the-record bench conference is  
25 held]

1 THE COURT: The objection is overruled.

2 MS. NORVELL: Thank you, Judge.

3 Q. [Mr. Lewis] So ten years minimum up to thirty years  
4 at eighty-five percent?

5 A. Uh-huh ---

6 Q. --- so at least eight-and-a-half years in prison?

7 A. Right.

8 Q. Right? And that's what was facing you before you  
9 started telling all these lies to everybody?

10 A. Right.

11 Q. Alright. You needed something to help you out?

12 A. No, I did not.

13 Q. Oh. You wanted to go do that ten years to thirty  
14 years at eighty-five percent?

15 A. Did you not just you hear me say three minutes ago  
16 that Little Mike bond me out on that charge.

17 Q. I hear you.

18 A. Oh, alright ---

19 Q. --- you're just telling me stuff now. We don't have  
20 any evidence of any of this.

21 A. Man ---

22 Q. --- but you said specifically you had a third  
23 offense; right? I want to make sure I understand this.

24 A. Right.

25 Q. So your priors made you eligible for thirty years in

1 prison?

2 A. For thirty years in prison?

3 Q. Yeah, for drugs.

4 A. No.

5 Q. Well, you just -- alright. But they didn't violate  
6 you on your probation when you got arrested; right? They  
7 didn't put you back in jail?

8 A. They violated me some months later and then  
9 terminated my probation.

10 Q. I got you. And then you got arrested for something  
11 even more serious. Murder; right?

12 A. Correct.

13 Q. And their office, the Ninth Circuit Solicitor's  
14 Office was the person prosecuting that case?

15 A. Yes, sir.

16 Q. The office? And that carries thirty years day for  
17 day up to life; right?

18 A. I get shoot before that charge even came about.

19 Q. I know.

20 A. Oh, okay.

21 Q. But you had thirty years pending and now you've got  
22 a life pending. You've got two good reasons; right?

23 A. Okay.

24 Q. Right?

25 A. If you say so.

1 Q. Do you want to serve life in prison?

2 A. Huh?

3 Q. Did you want to serve life in prison?

4 MS. NORVELL: Objection to that question.

5 MR. LEWIS: Judge, this is a reasonable question to  
6 ask, if somebody wants to serve a life sentence.

7 A. No, I don't ---

8 MR. LEWIS: --- it's not argumentative.

9 A. Its not relevant.

10 THE COURT: I'm going to sustain the objection. I  
11 mean, it's an obvious -- it's an obvious answer.

12 MR. LEWIS: Okay, Judge. Yes, sir.

13 Q. [Mr. Lewis] And also charged with possession of a  
14 weapon during the commission of a violent crime during  
15 that murder?

16 A. Correct.

17 Q. Another five years tacked onto life? Life plus  
18 five?

19 A. You're still going on about charges that came about  
20 after I got shot.

21 Q. I'll get there.

22 A. Okay.

23 Q. The State didn't move to revoke your bond on those,  
24 either, when you got arrested for murder?

25 A. I had no bond for three years.

1 Q. I know. And then you got a 70,000-dollar bond  
2 because you started cooperating; right?

3 A. I cooperated the first year. I had no bond after I  
4 cooperated.

5 Q. 70,000-dollar bond for murder.

6 A. I got ---

7 Q. --- after you cooperated. A simple question.

8 A. I cooperated.

9 Q. Uh-huh.

10 A. Years before I got that bond.

11 Q. Okay. So that's what led into it, right, because  
12 you helped them?

13 A. You can say that.

14 Q. Thank you. And it paid off well for you in the long  
15 run; right?

16 A. Yeah.

17 Q. Cooperating with them?

18 A. Yes, sir.

19 Q. Because you got probation?

20 A. My charges was some was dismissed and some ---

21 Q. --- right ---

22 A. --- was reduced.

23 Q. Because they let that happen, they -- not these --  
24 not these specific Solicitors, but that office took away  
25 your murder because you cooperated and did what they

1 wanted and let you get probation, right, instead of a  
2 life sentence for murder?

3 A. After they got all the facts, that's when some of my  
4 charges was dismissed and that's when the rest was  
5 reduced.

6 Q. And they -- just for being nice to them, I guess,  
7 they threw away that extra drug charge that you had  
8 before all this?

9 The whole time you were looking at thirty years for  
10 drugs and they just dismissed that, too, because you did  
11 what they wanted?

12 A. I don't know about no thirty years.

13 Q. The possession with intent to distribute crack  
14 cocaine third offense.

15 MS. NORVELL: Objection. Asked and answered.

16 A. I don't know how I'm going to get thirty years and I  
17 ain't ---

18 THE COURT: --- overruled ---

19 A. --- never been to prison before in my life ---

20 THE COURT: --- overruled. The objection is  
21 overruled.

22 Q. [Mr. Lewis] Now, I want to talk to you a little bit  
23 more about your new story that you came up with eight  
24 days later.

25 A. Uh-huh.

1 Q. You're claiming that there are phone calls being  
2 made throughout this by different people calling  
3 everybody; right?

4 A. Phone calls?

5 Q. Yeah. People calling trying to do sales, people  
6 trying to check in with each other, you calling Boo, Boo  
7 calling you. Everybody's calling everybody; right?

8 A. Right.

9 Q. Okay. You're using cell phones to do all this?

10 A. Yeah.

11 Q. You know, you get a phone bill for that stuff;  
12 right?

13 A. I had a Walmart Family mobile phone. But I dropped  
14 it.

15 Q. I know you dropped it. I heard you say that. And  
16 you're driving around town, too, right, when you're  
17 getting all these phone calls? Driving all over Ashley  
18 Phosphate and all these other places?

19 A. Uh-huh.

20 THE COURT REPORTER: Is that a yes ---

21 Q. [Mr. Lewis] --- and these phones are still  
22 connected? They're still making calls? People are still  
23 doing deals?

24 A. I guess, yeah.

25 Q. I mean, you said that; right?

1 A. Yeah.

2 Q. You also said that during the second story you  
3 claimed that Mike handed you money to go buy some blunts  
4 and some cigarettes?

5 A. Uh-huh.

6 Q. From his own hand; right? He gave it to you?

7 A. Yes, sir.

8 Q. Was he wearing gloves?

9 A. No.

10 Q. Okay. So you take -- took it out of his hand and  
11 gave it to you. You have that money still; right? They  
12 gave it back to you in the police department, \$40.07. Do  
13 you remember that?

14 A. Yeah.

15 Q. So they gave you the money back?

16 A. They didn't give me that money back but they gave me  
17 ---

18 Q. --- that was the money that was in your pocket when  
19 you got taken in the ambulance?

20 A. Yeah.

21 Q. Okay.

22 A. But I had money already on me.

23 Q. I know. Sure. I got you.

24 A. Hold on. Wait. Go back.

25 Q. Yeah.

1 A. What are you trying to insinuate? You trying to ---

2 THE COURT: --- hold on ---

3 A. --- say I didn't buy the blunts?

4 THE COURT: Hold on. Hold on a second.

5 A. Or the ---

6 THE COURT: --- Mr. Washington, let Mr. Lewis ask  
7 the questions. If you need to explain your answer you  
8 may, but we're not going to get in a situation where  
9 you're each asking each other questions.

10 So let him ask the question. If you need to explain  
11 it, I will allow that. But it's not proper for a witness  
12 to ask questions.

13 Q. [Mr. Lewis] I'm just making sure I understand it.  
14 You're saying that Little Mike touched that money?

15 A. Not the 40 -- the \$40 that I got back? Cigarettes  
16 and blunts don't even cost \$40.

17 Q. That's the only money you had on you in the  
18 ambulance, though; right?

19 A. The money that he gave me I gave to the people in  
20 the Corner Store.

21 Q. Oh. Yeah. Exactly. And so you were in the Corner  
22 Store; right? They have cameras in there, too, don't  
23 they?

24 A. Yeah.

25 Q. Yeah. Security cameras so they can show that you

1 were in there buying these blunts?

2 A. Right.

3 Q. See a video of it and see that it actually happened?  
4 See that you were telling the truth?

5 A. I guess, yeah.

6 Q. Right. Perfect. There should have been that video  
7 wouldn't there?

8 A. I guess.

9 Q. I guess, too. But they did sign that money back  
10 over to you; right? They cut -- they took a knife and  
11 cut open that envelope and gave it to you in the  
12 interrogation room?

13 A. They didn't give me that money back. They gave me  
14 my money back.

15 Q. From the ambulance?

16 A. Yeah.

17 Q. From your pants that were covered in blood? That  
18 money?

19 A. Yeah.

20 Q. Right. To talk more about your lies. You testified  
21 today that you actually planned to use lies to your  
22 advantage that day when you tried to use Boo to pretend  
23 like you had a sale; right?

24 A. Yeah.

25 Q. But you didn't have a sale?

1 A. No.

2 Q. So you were lying again in your lie; right?

3 A. I guess.

4 Q. Just making stuff up?

5 A. Yeah, I made that up.

6 Q. Just comes easy. You also went to a Wendy's, you

7 know, checked this woman who was Mike's old girlfriend?

8 Y'all saw each other?

9 A. Uh-huh.

10 Q. She was working that day?

11 A. Uh-huh.

12 Q. She saw you? Do you know her?

13 A. I don't know if she saw me or not. I saw her.

14 Q. But she would have been working that day?

15 A. She was working.

16 Q. Okay. They could have gone by and talked to her at

17 Wendy's; right?

18 A. Yeah.

19 Q. To corroborate your story; right?

20 A. I guess, yeah.

21 Q. You also went to the Hyatt parking lot in your

22 second story, a hotel?

23 A. Uh-huh.

24 Q. You sat out there ---

25 THE COURT REPORTER: --- is that a yes?

1 Q. [Mr. Lewis] --- doing drugs?

2 THE COURT REPORTER: Is that a yes?

3 THE WITNESS: Yes, ma'am.

4 Q. [Mr. Lewis] Right? Hanging out in the parking lot  
5 doing drugs?

6 A. Yes, sir.

7 Q. Nobody came to stop you? The police didn't roll by,  
8 You're not on video at the hotel, any of that stuff?

9 A. No.

10 Q. You specifically claim, also, that a man named Sed  
11 Williams is standing there at the car door when you get  
12 shot?

13 A. Yes, sir.

14 Q. Like six feet away from you; right?

15 A. Yes, sir.

16 Q. And he's there the whole time and does nothing about  
17 it? Just oh, he got shot?

18 A. Yes, sir.

19 Q. So you told the police about him, too; right?

20 A. After I told the truth, yeah.

21 Q. You on the -- yeah, on the second story -- the third  
22 story, because you didn't tell North Charleston police  
23 about it, you only told the County about it; right?

24 A. I don't remember who I told. I know I told some  
25 police.

1 Q. Okay. You're even making up your details even after  
2 five years; right? Because in of all your original  
3 statements you said, oh, I just didn't want to get him in  
4 trouble; right?

5 A. Right.

6 Q. Now you're talking about you were going to handle it  
7 yourself?

8 A. Yeah.

9 Q. What do you mean by handle it? What were you going  
10 to do?

11 A. I was going to handle it myself.

12 Q. What's that mean?

13 A. Just like it -- like I said.

14 Q. What does that mean to you?

15 A. It means I wasn't going to get him locked up.

16 Q. And how were you going to deal with it?

17 A. However I dealt with it.

18 Q. Which is how, sir?

19 A. However I handled it.

20 Q. Okay.

21 A. Without any law enforcement.

22 Q. I get it. So you were going to handle it in the  
23 streets?

24 A. Exactly.

25 Q. You're going to hurt him?

1 A. I ain't said that.

2 Q. Okay. You never told the North Charleston  
3 detectives you were going to handle it yourself, did you?

4 A. I just told them I wasn't going to get him in  
5 trouble.

6 Q. You didn't tell the county detective that you were  
7 going to handle it yourself, did you?

8 A. No.

9 Q. You never told the Solicitor's office that, until  
10 this month that you were going to handle it yourself;  
11 right?

12 A. Right.

13 Q. You added more details, too, when you were meeting  
14 with them, like that the first shooter had a hoodie on;  
15 right? Hoodie?

16 A. Yeah.

17 Q. Yeah. You never said that before to anybody.  
18 You're adding new details five years later, aren't you?

19 A. Skully, hoodie. First of all, it's ninety-five  
20 degrees outside.

21 Q. I get it ---

22 A. --- ain't nobody got no skully or no hoodie on.

23 Q. I know. Because you lied?

24 A. Exactly.

25 Q. Because you lied; right? But one story you said

1 skully, which is a beanie, right, goes on their head?

2 A. Yeah.

3 Q. And then five years later when you're sitting down  
4 talking to them you decide to switch it up and make it a  
5 hoodie?

6 A. I don't even remember what I told the police about  
7 that story because I made that up.

8 Q. You also added new details about claiming, Little  
9 Mike, you just shoot me, and then Mike smirking at you.  
10 You've never told anybody that before, either, not until  
11 five years later?

12 A. What? No, I -- I always said ---

13 Q. --- not the claim ---

14 A. --- I always said, I always said, I said that.

15 Little Mike, you shoot me. I'm looking at him, he  
16 looking back at me with the same crazy look he always got  
17 on his face, and I slammed the door and ran.

18 Q. I know you're saying that now.

19 A. Man, I always remember this story right here.

20 Q. But you never told anyone that, did you?

21 A. Look, the story that I'm telling, that I just told  
22 them about riding around and all of that, I'll remember  
23 this for the next thirty years.

24 That -- that story right there about the hoodie and  
25 all of that, I don't even remember none of that three

1 years later ---

2 Q. --- I'm not talking about that one. I'm talking  
3 about the story you told to this jury today. You said a  
4 new quote, Little Mike, you just shoot me. But you never  
5 told that to any of the cops you've talked about at any  
6 time in the last five years.

7 A. What? That I said, Little Mike, you just shoot me?

8 Q. Yeah ---

9 A. --- yes, I did. That should be everywhere. That's  
10 -- that's everywhere.

11 Q. Alright. What about this, man, you had that the  
12 whole time, claiming that Mike made a statement to Zia  
13 about his gun?

14 A. Yeah.

15 Q. You told them about that detail, too; right?

16 A. Uh-huh.

17 THE COURT REPORTER: Is that yes ---

18 Q. --- you did? These people? When did you tell them  
19 that?

20 A. [No response]

21 Q. You didn't, did you? You made it up again today?

22 A. Right.

23 Q. You're still making up details.

24 A. Okay.

25 Q. Is that a yes or a no, sir?

1 A. I don't know. But I know -- I know that the -- you  
2 can tell when somebody's telling the truth. That jury  
3 know that story I told ain't been no fabricated.

4 They know that. So guess what? You can go on about  
5 me lying and lying. They know I ain't lying.

6 Q. You're a convicted liar?

7 A. Okay.

8 Q. Right? Yes, sir, or no, sir?

9 A. [No response]

10 Q. You are.

11 A. Alright. You get paid to lie.

12 Q. Not very well, brother. You also added a new detail  
13 tonight or today about riding around behind Dunlap to  
14 hang out at the tire store so he can make crazy faces at  
15 you, too; right?

16 A. No. That -- that wasn't my story. That was always  
17 a part of it.

18 Q. But you told them that, too?

19 A. I always told everybody that before we went inside  
20 the ---

21 Q. --- all of them? These people right here, you told  
22 them ---

23 A. --- before we went inside the trailer park we made a  
24 left and we went into the -- these brick buildings. It's  
25 a tire shop now. It wasn't always a tire shop.

1 [Whereupon, Mr. Lewis and Mr. D'Angelo confer]  
2 MR. LEWIS: No further questions right now, Judge.  
3 THE COURT: Ms. Norvell, any redirect?  
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1 REDIRECT EXAMINATION

2 BY MS. NORVELL:

3 Q. Maurice, just to reiterate. I don't remember if we  
4 talked about this during our opening. Did the prosecutor  
5 that was prosecuting your accessory after the fact charge  
6 recommend a probationary sentence for you?

7 A. No.

8 Q. In fact, she asked for fifteen years?

9 A. The judge made that decision his self because he  
10 said if I went to prison I would only went for like four  
11 months.

12 Q. So the judge is the one who made the decision to  
13 sentence you to probation?

14 A. Yes, ma'am.

15 Q. Okay. Over the prosecutor's request for fifteen  
16 years?

17 A. Yes.

18 Q. Okay. And there's been a lot made about the skully  
19 versus the hoodie. I think -- not what I think; excuse  
20 me. Was that story meant to be ridiculous?

21 A. It was.

22 Q. And you didn't call the police to the hospital?

23 A. No, ma'am.

24 Q. You had no intention of telling them what happened  
25 that initial night?

1 A. No, ma'am.

2 Q. And once you talked to -- you called North  
3 Charleston a few days later?

4 A. Yes, ma'am.

5 Q. And you drove yourself to North Charleston after you  
6 called them?

7 A. Yes, ma'am.

8 Q. And what did you tell them was the reason why you  
9 were coming in?

10 A. I wanted to do the right thing.

11 Q. Okay. Okay. And once you met with North  
12 Charleston, told them that you wanted to do the right  
13 thing, has your story changed from this Antonio, skully  
14 blah, blah, blah ever again, to the story that you told  
15 North Charleston?

16 A. No, ma'am.

17 Q. Is it possible that you have overlooked minor  
18 details like a tire shop parking lot?

19 A. Yeah, because it wasn't always a tire shop. It was  
20 -- it was like an abandoned building.

21 Q. Is there any doubt in your mind who was driving the  
22 car that you were riding in on July 20th, 2016?

23 A. No.

24 Q. Why not?

25 A. Because Little Mike been driving.

1 Q. And how long have you known Little Mike?

2 A. My whole life.

3 Q. Is there any doubt in your mind who the person that  
4 pointed the gun at you and fired a shot at you is?

5 A. No.

6 Q. Who was it?

7 A. Little Mike.

8 Q. Thank you, Maurice.

9 MR. LEWIS: Nothing further, Judge.

10 THE COURT: Alright. Mr. Washington, you can step  
11 down. Thank you very much.

12 [Whereupon, the witness is excused and exits the  
13 witness stand]

14 THE COURT: The State may call its next witness.  
15  
16  
17  
18  
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1 MS. NORVELL: Thank you, Judge. The State calls  
2 Ruben Serrudo. He will need to be brought from courtroom  
3 4-B.

4 THE COURT: Alright. If we could have the witness  
5 brought into the courtroom, please.

6 [Whereupon, Mr. Serrudo comes forward]

7 [Whereupon, Mr. Serrudo was duly sworn by the Clerk  
8 of Court]

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

11 THE WITNESS: Ruben Serrudo, S-E-R-R-U-D-O.

12 THE COURT: Sir, you may lower your mask while  
13 you're on the stand.

14 MS. NORVELL: Thank you, Judge.

15 - - - - -

16 RUBEN SERRUDO,

17 Having Been First Duly Sworn,

18 Was Examined and Testified as Follows:

19 DIRECT EXAMINATION

20 BY MS. NORVELL:

21 Q. Good morning, Mr. Serrudo.

22 A. Good morning.

23 Q. Where are you currently employed?

24 A. I'm self-employed. I work construction.

25 Q. Okay. And did you previously work in law

1 enforcement prior to doing this construction work?

2 A. I did. North Charleston Police Department.

3 Q. Okay. Approximately how many years were you in law  
4 enforcement?

5 A. About six, six-and-a-half.

6 Q. Okay. And you worked -- you mentioned that you  
7 worked at the North Charleston Police Department?

8 A. Correct.

9 Q. While you were there, what positions did you hold?

10 A. I worked for -- I was in patrol, I was in the  
11 saturation unit, as well as the property detective unit.

12 Q. Do you remember what year you were assigned to the  
13 property unit?

14 A. I believe it was 2012.

15 Q. Okay. While you were working in the property unit,  
16 did you ever have the opportunity to work on person's  
17 crime cases?

18 A. Yes, quite often.

19 Q. And just for the jury's understanding, is the  
20 detective's unit at North Charleston Police Department  
21 splint into those two sections.

22 A. They are split into several sections depending on  
23 what ---

24 Q. --- okay. And some of those sections are property  
25 and persons?

1 A. Correct.

2 Q. Okay. What -- and you were working as a detective  
3 in property in July of 2016?

4 A. Correct.

5 Q. Do you remember what day of the week that was?

6 A. It was a Thursday.

7 Q. And how did you come to be involved in this case  
8 that we're here for today?

9 A. We were working the call-out unit, which is at night  
10 and some of the property detectives become auxiliary  
11 units for the persons unit, in case they don't have  
12 anybody to respond.

13 Q. Okay. And did you receive a call-out while you were  
14 working that Thursday night?

15 A. I did.

16 Q. Was it a dispatch or was it a direct call-out?

17 A. I believe it was -- I was directly called out. I  
18 believe it was a dispatch initially and somebody told me  
19 to respond.

20 Q. And where did you respond?

21 A. To MUSC.

22 Q. Okay. Did you know what you were responding to  
23 prior to arriving?

24 A. We were told there was a gunshot victim, was mostly  
25 all that we had.

1 Q. Do you -- did -- were you given any information  
2 about whether the victim was transferred directly to MUSC  
3 or had been somewhere prior to?

4 A. We were told they had been transferred from Roper  
5 Northwoods.

6 Q. And being that they were transferred from Roper  
7 Northwoods, is that why your agency was...

8 A. Correct ---

9 Q. --- called to respond ---

10 A. --- North Charleston; yes, ma'am.

11 Q. Once you arrived at MUSC, were you the only officer  
12 that arrived or did you arrive with another detective?

13 A. I arrived with Detective --

14 Q. Detective?

15 THE COURT REPORTER: Detective who?

16 A. Bailey.

17 Q. [Ms. Norvell] And what -- once you and Detective  
18 Bailey arrived, what did you do at MUSC?

19 A. I conducted a gunshot residue kit.

20 Q. Did you meet with the victim?

21 A. We met with the victim. Yes, ma'am.

22 Q. Okay. And did you conduct like a prior-to meeting  
23 with the victim or?

24 A. My apology. We met with the victim first and that's  
25 when I -- afterwards I conducted a gunshot residue.

1 Q. Okay. What is a -- can you just describe what this  
2 process of the gunshot residue kit collection is?

3 A. Yes. Essentially it's a kit that comes encompassed  
4 in an envelope. It comes with a form that we fill out  
5 with some details.

6 It also comes with gloves and some swabs to swab the  
7 fingers of whatever subject we're swabbing to see if they  
8 have fired any firearms or been in close proximity.

9 Q. Okay. Why did you do a gunshot residue kit on the  
10 victim?

11 A. At the time it was protocol; any gunshot victim or a  
12 suspect is going to get one.

13 Q. So regardless of whether they are the suspect or the  
14 victim ---

15 A. --- correct ---

16 Q. --- your agency's policy was to do that?

17 A. Correct.

18 Q. Okay. Did you -- did you collect any information or  
19 speak to Mr. Washington, the victim, prior to doing that  
20 kit collection?

21 A. Yes. So the form that comes with the gunshot  
22 residue kit asks some basic questions as to their name,  
23 address, what they were doing, whether they're left-  
24 handed or right-handed, and things like that.

25 Q. Okay. Following the kit, did Mr. Washington provide

1 any information as to what happened to you?

2 A. He stated that -- it was very vague, that he was --  
3 he was at an apartment complex and smoking a cigarette  
4 and got shot. That was the most that I had gotten.

5 Q. Okay. As a result of that information did you know  
6 on July 20th, when you responded to MUSC, who had shot  
7 Mr. Washington?

8 A. No.

9 Q. Okay. Did you complete a supplemental report in  
10 reference to your response?

11 A. Yes, ma'am.

12 Q. Did you report any injuries in your report that Mr.  
13 Washington had sustained?

14 A. Yes, ma'am.

15 Q. What was that?

16 A. To his fingers and his groin.

17 Q. And was that all related to the gunshot wound?

18 A. Correct.

19 Q. Okay. And did you do anything else in reference to  
20 this case? Did you collect anything else from the  
21 victim?

22 A. The clothing was sent over to crime scene.

23 Q. The clothing that he was wearing at the hospital?

24 A. Correct. Yes, ma'am.

25 Q. Did you -- once you collected the gunshot residue

1 kit and the clothing, what did you do with those items?

2 A. The clothing was turned over to Crime Scene Tech

3 Ong.

4 Q. Okay.

5 THE COURT REPORTER: Crime scene tech?

6 A. Ong, O-N-G. Excuse me; the gunshot residue kit was  
7 submitted into evidence.

8 Q. [Ms. Norvell] And is that per your agency's  
9 evidence collection protocol?

10 A. Correct.

11 Q. After that night that you responded to MUSC on July  
12 20th, 2016, did you have any further investigation or  
13 involvement?

14 A. No, ma'am.

15 Q. Why would that have been?

16 A. My -- I was only there to assist since no other  
17 persons units were available. Me being in property, we  
18 wouldn't have followed with that unless we were asked to.  
19 I wasn't asked to.

20 Q. Okay. How -- did you frequently work as this  
21 auxiliary unit for persons that you mentioned y'all have?

22 A. Yes, ma'am. And it -- and it went both ways. Yes,  
23 ma'am.

24 Q. Okay. So persons would help out property and  
25 property would help out persons?

1 A. Yes, ma'am. And with it being with it happening so  
2 late in the afternoon, there wasn't as many detectives  
3 available so that's why we helped each other.

4 Q. Okay. In your experience working in -- as a  
5 detective at North Charleston, did you ever work on cases  
6 where the victim and the offender were close friends or  
7 family?

8 A. Yes, quite often.

9 Q. And in your experience in those investigations, did  
10 the victims have difficulty talking about what happened?

11 A. Yes.

12 Q. Okay.

13 MS. NORVELL: May I approach the witness, Judge?

14 THE COURT: You may.

15 Q. [Ms. Norvell] I am approaching and showing you what  
16 has been marked for identification as State's Exhibit  
17 Number 1. Can you please look at this and tell me if you  
18 recognize this item?

19 [Whereupon, the witness is shown exhibit]

20 A. Yes, ma'am. This appears to be the gunshot residue  
21 kit.

22 Q. It's a gunshot residue kit?

23 A. Yes, ma'am.

24 Q. How do you recognize it?

25 A. It's got my information. It also states that it's a

1 gunshot residue evidence collection kit.

2 Q. And the information that you said is yours, did you  
3 personally fill that out?

4 A. Yes, ma'am. It's a sticker that we have to fill out  
5 with our information.

6 THE COURT REPORTER: Sir, could you speak up just a  
7 little bit?

8 THE WITNESS: Yes, ma'am.

9 A. It's a -- it's a sticker that we have to use to  
10 identify the property.

11 Q. [Ms. Norvell] Okay. And is it in substantially the  
12 same condition as it was when you collected it?

13 A. Yes, ma'am --

14 MS. NORVELL: And at this time the State moves to  
15 admit State's 1, the gunshot residue kit.

16 MR. LEWIS: No objection.

17 THE COURT: State's 1 is admitted without objection.

18 [Whereupon, State's Exhibit Number 1 is admitted  
19 into evidence by the Court]

20 Q. [Ms. Norvell] And, again, following your response  
21 to MUSC on July 20th, you -- did you have any further  
22 involvement in this case?

23 A. No, ma'am.

24 MS. NORVELL: Judge, at this time I have no further  
25 questions for Mr. Serrudo.

1 THE COURT: Cross-Examination.

2 [Whereupon, Mr. Lewis and Mr. D'Angelo confer]

3 MR. LEWIS: No questions for this witness, Judge.

4 THE COURT: Alright. Thank you. You may step down.

5 Any objection to this witness being excused?

6 MS. NORVELL: None from the State, Judge.

7 MR. LEWIS: No, Your Honor.

8 THE COURT: Alright. Sir, you are free to go.

9 Thank you for being here.

10 THE WITNESS: Thank you, sir. Have a nice day.

11 [Whereupon, the witness is excused and exits the  
12 witness stand]

13 MS. NORVELL: Judge, may we approach?

14 THE COURT: Yes.

15 [Whereupon, an off-the-record bench conference is  
16 held]

17

1 MR. DUTREMBLE: The State calls Robert Bailey.

2 THE COURT: Alright. If we could have the witness  
3 brought into the courtroom, please.

4 [Whereupon, Mr. Bailey comes forward]

5 THE CLERK OF COURT: Please raise your right hand.

6 [Whereupon, Mr. Bailey is duly sworn by the Clerk of  
7 Court]

8 THE CLERK OF COURT: You can take a seat.

9 [Whereupon, the witness takes the witness stand]

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

12 THE WITNESS: My name is Robert Bailey, B-A-I-L-E-Y.

13 - - - - -

14 ROBERT BAILEY,

15 Having Been First Duly Sworn,

16 Was Examined and Testified as Follows:

17 DIRECT EXAMINATION

18 BY MR. DUTREMBLE:

19 Q. Good morning Mr. Bailey. Could you please tell the  
20 jury where you work?

21 A. I currently work for North Charleston Police  
22 Department.

23 Q. Okay. And how long have you been in law  
24 enforcement?

25 A. Right at seventeen years.

1 Q. Have you been with North Charleston that whole time?

2 A. Sixteen years of that seventeen.

3 Q. And what is your present position with the City of  
4 North Charleston police?

5 A. I am currently a sergeant in the investigations  
6 division, over the property crimes unit.

7 Q. Okay. And could you tell us about some of the  
8 various previous assignments you've had at North  
9 Charleston?

10 A. I've helped with assignments and patrol. I've been  
11 in investigations three times. At the time of this  
12 incident I was a person's crimes investigator where I  
13 investigated all violent crime.

14 I've held areas in special operations. I've also  
15 worked for the office of professional standards, which a  
16 lot of people know is internal affairs --

17 Q. Okay. So you said you were a person's crime  
18 detective in July of 2016?

19 A. I was.

20 Q. And could you just tell the jury a little bit about  
21 the duties and responsibilities that come along with that  
22 position?

23 A. That unit investigates all violent crime that  
24 happens within the City of North Charleston that deals  
25 with businesses or persons.

1 Q. Okay. And in July of 2016, did you have the  
2 occasion to become involved in this particular case?

3 A. I did.

4 Q. And how were you brought into this case?

5 A. I responded to a dispatch call for a gunshot wound  
6 victim at MUSC.

7 Q. Okay. And what did you do when you arrived at MUSC?

8 A. I spoke with the victim, who was laying in the  
9 emergency room, along with Detective Serrudo.

10 Q. Okay. And what -- my apologies. Did you have any  
11 further involvement in this case other than responding to  
12 the hospital?

13 A. After the initial interview with the victim at the  
14 hospital, we did encounter the victim on a later date.

15 Q. Do you recall approximately how much later?

16 A. I do not.

17 Q. Okay. And when you encountered the victim on this  
18 later date, do you recall what you did?

19 A. He was placed into an interview room where he was  
20 interviewed for a second time in reference to his  
21 shooting.

22 Q. The one that you had originally gone to MUSC about?

23 A. That is correct.

24 Q. Okay. And was his story the same as it was when you  
25 interviewed him at MUSC?

1 A. No, his story had changed at that time.

2 Q. Alright. And following this second interview, did  
3 the North Charleston Police Department retain agency over  
4 this case?

5 A. No, we did not. We found that the incident for the  
6 second interview occurred on an area -- in an area of  
7 Dunlap Street, which was in the County's jurisdiction,  
8 and it was subsequently handed over to Charleston County  
9 Sheriff's Office.

10 Q. Okay.

11 MR. DUTREMBLE: Beg the Court's indulgence.

12 THE COURT: Yes, sir.

13 [Whereupon, Ms. Norvell and Mr. DuTremble confer]

14 Q. [Mr. DuTremble] Sergeant Bailey, at this time I have  
15 nothing further for you. Please answer any questions  
16 that the defense has for you on cross.

1 CROSS-EXAMINATION

2 BY MR. LEWIS:

3 Q. How are you doing, Detective?

4 A. Good. How are you?

5 Q. It's good to see you.

6 A. It's good to see you.

7 Q. So the reason y'all responded was because the  
8 original scene in the hospital was the North Charleston  
9 Police Department jurisdiction; right?

10 A. We believed that the original scene could have been  
11 in North Charleston. I don't -- I'm not sure about which  
12 hospital. I think he may have went to a local hospital  
13 and then was transferred to MUSC.

14 Q. That's right. I apologize. You only responded to  
15 MUSC?

16 A. Correct.

17 Q. Uniforms would have gone to Roper ER and then y'all  
18 would have been called out for follow up?

19 A. Correct.

20 Q. Alright. But at that point when you first started  
21 out, you-all thought that it was in like the Summerset or  
22 Plantation Flats or something that's in that weird part  
23 of Dunlap where some of it's county and some of its city  
24 of North Charleston?

25 A. Correct. I believe he advised that it was possibly

1 Summerset Apartments. He wasn't being very clear at the  
2 time.

3 Q. I got you. He provided some details to you. He  
4 gave you a guy's name, Antonio, where his apartment would  
5 have been. That he -- that he got picked up at Big T's  
6 on Midland Park?

7 A. May I look at my notes?

8 Q. Pardon?

9 A. May I look at my notes?

10 Q. Yeah. Yes, sir.

11 A. I'm trying to remember.

12 Q. I -- I know.

13 [Whereupon, the witness reviews documents]

14 A. I don't recall exactly where he said he was picked  
15 up but I know he said he was picked up by -- according to  
16 my notes, by an Antonio.

17 Q. Okay.

18 A. Or by -- my correction; his homeboy, Antonio.

19 Q. I got you. Y'all had the case for a total of about  
20 eight days until it was handed off to Charleston County?

21 A. I believe so. That sounds about right.

22 Q. Did you investigate anything when it was the North  
23 Charleston Police Department's case? Did you get any  
24 reports of shots fired?

25 A. I believe we asked and we did not have any reports

1 of shots fired that day.

2 Q. Okay. Knock on any doors, do any canvassing?

3 A. I did not.

4 Q. Did y'all have anybody respond to the scene to look  
5 for a dropped phone?

6 A. I do not remember.

7 Q. Okay. Did the person at -- at the time, I know it  
8 was a long time ago, but you didn't remember calling out  
9 crime scene or anything like that?

10 A. No, I do not. I don't believe so.

11 MR. LEWIS: No further questions, Judge.

12 MR. DUTREMBLE: Nothing further from the State for  
13 this witness, Your Honor.

14 THE COURT: Alright. Sergeant, you may step down.  
15 Thank you.

16 THE WITNESS: Thank you.

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

19 THE COURT: The State may call its next witness.

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1 MR. DUTREMBLE: Thank you, Your Honor. The State  
2 calls John Glenn.

3 THE COURT REPORTER: Did you say John Glenn?

4 THE COURT: John Glenn.

5 MS. NORVELL: John Glenn.

6 MR. DUTREMBLE: Yes, ma'am. I apologize. I'm  
7 mumbling.

8 [Whereupon, Mr. Glenn comes forward]

9 THE CLERK OF COURT: Please raise your right hand.

10 [Whereupon, Mr. Glenn is duly sworn by the Clerk of  
11 Court]

12 THE CLERK OF COURT: You can go ahead and take a  
13 seat.

14 [Whereupon, the witness takes the witness stand]

15 THE CLERK OF COURT: For the record, please state  
16 your name, spelling your last name.

17 THE WITNESS: It's Jonathan Glenn, last name G-L-E-  
18 N-N.

19 - - - - -

20 JONATHAN GLENN,

21 Having Been First Duly Sworn,

22 Was Examined and Testified as Follows:

23 DIRECT EXAMINATION

24 BY MR. DETREMBLE:

25 Q. Will you tell the jury where you work?

1 A. I work in the Charleston County Solicitor's Office.

2 Q. And what role do you serve there?

3 A. I am a special investigator for the office.

4 Q. Okay. And how long have you been in law  
5 enforcement?

6 A. It'll be sixteen years now.

7 Q. Prior to working in our office as a special  
8 investigator, where were you employed as a law  
9 enforcement officer?

10 A. Employed with the North Charleston Police  
11 Department.

12 Q. How long were you with North Charleston?

13 A. Fifteen-and-a-half years.

14 Q. What were some of the various positions you had  
15 during your time with North Charleston Police Department?

16 A. I started on patrol. Then I went to the speed team,  
17 which is like a street-level vice narcotics unit. From  
18 there I transferred to the narcotics unit. I was there  
19 for five years.

20 I went to the person's crime unit as a detective and  
21 was promoted out of there as a sergeant and I went back  
22 to the detective unit.

23 Q. Okay. So what would your assignment have been in  
24 July of 2016?

25 A. I was a detective in the person's crime unit.

1 Q. Okay. And in your role as a person's crime  
2 detective, did you have the occasion to become involved  
3 in this case?

4 A. Yes sir, I did.

5 Q. And how were you involved in this case?

6 A. My sergeant, I had a call from Sergeant Sid Lewis.  
7 He called me and let me and Robert Bailey know that there  
8 was a victim of a gunshot wound that wanted to come in  
9 for an interview.

10 Q. You said wanted to come in and speak with you?

11 A. Yes, sir.

12 Q. Okay. And so to your understanding, then, the  
13 victim in the case reached out to North Charleston  
14 himself?

15 A. He called Sid Lewis, the Sergeant.

16 Q. Okay. And did you personally speak with this  
17 victim?

18 A. Yes, sir.

19 Q. And do you recall who you spoke with?

20 A. The victim ---

21 Q. --- yes sir ---

22 A. --- Maurice.

23 Q. Maurice Washington?

24 A. Washington. Yes, sir.

25 Q. Okay. So you and Detective Bailey spoke with Mr.

1 Washington?

2 A. Yes sir, we did.

3 Q. Okay. And what did you learn, basically, during  
4 that interview?

5 A. We learned that he wanted to correct a statement  
6 that he made prior and wanted to correct it and tell us  
7 who actually shot him the night that he was shot.

8 Q. So it's fair to say your understanding was he was  
9 correcting an earlier lie?

10 A. Correct. Yes, sir.

11 Q. What did you do after you interviewed Maurice?

12 A. It was during the interview we learned that it  
13 happened in the Charleston County's jurisdiction. We  
14 called Detective Muirheid and Mitch Wilson, with the  
15 County, that came over and kind of took over the  
16 investigation.

17 Q. Okay. And you briefed them with what you knew about  
18 the case?

19 A. Yes, sir.

20 Q. And did that conclude your involvement with this  
21 particular case?

22 A. Yes, sir.

23 MR. DUTREMBLE: Court's indulgence, Your Honor.

24 THE COURT: Yes, sir.

25 [Whereupon, Ms. Norvell and Mr. DuTremble confer]

1 Q. [Mr. DuTremble] Investigate Glenn, I have nothing  
2 further for you. Please answer any questions from the  
3 defense on cross.

4 THE WITNESS: Yes, sir.

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CROSS-EXAMINATION

BY MR. LEWIS:

Q. Good to see you.

A. Good to see you, sir.

Q. Good to see you without a mask on.

A. That's right.

Q. So is it fair to say that the entire scope of the North Charleston investigation in regards to the shooting of Maurice Washington was that interview? Y'all handed it off to County after that?

A. Yes, sir.

Q. Y'all weren't responsible for trying to get a video from around town?

A. No, sir.

Q. And y'all weren't responsible for trying to collect phone records?

A. No, sir.

Q. Or historical cell-site data?

A. No, sir.

Q. Or just plain old knocking-on-door canvassing?

A. No, sir.

Q. Taking photos of the crime scene? Any of that stuff all would have not been y'all's responsibility anymore; it would be the County's then?

A. Correct. Yes, sir.

1 Q. And that's because, as I think they brought out, the  
2 scene was no longer in North Charleston Police  
3 Department's jurisdiction, it's now County's case to deal  
4 with?

5 A. Yes, sir. That's correct.

6 MR. LEWIS: Nothing further. Thank you.

7 THE COURT: Any redirect?

8 MR. DUTREMBLE: Nothing at this time, Your Honor.

9 THE COURT: Alright. Sir, you may step down.

10 THE WITNESS: Thank you.

11 THE COURT: Thank you for being here.

12 [Whereupon, the witness is excused and exits the  
13 witness stand]

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1 THE COURT: Alright. Ladies and gentlemen of the  
2 jury, it is an appropriate time to take our lunch break.  
3 The attorneys advise me that the next witness, who is  
4 intended to be called, will be on the stand for the time  
5 which would encroach upon your lunch hour so we're going  
6 to take a recess at this time.

7 I've been informed by the Clerk's staff that your  
8 lunch is here so I'm going to send you to your jury room  
9 and instruct you that you are not to begin your  
10 deliberations, as you have not heard the entire case.  
11 Please don't seek to do any sort of research whatsoever  
12 about anything that you may have heard in this case. As  
13 I stated in my opening statements, that would be  
14 improper.

15 Ladies and gentlemen, I want to remind you, while  
16 you are taking your lunch hour if you would elect a  
17 foreperson to serve as the foreperson of the jury and  
18 inform us when we resume in the afternoon.

19 But we will be in recess until 1:30. I have to give  
20 court staff and everyone else who is not being provided  
21 lunch at the time to take their lunch break. So we will  
22 resume the trial at 1:30.

23 Again, please do not begin your deliberations and  
24 please retire to your jury room at this time.

25 [Whereupon, the jury exits the courtroom at

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1 12:00 p.m.]

2 THE COURT: Alright. Folks, we will be in recess  
3 until 1:30.

4 [Whereupon, Court is in recess from 12:00 p.m. to  
5 1:35 p.m.]

6 MS. NORVELL: Judge?

7 THE COURT: Yes, ma'am?

8 MS. NORVELL: I was discussing with the court  
9 reporter the defense and the State have discussed a third  
10 stipulation. I can pass it up for you. It has not been  
11 filed at this point.

12 [Whereupon, the Solicitor proffers documents to the  
13 Court]

14 MS. NORVELL: I'm not sure if the Clerk's office has  
15 the ability to file from the courtroom.

16 [Off the record momentarily]

17 THE COURT: I guess now is as good a time as any to  
18 talk about the other stipulations in addition to the one  
19 that has just recently been handed up. And I'm happy to  
20 do it any way y'all want to do it.

21 I've had situations where I've read them into the  
22 record, although I don't -- I don't like to do that  
23 because it's not my stipulation, it's the party's  
24 stipulation. But, you know, I'm open to suggestions from  
25 either or both of you.

1 MR. LEWIS: I'm not going to ask you to do something  
2 that you don't want to do it.

3 MS. NORVELL: I'm happy to read it in. I just don't  
4 want it to appear as -- I -- I don't want to present it  
5 in a way that makes it like what I say is gold versus  
6 what you say, which is why the...

7 THE COURT: Well, and I will -- I will preference  
8 the reading of the stipulations in a language that  
9 basically explains what a stipulation is.

10 MS. NORVELL: Great.

11 THE COURT: And it's pretty clear that it's -- that  
12 both parties have agreed and you can take these facts to  
13 be true. I can't remember exactly what it says but it's  
14 something of that nature. So...

15 MR. LEWIS: And Judge, if you want to just ask me at  
16 the end of her reading them, I can stand up and say no --  
17 obviously no objection.

18 THE COURT: Alright. So we'll just have them marked  
19 separately as Court's Exhibits since they won't be going  
20 to be going back to the jury with their deliberations.

21 But just, Ms. Norvell, whenever you feel the time is  
22 appropriate to and, you know, if you want to put them on  
23 the record all together or separately, it doesn't matter  
24 to me but I just need kind of a head's up so that I can  
25 make my little remarks about what a stipulation is.

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1 MS. NORVELL: Okay. Do you have any issue doing it  
2 when the jury first comes back in? Because that way it  
3 sort of preferences the case agent and the doctor ---

4 MR. LEWIS: --- yeah ---

5 MS. NORVELL: --- and the SLED lieutenant's  
6 testimony.

7 MR. LEWIS: Yes.

8 THE COURT: Okay.

9 MS. NORVELL: Okay.

10 THE COURT: I'm going to give you this original  
11 back.

12 MS. NORVELL: Thank you.

13 [Whereupon, the Court proffers documents to Ms.  
14 Norvell]

15 THE COURT: Before we bring the jury in, I received  
16 a note over the lunch hour from Juror Number 241. That  
17 juror states that they need to put eye drops in at 4:15  
18 and 4:25, so I've asked the Clerk's Office to help me  
19 remember.

20 You know, I certainly don't want to preclude this  
21 juror from doing whatever they need to maintain their eye  
22 health. So at 4:15 and 4:25 we'll have to take a brief  
23 recess to accommodate this juror's medical issue.

24 And I'm going to make this note that I received a  
25 Court's Exhibit, just make it a part of the record.

1 MS. NORVELL: Thank you, Judge.

2 THE COURT: Just so the record is clear.

3 [Whereupon, Court's Exhibit Number 1 is marked for  
4 identification by the court reporter]

5 MS. NORVELL: Did the jury select a foreperson?

6 THE COURT: I'm going to ask them when they come  
7 back in. Thank you for reminding me of that. I assume  
8 they did. And I don't know, ordinarily, places have a  
9 set spot where they want the foreperson to sit. I just  
10 would rather have the jurors maintain the seats that  
11 they've been in this morning because of the COVID  
12 precautions. So I will ask who the foreperson is and  
13 we'll just leave everybody where they are. Anything else  
14 before we bring in the jury?

15 [No response from counsel]

16 THE COURT: Anything else before we bring in the  
17 jury?

18 MR. MCNEIL: I've got this --

19 THE COURT: Okay. Hold on. Hold on one second.  
20 Talk with your lawyer first.

21 MR. MCNEIL: [Inaudible]

22 THE COURT: What's that?

23 MR. MCNEIL: I'm ready to --

24 THE COURT REPORTER: Judge, I can't hear him if he  
25 wants this on the record.

1 THE COURT: Yeah. Mr. Lewis?

2 MR. LEWIS: His -- his -- if I can?

3 THE COURT: Yes, sir.

4 MR. LEWIS: I believe the issue that he is raising  
5 is the belief that the pictures that we have agreed to  
6 accurately reflect the scene that are being put into  
7 evidence were taken by us in our investigation. They are  
8 not. I have my own photos. I'm not putting them in.  
9 But he believes that I guess I'm now sharing evidence  
10 with the prosecutor's office.

11 MS. NORVELL: The photographs were taken at a later  
12 date by an investigator in the Solicitor's Office, Judge.  
13 They were presented to the witness, Maurice Washington,  
14 and he was asked to identify the photographs and he was  
15 asked if they fairly and accurately represent the  
16 incident location.

17 He indicated that they did, therefore a foundation  
18 was laid. And I don't know what basis Mr. Lewis could  
19 have objected after that testimony was presented. And  
20 the photographs have been admitted. But, again, they  
21 were taken by my office.

22 THE COURT: Right. And based on my recollection, I  
23 agreed that the appropriate foundation was laid. The  
24 witness was asked if he recognized the photographs. He  
25 said yes. He was asked if they fairly and accurately

1 represented the scene as it was at the time that he was  
2 shot. He said yes. At that time the appropriate  
3 foundation was laid and it didn't matter who had taken  
4 those photographs, it's -- the question is whether the  
5 witness who is, who the State or the defense is seeking  
6 to get a photograph admitted through can lay the  
7 appropriate foundation.

8 And regardless of whether the defense had made an  
9 objection or not, this witness laid the appropriate  
10 foundation for the photographs which have been admitted.  
11 And those were I believe ---

12 MS. NORVELL: --- state's 7, 8 ---

13 THE COURT: --- State's 7, 8, 9 and 3. Then State's  
14 1 was the gunshot residue kit, if my notes are accurate.

15 MS. NORVELL: The photographs were State's 7, 8, and  
16 9. The pants are ---

17 THE COURT: --- that's right ---

18 MS. NORVELL: --- State's 3.

19 THE COURT: Okay. That's right. You're right. The  
20 pants were State's 3. So the items are admitted and they  
21 are in evidence and I think even though they were  
22 admitted without objection, even if the defense had  
23 objected I think the State laid the proper foundation.

24 MR. LEWIS: Judge, and if I may? I'm showing him  
25 the pictures that we have taken. May I approach the

1 evidence table for just a second to let ---

2 THE COURT: --- sure ---

3 MR. LEWIS: --- him look at these three photos to  
4 see they're not the same?

5 THE COURT: Madam Court Reporter, if you'll give Mr.  
6 Lewis ---

7 THE COURT REPORTER: --- I think they're ---

8 MR. LEWIS: --- they're right here ---

9 THE COURT REPORTER: --- I think they're right down  
10 front here [indicates].

11 THE COURT: Okay. If you'll take 7, 8 and 9 and  
12 confer with your client.

13 MR. LEWIS: Thank you.

14 [Whereupon, Mr. Lewis and the defendant confer over  
15 the photographs]

16 MR. LEWIS: Thank you, Judge.

17 THE COURT: Alright.

18 [Off the record momentarily]

19 THE COURT: Alright. Are you ready for the jury?

20 MS. NORVELL: We are.

21 MR. LEWIS: Yes, Your Honor.

22 THE COURT: Alright. If you'll bring us the jury,  
23 please.

24 [Whereupon, the jury enters the courtroom at  
25 1:47 p.m.]

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

2 THE COURT: Thank you, sir. Ladies and gentlemen of  
3 the jury, I trust you had a good lunch period. Were you  
4 able to elect a foreperson?

5 UNIDENTIFIED JUROR: Yes.

6 THE COURT: And who is that? Sir, stand up for me,  
7 please.

8 [Whereupon, the juror complies]

9 THE COURT: What is your name and juror number?

10 JUROR NUMBER 118: John Green, G-R-E-E-N, 118.

11 THE COURT: Alright. Mr. Green, as I stated before,  
12 the foreperson is just the jury's spokesperson as we go  
13 throughout this trial. If there are any issues that  
14 arise over the course of the trial that need to be  
15 brought to the Court's attention, it is your job to make  
16 those requests known by putting those requests in writing  
17 and signing the request and putting your juror number  
18 along with that signature.

19 You will preside over the jury's deliberations at  
20 the close of the case but you have no greater authority  
21 than any other juror. Your vote doesn't count any more  
22 or less than anyone else's. You are just in charge of  
23 the deliberations and the jury's spokesperson over the  
24 course of the trial. Thank you very much. You may be  
25 seated.

1 [Whereupon, the juror complies]

2 THE COURT: And, ladies and gentlemen of the jury,  
3 as you can obviously tell, you're not sitting in the jury  
4 box. I just ask that you do your best to sit in the same  
5 location as we enter and exit the courtroom from breaks.

6 It's just in the world that we live in now it's just  
7 a better practice to sit in the same spot as we come in  
8 and out. So from here forward, remember where you are  
9 and sit in those spots as we go through the trial. Thank  
10 y'all very much.

11 Ms. Norvell?

12 MS. NORVELL: Would you like me to put the  
13 stipulations into the record prior to your admonition or  
14 your explanation or do you --

15 THE COURT: I'll tell them first. Have they been  
16 marked?

17 MS. NORVELL: They have not been marked as Court's  
18 Exhibits.

19 THE COURT: Go ahead. Go ahead and get those  
20 marked.

21 [Whereupon, Court's Exhibit Numbers 2, 3, and 4 are  
22 marked for identification by the court reporter]

23 THE COURT: Ladies and gentlemen of the jury,  
24 ordinarily evidence comes into the record in the case  
25 through witnesses from the witness stand. However, there

1 are times when evidence can be entered into the record  
2 through what is called a stipulation. And a stipulation  
3 is just a big word for agreement. And the State and the  
4 defense have entered into three separate stipulations or  
5 agreements in this case, which Ms. Norvell will shortly  
6 read into the record.

7 These stipulations are to be admitted into evidence  
8 just as if a witness had testified to these facts. So  
9 once these stipulations are admitted into the record, you  
10 can take these facts to be true.

11 And ordinarily or certainly you are the judges of  
12 the facts, but the parties have agreed that these facts  
13 will come in by agreement. And Ms. Norvell will read  
14 them in and she will identify each separate stipulation.

15 Ms. Norvell?

16 MS. NORVELL: Thank you, Your Honor.

17 This is the stipulation of the parties regarding Zia  
18 Fredericks. The State and the defendant have agreed to  
19 stipulate to certain facts. It is hereby stipulated to  
20 and agreed upon by and between the parties in the matter  
21 as follows: [1], that Zia Fredericks died on July 23rd,  
22 2016; [2], that the decedent, Zia Fredericks, is  
23 therefore unavailable to testify. This stipulation  
24 regarding Zia Fredericks' death and unavailability as a  
25 witness allows the parties to reference this fact, as if

1 established to be a direct witness testimony and argument  
2 and in the course of questioning -- witnesses. That is  
3 Court's Exhibit 2.

4 Court's Exhibit 3, stipulation of the parties  
5 regarding the chain of custody. The State and the  
6 defendant have agreed to stipulate to certain facts. It  
7 is hereby stipulated to and agreed upon by and between  
8 the parties in the matter as follows: [1], the chain of  
9 custody maintained by the State Law Enforcement Division  
10 and relied upon by the State in the above captioned trial  
11 is authentic; [2], the chain of custody report prepared  
12 for release on March 10th, 2020, is a fair and accurate  
13 record of the official chain of custody in this matter;  
14 [3], this chain of custody is accurate and complete; [4],  
15 there has been no tampering or interference with the  
16 items reflected in the chain of custody on the part of  
17 any State actor that are presented as part of the State's  
18 case in chief; [5], the items presented that are the  
19 subject of the chain of custody report are the items  
20 contained within the chain of custody report.

21 This stipulation regarding the chain of custody  
22 report renders the report itself and the subject of the  
23 chain of custody report admissible without objection  
24 based on authenticity for proper evidence handling during  
25 the State's case in chief.

1 Court's Exhibit 4, the stipulation of the parties  
2 regarding the CAT scans. The State and the defendant had  
3 agreed to stipulate to certain facts. It is hereby  
4 stipulated to and agreed upon by and between the parties  
5 in the matter as follows: [1], that the CAT scans of the  
6 victim Maurice Washington from MUSC relied upon by the  
7 State in the above captioned trial, are authentic; [2],  
8 that the CAT scans are a fair and accurate depiction;  
9 [3], that the CAT scans have not been altered or  
10 manipulated in any way since they were produced.

11 This stipulation regarding the CAT scans renders  
12 them admissible without objection based on authenticity  
13 during the State's case in chief.

14 THE COURT: And that was number what, that last ---

15 MS. NORVELL: --- that was Court's 4.

16 THE COURT: Court's 4. Alright. Thank you, Ms.  
17 Norvell.

18 Mr. Lewis, do you have any objection or anything to  
19 add with regard to the stipulations which were included  
20 in Court's 2, 3 and 4?

21 MR. LEWIS: Just that I also stipulated to those  
22 facts as presented.

23 THE COURT: Thank you very much. Ms. Norvell, you  
24 may call your next witness.

25

1 MS. NORVELL: Thank you, Judge. The State calls  
2 Detective Mitch Wilson.

3 [Whereupon, Mr. Wilson comes forward]

4 THE CLERK OF COURT: Please raise your right hand.

5 [Whereupon, Mr. Wilson is duly sworn by the Clerk of  
6 Court]

7 THE CLERK OF COURT: Please take a seat.

8 [Whereupon, the witness takes the witness stand]

9 THE CLERK OF COURT: For the record please state  
10 your name and spell your last name.

11 THE WITNESS: Mitchell Wilson, W-I-L-S-O-N.

12 MS. NORVELL: Thank you, Judge.

13 - - - - -

14 MITCHELL WILSON,

15 Having Been First Duly Sworn,

16 Was Examined and Testified as Follows:

17 DIRECT EXAMINATION

18 BY MS. NOVILLE:

19 Q. Mr. Wilson, what is your current occupation?

20 A. May I take my mask off?

21 Q. You may.

22 A. I currently work for South State Bank, a corporate  
23 security officer.

24 Q. And you are recently retired from law enforcement.

25 What agency did you retire from?

1 A. Charleston County Sheriff's Office.

2 Q. How long were you employed at the Charleston County  
3 Sheriff's Office?

4 A. A little over thirteen years.

5 Q. And while you were employed at the Charleston County  
6 Sheriff's Office, what positions did you hold there?

7 A. My first few years I was a patrol deputy and then I  
8 moved into the detectives division.

9 Q. And what do you -- were you in the detectives  
10 division in July of 2016?

11 A. Yes, I was.

12 Q. Was there a particular unit that you were assigned  
13 to in July of 2016?

14 A. Yes. The first year in detectives I did property  
15 crime. And after that I transitioned to the violent  
16 crimes division and I was there most of the time while I  
17 was a detective. But on this occasion I was a part of  
18 the violent crime unit.

19 Q. Okay. And while you were a member of the violent  
20 crimes unit at the Charleston County Sheriff's Office,  
21 did you have the opportunity to become involved in the  
22 investigation in this case?

23 A. Yes, I did.

24 Q. And do you remember what date that was?

25 A. It was July the 28th, 2016.

1 Q. Was that immediately after the incident had occurred  
2 or was there a delay?

3 A. The incident occurred July the 20th of 2016, so it  
4 was about eight days later.

5 Q. Okay. How did you become involved in this case?

6 A. The supervisor came into the bullpen, what we call,  
7 where we all sit and she said that North Charleston was  
8 investigating a case and they discovered that during  
9 their investigation that it actually happened in  
10 Charleston County's jurisdiction.

11 So she asked us to go meet with the North Charleston  
12 detectives and meet the victim and interview him.

13 Q. Okay. And can you just explain to the jury a little  
14 bit about jurisdiction and the difference between the  
15 City of North Charleston's jurisdiction versus the  
16 jurisdiction that you held as a detective at the  
17 Charleston County Sheriff's Office?

18 A. Yes, certainly. So Charleston is Charleston County.  
19 Within Charleston County you have the City of North  
20 Charleston, the City of Charleston, and some areas as  
21 they might be in the jurisdiction of Charleston County.

22 We call them doughnut holes. Like the City of North  
23 Charleston, you can be driving down one street; these  
24 three houses are in North Charleston whereas the three  
25 houses on the right side of the street are actually

1 Charleston County's jurisdiction. And they kind of flip-  
2 flop and this was kind of the situation for this  
3 incident.

4       There was a trailer park off of Dunlap Street that a  
5 lot of those areas are in North Charleston but that  
6 trailer park was a part of Charleston County's  
7 jurisdiction.

8 Q. And so essentially you, as a detective of the  
9 sheriff's office, had jurisdiction over the entirety of  
10 the county versus any limitations to the city?

11 A. Oh. Correct. Yeah. So we -- Charleston -- we have  
12 jurisdictions county-wide but there are all those areas  
13 that the City is working and we don't go there and -- or  
14 help unless we're asked.

15 Q. Great. Do you -- were you able to verify the actual  
16 incident location that this incident occurred at?

17 A. Yes. We were able to have the victim drive us out  
18 there and he showed us where it happened at and it was  
19 confirmed to be 23 -- in front of 2357 Dunlap Street, Lot  
20 11, right there in the roadway.

21 Q. And what city is that in?

22 A. The city of North Charleston.

23 Q. And is that address within Charleston County?

24 A. Yes, it is.

25 Q. And you actually went out to that address he was

1 using?

2 A. Yes.

3 Q. How did that happen? Tell us about that.

4 A. Well, on the day we interviewed the victim there at  
5 North Charleston Police Department, when we were done we  
6 asked him to drive us out there so we could physically  
7 see and verify the incident location and make sure it was  
8 in Charleston County.

9 Q. And when you went out to respond to that incident  
10 location, did you take any photographs?

11 A. No.

12 Q. Okay. Did you call out crime scene?

13 A. No, we didn't.

14 Q. Why not?

15 A. It happened eight days prior. And from the victim's  
16 testimony, he was in a vehicle. The vehicle just  
17 happened to pull up in the roadway. As he was exiting,  
18 that's when the incident occurred and he said he was  
19 shot.

20 So we would consider the technical incident location  
21 would be that physical vehicle. And it drove off, so  
22 there would be no crime scene to investigate there on the  
23 scene.

24 Q. Did the -- do you remember if the victim told you  
25 that he had dropped his cell phone?

1 A. I think he did.

2 Q. Did you -- were you able to recover a cell phone  
3 from the incident location?

4 A. No. We did -- when we got there we walked around  
5 and we looked. There was nothing obvious there to  
6 collect as evidence.

7 Q. And, again, the victim was with you when you went  
8 out to that ---

9 A. --- yes.

10 Q. Okay. Did you happen to notice if there were any  
11 surveillance cameras around that area of Dunlap Street  
12 and the trailer park?

13 A. Yeah. That's one thing we did do. We rode around  
14 and looked for Ring door cameras or, you know, you see  
15 the cameras on the roof eaves of houses. We didn't see  
16 anything that we thought would be of evidentiary value.

17 Q. And your -- you conducted that incident location  
18 follow-up with the victim, Maurice Washington?

19 A. Yes.

20 Q. Did you conduct the -- an interview with him at any  
21 other location other than out on the field?

22 A. Except for the prior interview at North Charleston.

23 Q. Great. Okay.

24 A. Then we drove out to the incident location and  
25 verified that and then that's when he left and we kind of

1 hang -- hung around for a little while.

2 Q. What -- you met with him at North Charleston City  
3 Hall, at their police department?

4 A. Yes.

5 Q. Okay. Did you learn anything from the victim about  
6 what had occurred in this incident?

7 A. That a lifelong friend of his he considered family,  
8 he identifies Michal McNeil, picked him up from a  
9 friend's house off of Ashley Phosphate somewhere. They  
10 drove around.

11 He kind of explained the situation as just aimlessly  
12 driving around. They would go somewhere and he would say  
13 why are you going there, you know, please take me home, I  
14 want to go home. He said this went on for some time.

15 I think he ended up at a -- at a hotel off of Ashley  
16 Phosphate for a little bit and then after that they left  
17 again and drove out to the interstate. And he was  
18 becoming concerned because he just aimlessly was driving  
19 around.

20 And I think he -- they finally ended up on Ashley  
21 Phosphate, turning onto Dunlap Street. There's a side  
22 road I don't know what it -- next to the Kangaroo.

23 I can't remember what it's called but you take off  
24 Ashley Phosphate onto that side road and then there's  
25 Dunlap and they turned right down Dunlap Street. As he's

1 pulling onto Kangaroo he says he sees a friend who he's  
2 been kind of texting and says, hey, you know, come pick  
3 me up, we're back here. So as they're driving he thinks  
4 his friend is coming.

5 So as Michael McNeil and Maurice pull up and they  
6 stop, he sees a car coming and he explains as he thinks  
7 it's his friend so he's like, hey, you know, I'll see you  
8 later, you know. Kind of, you know, started to get out  
9 of the car and then waived to him that he's leaving ---

10 MR. LEWIS: --- Your Honor, at this point I have to  
11 object. We're getting a little bit abroad beyond --  
12 we're basically just rehashing the complainant's  
13 testimony. I think he can certainly talk about what he  
14 personally did but we don't need to hear the testimony  
15 from the complainant again through this defendant [sic].

16 THE COURT: So your grounds would be that ---

17 MR. LEWIS: --- narrative ---

18 THE COURT: --- anything that the victim told this  
19 detective would be hearsay?

20 MR. LEWIS: Yes, Your Honor.

21 THE COURT: I'll sustain that objection.

22 Q. [Ms. Norvell] And, Detective Wilson, did you learn  
23 from the victim who -- or that they ultimately came to a  
24 stop in front of this trailer off Dunlap Street?

25 A. Yes.

1 Q. And did you learn what happened when they came to a  
2 stop and he was exiting the vehicle?

3 A. They came to a stop. He was getting out. As he was  
4 getting out ---

5 MR. LEWIS: --- same objection ---

6 A. --- he says Michael McNeil shot him.

7 THE COURT: Hold -- sustained.

8 MR. LEWIS: Same objection.

9 THE COURT: That evidence is already before -- has  
10 already been testified to so I sustain the hearsay  
11 objection.

12 Q. [Ms. Norvell] And you learned obviously that the  
13 victim had been shot in this case?

14 A. Yes.

15 Q. Did you learn that this was -- whether the victim  
16 had called the police following this incident?

17 A. When he was originally shot?

18 Q. Correct.

19 A. Well, he ended up at Roper Northwoods ER and  
20 protocol is if you go into the ER, the ER staff notify  
21 law enforcement we have a gunshot victim.

22 So that's when North Charleston went out because  
23 that actual ER is right there in the mall shopping  
24 center. So that's under North Charleston City's  
25 jurisdiction so North Charleston responded to that

1 initial call.

2 Q. And did you learn whether the victim had been  
3 truthful in his initial recounting of the incident to law  
4 enforcement that night that he was shot?

5 A. He was not truthful.

6 Q. And the story that he advised you at your interview  
7 at North Charleston City Hall was different than what was  
8 told the night of the incident?

9 A. Yes.

10 Q. Have you had the occasion to investigate violent  
11 crimes where friends, close friends, are involved?

12 A. Yes.

13 Q. And approximately how many of those sort of cases  
14 have you investigated?

15 A. Over eight years as a violent crime detective, I've  
16 -- hundreds, probably.

17 Q. Okay. Based on your personal experience  
18 investigating these cases, would -- did you find it to be  
19 common or uncommon for an initial recounting of an  
20 incident to be untruthful?

21 A. No. From my experience, there's just some  
22 situations where people don't want police to be involved  
23 in their business so they just won't tell us.

24 Q. And after you interviewed the victim, was it your  
25 understanding that there may have been a witness to this

1 shooting?

2 A. Yes.

3 Q. Who was that person?

4 A. So there was a fellow that I thought his name was  
5 Cedric Williams. He was supposedly there at the door  
6 when he was shot so I tried to do a database search on  
7 Cedric Williams.

8 I could not find any Cedric Williams in RMS or DMV  
9 that matched the description that the victim was telling  
10 us. So that was one witness I tried to locate that I  
11 couldn't identify properly.

12 Q. Did the victim -- so you were not able to interview  
13 Shaderick Williams?

14 A. No.

15 Q. Okay. Did the victim provide you with information  
16 as to the person who picked him up and transported him to  
17 the hospital following the shooting?

18 A. He was reluctant on giving his information directly  
19 to us but I did hear that it was the nickname of a fellow  
20 named Boo.

21 Q. Okay. Did you ever attempt to meet with anybody  
22 named Boo in reference to ---

23 A. --- no ---

24 Q. -- this incident?

25 A. No, I didn't. I didn't. All I had was a nickname,

1 so I didn't know where to start to find him.

2 Q. Okay. Other than Shaderick Williams and this person  
3 named Boo, were you able to determine any other person  
4 that had seen the defendant and the victim together?

5 A. I think there was -- there was another person, yes.

6 Q. Okay. And did --

7 MS. NORVELL: Beg the Court's indulgence.

8 THE COURT: Yes, ma'am.

9 [Whereupon, Ms. Norvell and Mr. DuTremble confer]

10 Q. [Ms. Norvell] And I'm just going to ask this again  
11 other than Sed and Boo, were you able to determine  
12 another person that had seen the victim and the defendant  
13 together the day that he was shot?

14 A. There was another individual. All I know is a  
15 nickname Zia.

16 Q. Okay. And were you able to interview that person?

17 A. No, I wasn't.

18 Q. Okay. At that point -- is there a reason why you  
19 didn't interview that person by the time that you...

20 A. I found out that Zia is deceased.

21 Q. Okay. Did you have any other involvement in this  
22 case? Did you pick up any evidence from North Charleston  
23 and take it into your custody?

24 A. Yes. I think there was a GSR kit that we later  
25 obtained that we didn't get the initial day we were

1 there.

2 Q. Okay.

3 A. So that was picked up and put into evidence.

4 Q. Did you send that kit off for testing to the State  
5 Law Enforcement Division?

6 A. I don't have it documented in my supplement. I  
7 would have to look at the chain of custody. But from  
8 what I know, it was sent out because there's a result on  
9 it.

10 Q. Okay.

11 MS. NORVELL: That is all of the questions that I  
12 have for Detective Wilson at this point, Judge.

13 THE COURT: Cross-examination.

14 MR. LEWIS: Thank you, Judge.

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CROSS-EXAMINATION

BY MR. LEWIS:

Q. Good afternoon, Mr. Wilson.

A. Good afternoon, sir.

Q. I want to start with something you just said, that you've worked hundreds of persons cases; right?

A. Yes.

Q. And in those cases you would use various investigative techniques like automated license plate readers; right?

A. Correct.

Q. And those can track where cars are driving around in Charleston County?

A. Correct.

Q. Right? You often will go by locations and collect video evidence from them to see who went in where, when?

A. Correct.

Q. Right? You can get subpoenas if you need to, to collect this evidence?

A. Correct.

Q. But the first step in getting any of it is to actually go there; right?

A. That's right.

Q. I want to talk to you about canvassing, something that's I guess the old beat cop easiest thing to do, go

1 door-to-door; right?

2 A. [No response]

3 Q. You know, knock on doors, ask if they've heard or  
4 saw anything?

5 A. Yeah.

6 Q. Did you do any of that in this case?

7 A. We didn't. We drove around looking for people that  
8 were walking that we could possibly talk to.

9 Q. Right. So ---

10 A. --- since this incident happened almost a week-and-  
11 a-half ago, you know, it wasn't freshly committed and  
12 that's when we usually do knock-and-talks.

13 Q. I got you. But there were forty-four trailers in  
14 that Dunlap trailer park, Kendall Wood, right, and you  
15 knocked on none of those doors?

16 A. No.

17 Q. To hear if they -- ask them if they heard a gunshot?

18 A. Correct.

19 Q. Ask them if they saw somebody speeding away or  
20 running through the back yards of the neighborhoods  
21 because they had been shot?

22 A. Correct.

23 Q. Just didn't try? But you did put -- or say today  
24 that you went and drove around looking for Ring cameras.  
25 Can you direct me in your report to where you documented

1 that you did that?

2 A. I think I put that we canvassed the area.

3 Q. Okay. And that's what you mean by it?

4 A. Yeah.

5 Q. So you don't mean knocking on doors?

6 A. No. We drove ---

7 Q. --- you just mean driving ---

8 A. --- drove around looking for potential witnesses who  
9 were walking around and we did not knock on doors.

10 Q. Okay. You had names of witnesses, a specific  
11 eyewitness that you needed to talk to, Shaderick  
12 Williams?

13 A. Correct.

14 Q. You did a law enforcement version of a Google search  
15 and you couldn't find him?

16 A. I guess if you want to summarize it that way.

17 Q. I mean, you didn't -- how much time did you put into  
18 looking for this guy?

19 A. When we got back I got on my computer and I searched  
20 our RMS database, I searched DMV.

21 Q. Okay.

22 A. All of the tools that are available to us.

23 Q. How long did that take you?

24 A. Probably an hour or two.

25 Q. Oh, okay. To search through these two databases for

1 that one name?

2 A. Yeah.

3 Q. Okay. But nothing came up?

4 A. When I -- Shaderick Williams, the name I was looking  
5 for, I didn't find anything that matched the description  
6 the victim told us.

7 Q. Okay. And so you started working the case July  
8 28th, 2016, and you stopped working the case August 3rd,  
9 2016? Is that fair?

10 A. I don't know where you're getting that date from.

11 Q. It's the case closed in your file.

12 A. Well, that's the date that the supervisor signed off  
13 on the completed ---

14 Q. --- I got you ---

15 A. --- report.

16 Q. Did you do any work on this case after the date of  
17 August 3rd other than turning in that gunshot residue on  
18 November 21st, 2019?

19 A. No.

20 Q. Did you reassign it to anyone else to be out there  
21 and do this investigating?

22 A. No.

23 Q. But you were the case agent?

24 A. Yes.

25 Q. Nobody else is going to knock on doors if you don't;

1 right?

2 A. Correct.

3 Q. Nobody else is going to get video if you don't?

4 A. True.

5 Q. Nobody else is going to get phone records if you  
6 don't?

7 A. Correct.

8 Q. Nobody else is going to get historical cell-site  
9 data if you don't?

10 A. Correct.

11 Q. And you know -- you heard in the -- in the  
12 statement, right, that people are making phone calls  
13 constantly?

14 A. Yes.

15 Q. And you did not try to get their phone records to  
16 show they're driving around together?

17 A. To be honest, I -- the cell phone thing didn't  
18 register back then. I thought I had a solid eyewitness  
19 -- or victim testimony that sounded reasonable.

20 Q. Five years ago you're saying historical cell-site  
21 data didn't exist?

22 A. I didn't say it didn't exist.

23 Q. Okay.

24 A. I said I didn't get it.

25 Q. Okay. But you just didn't choose to use that as an

1 investigative -- investigative tool on an attempted  
2 murder?

3 A. Correct.

4 Q. To show that these two phones were together, that  
5 maybe there's any proof at all to the story you've been  
6 told?

7 A. That's true.

8 Q. There are 226 units at the Summit Place Apartments.  
9 Did you investigate to see if maybe he was telling the  
10 truth on that first story? Did you go by there?

11 A. I don't remember him telling us anything about the  
12 Summit Place Apartments.

13 Q. Those are the ones that were in North Charleston,  
14 the first apartments where he told his first story. Or  
15 did you not even hear about that one?

16 A. I didn't hear about that one.

17 Q. I got you. Okay. Did you follow up on the  
18 investigation done by North Charleston in any way?

19 A. No.

20 Q. Alright. Did you collect any video from the Wendy's  
21 where he allegedly went?

22 A. No, sir.

23 Q. Any of the gas stations where he allegedly purchased  
24 cigars and cigarettes?

25 A. No, sir.

1 Q. Did you test the money that was in his pocket?  
2 Right after he got out of the ambulance he still had it  
3 in his pocket. Did y'all test that for DNA or  
4 fingerprints?

5 A. No. We didn't have any reason to test the money.

6 Q. Okay. The money that allegedly this guy handed to  
7 that guy? This [indicates] is the defendant, that's  
8 [indicates] the complainant.

9 He testified today that the money that you-all  
10 released to him that day, the 28th, was money in his  
11 pockets after he had gotten money from him.

12 MS. NORVELL: Objection, Judge. That's not an  
13 accurate reflection of the victim's testimony. That's a  
14 fact not in evidence.

15 MR. LEWIS: He testified that he was given money by  
16 Michael McNeil. He got shot and went to the hospital.

17 THE COURT: I agree with that. But he ---

18 MS. NORVELL: --- he ---

19 THE COURT: --- he qualified his -- he qualified his  
20 answer with -- that witness didn't believe that the money  
21 he had on him ---

22 MR. LEWIS: --- right ---

23 THE COURT: --- was the one that was given ---

24 MR. LEWIS: --- that was---

25 THE COURT: -- given to him by Mr. McNeil so I

1 sustain the objection.

2 MR. LEWIS: Yes, Your Honor.

3 Q. [Mr. Lewis] Did you have any money in evidence that  
4 was taken from the pants of the complainant in this case?

5 A. North Charleston had I think like \$40 that was  
6 released to Maurice ---

7 Q. \$40.07 ---

8 A. --- on the scene ---

9 Q. --- \$40.07?

10 A. Some change. I can't remember the exact change.

11 Q. And y'all gave it back to him without doing anything  
12 with it?

13 A. Correct.

14 Q. Didn't take a picture of it, just gave it to him?

15 A. Correct.

16 Q. I may have asked this already and if I did I  
17 apologize. Did you go to gas stations where they claim  
18 they went to?

19 A. No.

20 Q. Did you go to the hotel where they claimed they went  
21 to do -- or where the claim was that they were doing  
22 drugs in the parking lot?

23 A. No.

24 Q. And you didn't try to get any phone records or  
25 anything else like that?

1 A. That's correct.

2 Q. You said several times that you verified the address  
3 for the -- for the alleged crime. Don't you really mean  
4 by verify is he told you that's where it happened; right?

5 A. And we went out there and he showed us where.

6 Q. Right. That's what he said happened?

7 A. Oh, correct. Yes.

8 Q. You don't have anything that corroborates that?

9 A. Other than his statement, no.

10 Q. Nothing?

11 A. Correct.

12 MR. LEWIS: One moment, Judge.

13 THE COURT: Yes, sir.

14 [Whereupon, Mr. Lewis and Mr. D'Angelo confer]

15 Q. [Mr. Lewis] In the interview you actually had a  
16 name other than Boo; right? Didn't you get told that it  
17 was Duvall Crummey, this other witness?

18 A. I think that was during North Charleston's  
19 interview, not us ---

20 Q. --- oh ---

21 A. --- they went out and spoke to him.

22 Q. But you had their interview to watch; right?

23 A. Correct.

24 Q. So you could have watched it and then gone and  
25 talked to that man?

1 A. Well, when we talked to him I had a general  
2 understanding that Boo was the guy that drove him to the  
3 hospital.

4 Q. Right.

5 A. And when we pushed him further and asked him, hey,  
6 who drove you to the hospital, can we get his  
7 information, he just sort of said he's not going to talk  
8 to you, he doesn't want to cooperate with the police.

9 Q. Okay. So as soon as one witness that you talked to  
10 said, hey, don't bother talking to this other witness,  
11 you said, alright, we won't?

12 A. Correct.

13 Q. Okay.

14 [Whereupon, Mr. Lewis and Mr. D'Angelo confer]

15 MR. LEWIS: No further questions, Judge. Thank you.

16 THE COURT: Any redirect?

17 MS. NORVELL: Briefly.

18 THE COURT: Yes, ma'am.

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REDIRECT EXAMINATION

BY MS. NORVELL:

Q. Detective Wilson, was Maurice hesitant -- sorry, was Maurice hesitant in any way about who shot him during your interview with him?

A. No. He was pretty adamant.

Q. And did you learn how long the victim had known the defendant?

A. Since childhood.

Q. And did he indicate any doubt whatsoever about who the person that shot him was?

A. No.

MS. NORVELL: Thank you.

MR. LEWIS: Very briefly, Judge.

THE COURT: Yes, sir.

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RECROSS-EXAMINATION

BY MR. LEWIS:

Q. If I'm in an interview room with you and I tell you I didn't do it, would you believe me?

A. No.

Q. Okay. You've got to investigate it; right?

A. Yes.

Q. Okay. But you didn't investigate this so you can't just take him at his word; right?

A. I understand where you're coming from, sir.

MR. LEWIS: Alright. Thank you. Nothing further.

THE COURT: Thank you. Mr. Wilson, you may step down.

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

1 MS. NORVELL: The State calls Dr. Rodelsperger,  
2 George Rodelsperger. He is...

3 THE COURT: Alright. If we could have the witness  
4 brought in the courtroom, please.

5 [Whereupon, Dr. Rodelsperger comes forward]

6 THE CLERK OF COURT: Please raise your right hand.

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

9 THE CLERK OF COURT: If you could for the record,  
10 please state your name, spelling your last name.

11 THE WITNESS: My last -- my name is George Edward  
12 Rodelsperger, Jr., spelled R-O-D-E-L-S-P-E-R-G-E-R.

13 [Whereupon, the witness takes the witness stand]

14 MS. NORVELL: Good afternoon, Dr. Rodelsperger. If  
15 you feel comfortable you can pull your mask down so that  
16 you can speak directly into the microphone.

17 THE WITNESS: Right.

18 - - - - -

19 GEORGE RODELSPERGER, JR., M.D.,

20 Having Been First Duly Sworn,

21 Was Examined and Testified as Follows:

22 DIRECT EXAMINATION

23 BY MS. NORVELL:

24 Q. Dr. Rodelsperger, are you currently employed?

25 A. I'm retired.

1 Q. And where are you retired from?

2 A. From practicing emergency medicine that lasted a  
3 little over thirty years.

4 Q. Okay. Do you still have an active medical license  
5 or have you allowed that to lapse?

6 A. No, I still have an active medical license. I work  
7 as a volunteer physician at Barrier Island Free Medical  
8 Center on Johns Island.

9 Q. Okay. And is your medical license a South Carolina  
10 license?

11 A. It is.

12 Q. Where did you attend medical school?

13 A. The Medical University of South Carolina.

14 Q. And did you complete additional medical training?

15 A. I did. I completed an internship in surgery at the  
16 National Military Medical Center in Bethesda, Maryland.  
17 And I completed a residency in emergency medicine at Wake  
18 Forest University in Winston Salem, North Carolina.

19 Q. And do -- did you hold any board certifications?

20 A. I did. I was board certified in emergency medicine  
21 for thirty years.

22 Q. Okay. When you were practicing, where were you last  
23 employed?

24 A. I was employed by Roper Emergency Physicians and we  
25 staffed, at the time I retired, four emergency

1 departments within the Roper system.

2 Q. How long were you employed at the Roper hospital  
3 system?

4 A. From 1988 until 2020.

5 Q. And 2020 is when you retired?

6 A. That's correct.

7 Q. Have you ever previously testified in court?

8 A. Yes.

9 Q. Approximately how many times?

10 A. Six to ten.

11 Q. Okay. And were they State Courts?

12 A. Yes.

13 Q. Were you ever qualified as an expert witness?

14 A. Many times.

15 Q. Okay. In what area were you qualified as an expert?

16 A. Emergency medicine.

17 MS. NORVELL: Your Honor, at this time the State  
18 offers Dr. George Rodelsperger as an expert in emergency  
19 medicine.

20 THE COURT: Any voir dire?

21 MR. LEWIS: No voir dire. No objections.

22 THE COURT: Alright. Ladies and gentlemen of the  
23 jury, normally a person cannot give opinion testimony.  
24 Normally when a person testifies they must testify as to  
25 what they either saw, heard, sensed by smell, or

1 something of that nature. However, there is an exception  
2 when someone is qualified because of education or  
3 experience they are permitted to give their opinion in  
4 certain areas if the Court qualifies them that way.

5 This particular witness will be qualified in the  
6 area of emergency medicine to give opinion testimony in  
7 that area. His qualification as an expert witness does  
8 not mean that you must accept his opinion, but it is  
9 evidence for you to use in any way you see fit and give  
10 the weight and credibility you believe is appropriate.

11 MS. NORVELL: Thank you, Your Honor.

12 Q. [Ms. Norvell] Dr. Rodelsperger, did you work at  
13 just one Roper facility or did you work at multiple?

14 A. I worked at multiple.

15 Q. Can you just describe the transition or shift  
16 process for the jury?

17 A. Yes. We had -- when this particular incident  
18 occurred in 2018, I believe, we were -- we were staffing  
19 three facilities for Roper Hospital: Roper Downtown;  
20 Roper Mount Pleasant; and Roper at Northwoods, Roper  
21 Northwoods being a free-standing emergency department up  
22 in North Charleston.

23 And we, as a group of physicians, worked equally  
24 between the three facilities. Emergency medicine staffs  
25 -- we staff facilities 24 hours a day, 365 days a year,

1 so I worked days, I worked evenings, I worked nights.

2 Q. And the -- you mentioned that Roper Northwoods was  
3 considered an emergency clinic. Was that -- would that  
4 be considered a trauma center?

5 A. No, it was not a trauma center but it was a --  
6 pretty much a full service emergency department. We took  
7 ambulance patients and we took walk-in patients and we  
8 cared for what we could and dismissed what we could to  
9 home from there.

10 And what required higher levels of care of  
11 operations or admissions or whatever, we transferred to  
12 appropriate facilities.

13 Q. Okay. How often did you have the occasion to treat  
14 gunshot wounds at the emergency clinic each year?

15 A. In my practice of emergency medicine throughout the  
16 system or just at Roper Northwoods?

17 Q. At Roper Northwoods.

18 A. At Roper Northwoods, you know, it would be -- you  
19 know, I would -- I personally would probably see one a  
20 year or so who would show up by POV and some of them were  
21 minor and some of them were not so minor and were very  
22 life-threatening.

23 Q. So in some you had the capabilities to treat them  
24 and others maybe not the case?

25 A. Well, in some you had to -- we treated them all but

1 in some you had the ability to treat them and send them  
2 home and some we rapidly arranged for transfer to an  
3 appropriate facility.

4 Q. Did you have the occasion to treat Maurice  
5 Washington as a patient in July of 2016?

6 A. I did.

7 Q. And were you the initial treating physician?

8 A. I was.

9 Q. What were your initial concerns upon receiving  
10 Maurice Washington into your care as a patient?

11 A. Well, he arrived via private automobile, dropped off  
12 at the front door. He was very anxious and had a gunshot  
13 wound that involved some superficial wounds to his hand  
14 and he was shot in this left groin and he was  
15 tachycardic, which is evidence of, you know, blood loss  
16 and early shock.

17 His blood pressure was okay at the time but he had a  
18 wound in his groin area that was potentially life-  
19 threatening because of the proximity of some very major  
20 blood vessels in that area.

21 Q. Did you -- did the facility classify his condition,  
22 the victim's condition ---

23 A. --- yes, his initial triage was he was classified as  
24 being a critical patient.

25 Q. Okay. And does that condition have to improve in

1 order to be transported or?

2 A. Yes.

3 Q. Okay.

4 A. Yes. I mean, you have to -- you have to stabilize  
5 patients to have them -- you know, ready to go into an  
6 ambulance and leave my immediate care to go to some other  
7 physician's care.

8 Q. Okay.

9 A. In that time frame, you know, to go to downtown  
10 Charleston is about fifteen minutes and I've got to be  
11 confident that I can send someone out of my care for  
12 fifteen minutes and that they will arrive safely at their  
13 destination.

14 Q. We're sort of talking about the endgame of your  
15 treatment, your course of treatment?

16 A. Correct.

17 Q. Did you determine a course of treatment with regard  
18 to Maurice Washington as a patient?

19 A. I did. When I reviewed his record here recently I  
20 saw that he was pretty much upon my seeing him and did a  
21 quick cursory examination seeing what his wound was, I  
22 immediately called for emergency transport, immediately  
23 had someone call the trauma center to find an accepting  
24 physician to get him transferred to an appropriate level  
25 of care.

1 Q. And do you recall the location that you transferred  
2 him to?

3 A. He went to MUSC.

4 Q. Okay. And in your expert medical opinion, was the  
5 injury, the gunshot wound that he sustained to his groin,  
6 lift-threatening?

7 A. Yes, it was.

8 Q. Okay. Are you familiar with powder burns or  
9 stippling as a result of a gunshot wound?

10 A. Yes.

11 Q. Did you make any note of that in your treatment or  
12 medical record ---

13 A. --- no ---

14 Q. --- for this patient?

15 A. I did not.

16 Q. Thank you so much, Dr. Rodelsperger. I don't have  
17 any further questions for you.

18 MR. LEWIS: No questions, Judge.

19 THE COURT: Alright. Thank you, sir. You may step  
20 down.

21 THE WITNESS: Thank you.

22 [Whereupon, the witness is excused and exits the  
23 witness stand]

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25

1 MR. DUTREMBLE: The State calls Dr. Stephen Fann.

2 [Off the record momentarily]

3 [Whereupon, Dr. Fann comes forward]

4 THE CLERK OF COURT: Please raise you right hand.

5 [Whereupon, the witness is duly sworn by the Clerk

6 of Court]

7 THE CLERK OF COURT: You can go ahead and sit.

8 [Whereupon, the witness takes the witness stand]

9 THE CLERK OF COURT: If you could please state your  
10 name and spell your last name for the record.

11 THE WITNESS: Stephen Austin Fann, F-A-N-N.

12 - - - - -

13 STEPHEN FANN, M.D.

14 Having Been First Duly Sworn,

15 Was Examined and Testified as Follows:

16 DIRECT EXAMINATION

17 BY MR. DETREMBLE:

18 Q. Good afternoon Doctor Fann. Could you please tell  
19 the jury what your occupation is?

20 A. I am an acute care surgeon at the Medical University  
21 of South Carolina.

22 Q. So is it fair to say, then, that you are a licensed  
23 physician in this state?

24 A. Yes.

25 Q. How long have you been practicing medicine?

1 A. Since 1998.

2 Q. Okay. And where did you receive your medical  
3 training?

4 A. I received my medical training at the East Carolina  
5 University School of Medicine, which is now the Brody  
6 School of Medicine.

7 Q. And in your present position do you have any  
8 expertise or area of specialty?

9 A. Expertise in trauma and acute care surgery.

10 Q. Okay. And what sort of training does one have to  
11 have to be an acute care surgeon?

12 A. The training would entail four years of medical  
13 school. I have completed seven years of residency and  
14 then accreditation with the American Board of Surgery.

15 Q. And how long have you been affiliated with MUSC?

16 A. Since 2012.

17 Q. Can you tell us a little bit about some of the  
18 responsibilities that you have as an acute care surgeon?

19 A. I remain available to respond to acute trauma  
20 patients, as well as acute general surgery patients, that  
21 present to the ER or within the actual physical confines  
22 of the hospital.

23 Q. Okay. How many surgeries would you say you conduct  
24 each year, approximately?

25 A. Four to 500.

1 Q. And do you hold any teaching positions in your area  
2 of expertise?

3 A. I'm a Professor of Surgery at the Medical University  
4 of South Carolina.

5 Q. And you've testified before in criminal trials?

6 A. Yes, I have.

7 Q. Have you ever been qualified as an expert?

8 A. Yes, I have.

9 Q. Do you know approximately how many times you've been  
10 qualified as an expert?

11 A. Probably a dozen.

12 Q. Okay.

13 MR. DUTREMBLE: At this point in time, Your Honor,  
14 the State would move to admit Doctor Fann as an expert in  
15 acute care surgery.

16 MR. LEWIS: No voir dire and no objection.

17 THE COURT: Alright. Ladies and gentlemen,  
18 similarly to the last witness, this witness has been  
19 offered as an expert witness. Ordinarily witnesses can  
20 only testify to something they observed, saw, sensed by  
21 smell, or something of that nature.

22 But because of education and training and experience  
23 certain witnesses are permitted to give their opinion in  
24 certain areas if the Court qualifies them that way. This  
25 witness will be qualified in the area of acute care

1 surgeries -- or acute care surgery to give opinion  
2 testimony in that area. Again, that does not mean you  
3 must accept the opinion but it is evidence for you to use  
4 in any way you see fit and give the weight and  
5 credibility you believe is appropriate.

6 Q. [Mr. DuTremble] Dr. Fann, did you have the occasion  
7 to treat Maurice Washington in July of 2016?

8 A. Yes, I did.

9 Q. But you weren't the initial treating physician;  
10 correct?

11 A. As I recall, he was transferred in from another  
12 facility.

13 Q. And is that something that happens fairly commonly  
14 for MUSC?

15 A. Yes.

16 Q. Why would he have been transported to your care?

17 A. If there was concern from the initial receiving  
18 facility that his injuries warranted a higher level of  
19 care, they would have transferred him for assessment for  
20 that.

21 Q. And what injuries were you treating him for  
22 specifically?

23 A. He had a gunshot wound to his left proximal thigh  
24 groin area, as well as injuries to his hands.

25 Q. And is it fair to say that the hands were not your

1 main concern at that point?

2 A. They were fairly superficial in nature.

3 Q. Okay. So what was your main treatment concern for  
4 Mr. Washington at the time you saw him?

5 A. Given the location of the injury, there was concern  
6 for a potential major vascular injury and so he underwent  
7 an ATLS or an Advanced Trauma Life Support type algorithm  
8 for evaluation of trauma.

9 Q. Okay. And does that give a different classification  
10 level for different types of emergent cases?

11 A. We have high level alerts and then intermediate  
12 level alerts and I think he would have been an  
13 intermediate level given his hemodynamic stability.

14 Q. Okay. And a hemodynamic stability just indicates  
15 what for the lay person?

16 A. His blood pressure was acceptable, heart rate was  
17 acceptable.

18 Q. Okay. And did you happen to perform any sort of  
19 physical exams on him while he was in your care?

20 A. He would have been examined in the trauma bay.

21 Q. And what sort of exams would you have conducted?

22 A. Physical exams. A head-to-toe exam, special exams  
23 of the areas of concern, documentation of injuries, where  
24 we found them, suspected injuries, x-rays, and then  
25 additional CAT scans based on that.

1 Q. Okay. And what was your -- what course of action  
2 did you determine was prudent in treating him?

3 A. Given the location of that injury and the location  
4 of the arterial supply to the left leg, I deemed it  
5 necessary to perform scans of the patient to ensure that  
6 those vessels were not injured.

7 Q. Okay.

8 [Whereupon, State's Exhibit Numbers 4 and 5 were  
9 marked for identification]

10 MR. DUTREMBLE: Your Honor, permission to approach  
11 the witness?

12 THE COURT: You may.

13 Q. [Mr. DuTremble] Dr. Fann, I'm going to show you  
14 what has been stipulated to already as State's Exhibits 4  
15 and 5. If you could, please take a look at those.

16 [Whereupon, the witness is shown exhibits]

17 Q. [Mr. DuTremble] Do you recognize those?

18 A. Yes, I do.

19 Q. Alright. Can you tell the jury what those are?

20 A. These are -- this [indicates] is a tomogram from a  
21 CAT scan, which is the overview of a Maurice Washington.  
22 And this [indicates] is a pelvic film of Maurice  
23 Washington.

24 MR. DUTREMBLE: Your Honor -- I'll take those back  
25 from you, Doctor -- at this time, permission to publish

1 to the jury Exhibits 4 and 5?

2 MR. LEWIS: No objection.

3 THE COURT: And those are offered as well?

4 MR. DUTREMBLE: Yes, Your Honor.

5 MR. LEWIS: No objection.

6 THE COURT: State's 4 and 5 are admitted without  
7 objection and may be published to the jury.

8 MR. DUTREMBLE: Thank you, Judge.

9 [Whereupon, State's Exhibit Numbers 4 and 5 are  
10 admitted into evidence by the Court]

11 Q. [Mr. DuTremble] And Doctor Fann, I'm going to show  
12 you State's Exhibit Number 4 first.

13 [Whereupon, the Exhibit is published for the jury]

14 Q. Can you describe for the jury what exactly it is  
15 we're looking for in this?

16 A. So again, this would be the initial scan of the CT  
17 scan, which will be followed with subsequent slices  
18 showing incremental detail. This is done for marking and  
19 labeling by the technicians.

20 You can see the pelvic bones of the patient here  
21 [indicates]. This [indicates] will be the femoral heads.  
22 This [indicates] is a paperclip marking the approximate  
23 location of the gunshot wound, and you have a metallic  
24 body sitting here [indicates] consistent with a  
25 projectile.

1 Q. And so this little line right here [indicates] is  
2 what you're referring to as the paperclip?

3 A. Yeah. It's been unfolded and you can see the very  
4 tip is here [indicates].

5 Q. Okay. Why do you place those there?

6 A. It allows you to see the wound and to allow  
7 correlation with the wound and the position of the  
8 projectile.

9 Q. Okay. And you stated that this right here  
10 [indicates] was the projectile?

11 A. Yes.

12 Q. Okay. I'm going to move on now to State's Exhibit 5  
13 if you could tell the jury a little bit about what we  
14 have in this one?

15 [Whereupon, the Exhibit is published for the jury]

16 A. Much of the same information on this one, AP pelvis,  
17 which would have been a dedicated film taken in the  
18 trauma bay prior to the scan.

19 You have the same metallic clip here [indicates]  
20 showing the approximate location of the gunshot injury,  
21 and then the metallic foreign body with the projectile  
22 there [indicates].

23 Q. Okay. When you look at a scan like this, you know,  
24 obviously we can see the hard tissues of the body; we can  
25 see the metallic projectile in there. What other sort of

1 information are you able to glean from these scans?

2 A. So with the CAT scan -- the x-rays themselves, you  
3 only have one view. For this one you get laterality of  
4 the projectile. You won't get the depth, how far it is  
5 from anterior to posterior.

6 With the CT scan you're looking at the entirety of  
7 the body as a cylinder, much like you would slice across  
8 an apple and view that slice and then continue to slice  
9 your way down.

10 You get information with soft-tissue stranding, air  
11 that should not be present in a space, hematoma injury to  
12 vessels; things of that nature.

13 Q. And so these are all things that you are taking into  
14 consideration when you're making your treatment  
15 determinations?

16 A. Yes.

17 Q. Okay. Now, you mentioned before, and correct me if  
18 I'm wrong, you decided that he did not need surgery at  
19 this point?

20 A. That is correct.

21 Q. And why exactly was that?

22 A. There was no evidence of injury to the vasculature  
23 of the leg. There was no evidence of muscular bleeding  
24 of the muscles of the leg, no boney injury or fracture,  
25 the bullet had not entered a joint space, and the patient

1 was able to ambulate in the ER.

2 Q. Okay. And so it's safe to say then that that bullet  
3 was left in him?

4 A. Yes, it was.

5 Q. And would that cause any potential long-term  
6 complications?

7 A. It varies on the location of the bullet. Many  
8 people tolerate these projectiles quite well their entire  
9 lifetime. The bullets can erode.

10 They can find their way to the skin and cause pain  
11 or migrate near joint surfaces, et cetera. But a lot of  
12 these bullets are tolerated well.

13 Q. Okay. Now when you were doing the physical exam  
14 with him, did you notice anything like powder burns on  
15 his skin?

16 A. Did not document any powder burns on the skin.

17 Q. Okay. And getting back to the injury itself, in  
18 your experience and expertise how dangerous is a gunshot  
19 wound to this area?

20 A. So given the major vessels that supply blood to the  
21 leg, a gunshot to the groin or proximal thigh can be  
22 life-threatening and can be fatal.

23 Q. Okay. And with respect to the testing and the scans  
24 and everything else that you did, were you able to  
25 determine a trajectory for this projectile?

1 A. Looking at the CT scan you can see the point of  
2 entry and then you can follow those cuts inferiorly and  
3 see that the bullet moved from towards the inner thigh  
4 high, towards the outer thigh low. So, in other words,  
5 it moved in an inferior lateral or a lower to left  
6 manner.

7 Q. Okay.

8 MR. DUTREMBLE: Judge, permission to publish again?

9 THE COURT: Yes.

10 [Whereupon, the Exhibit is published again for the  
11 jury]

12 Q. [Mr. DuTremble] So if you could just briefly kind of  
13 indicate that area it travelled towards?

14 A. The axial cuts would give more data. But,  
15 basically, your injury is here [indicates] and the bullet  
16 is laying below that plane.

17 Q. Okay ---

18 A. --- as it moved downward and laterally, as we would  
19 say.

20 Q. Now respect to bullet trajectories themselves, does  
21 the -- does the path that a bullet follows when it's  
22 inside the body necessarily indicate its direction of  
23 travel when it's stopped?

24 A. Not always. Bullets do not always follow straight  
25 paths.

1 Q. Okay. And with an injury to this area, what are  
2 some of the issues that you would be concerned about with  
3 respect to a migrating trajectory?

4 A. I have seen these bullets travel northward, if you  
5 will, above the groin and into the pelvis. I have seen  
6 them fracture the femurs.

7 I've seen them lacerate the great vessels supplying  
8 the leg. I've seen them travel inferiorly inside a  
9 fairly significant muscular injury and damage.

10 Q. So in your background and experience, can a gunshot  
11 wound injury cause death?

12 A. Yes, it can.

13 MR. DUTREMBLE: Court's indulgence.

14 THE COURT: Yes, sir.

15 [Whereupon, Ms. Norvell and Mr. DuTremble confer]

16 Q. [Mr. DuTremble] I don't have anything further from  
17 you Doctor, so I'll turn you over to the defense.

18 MR. LEWIS: No questions, Judge.

19 THE COURT: Alright. Thank you, Doctor. You may  
20 step down.

21 THE WITNESS: Thank you.

22 [Whereupon, the witness is excused and exits the  
23 witness stand]

24

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State v Michael A. McNeil  
Lieutenant Jennifer Nates-Direct Examination by Mr. DuTremble  
August 17, 2021

1 MR. DUTREMBLE: The State calls Lieutenant Jennifer  
2 Nates.

3 [Whereupon, Lieutenant Nates comes forward]

4 THE CLERK OF COURT: If you could please raise your  
5 right hand.

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

8 THE CLERK OF COURT: Could you please take a seat.

9 [Whereupon, the witness takes the witness stand]

10 THE CLERK OF COURT: And for the record, please  
11 state your name, spelling your last.

12 THE WITNESS: Jennifer Nates. N, as in Nancy, A-T-  
13 E-S.

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15 JENNIFER NATES,

16 Having Been First Duly Sworn,

17 Was Examined and Testified as Follows:

18 DIRECT EXAMINATION

19 BY MR. DUTREMBLE:

20 Q. Good afternoon, Lieutenant Nates. Would you mind  
21 telling the jury where you work?

22 A. Where is the jury? Out there [indicates]?

23 Q. Yes, ma'am.

24 A. I work for the South Carolina Law Enforcement  
25 Division in the trace evidence section.

1 Q. Okay. And how long have you worked in trace  
2 evidence at SLED?

3 A. I've been in trace evidence for approximately  
4 twenty-three years.

5 Q. Okay. And what are some of the duties and  
6 responsibilities of your present position?

7 A. My present position is that I am the supervisor of  
8 the department. I'm responsible for case work,  
9 testifying in court, managing the daily operations of the  
10 department and the employees.

11 Q. Okay. And can you please explain to the jury your  
12 educational background?

13 A. I have a Bachelor of Science degree in chemistry  
14 from a state school in Pennsylvania called California  
15 University of Pennsylvania.

16 Once I received that degree, I interned at SLED for  
17 a summer and then I was hired in the drug analysis  
18 department. I completed the drug analysis training and  
19 worked drug and poison cases for eleven months or so.

20 And then there was an available position in trace  
21 evidence, which I transferred into and began a five-year  
22 training program in that department.

23 Q. Okay. So have you received any specialized training  
24 in trace evidence?

25 A. The specialized training is basically in the form of

1 conferences, classes, and presentations that are done by  
2 either vendors or people in the field on the  
3 instrumentation and the types of analyses that are  
4 performed in trace evidence.

5 Q. And as part of your role is one of your  
6 responsibilities the examination of gunshot residue kits?

7 A. That is one of my responsibilities.

8 Q. And approximately how many GSR kits have you  
9 analyzed during your time in trace evidence?

10 A. Well into the thousands.

11 Q. Okay. Have you previously testified as an expert  
12 witness in court?

13 A. I have.

14 Q. Is that in both state and federal courts?

15 A. State, federal and magistrate level.

16 Q. Okay. And just kind of a ballpark approximation,  
17 how many times would you say you've testified?

18 A. I have testified 150 times in generalities but 130  
19 of those were in actual gunshot residue analysis.

20 MR. DUTREMBLE: Your Honor, at this time the State  
21 would offer Lieutenant Nates as an expert in GSR  
22 analysis.

23 MR. LEWIS: No voir dire and no objection.

24 THE COURT: Ladies and gentlemen of the jury, again,  
25 normally a person cannot give opinion testimony.

1 Normally when a person testifies they must testify as to  
2 what they either saw, heard, sensed by smell, or  
3 something of that nature. However, there is an exception  
4 when someone is qualified because of education or  
5 experience. They are permitted to give their opinion in  
6 certain areas if the Court qualifies them that way.

7 This witness will be qualified in the area of  
8 gunshot residue analysis to give opinion testimony in  
9 that area. That does not mean that you must accept the  
10 opinion but it is evidence for you to use in any way you  
11 see fit and give the weight and credibility you believe  
12 is appropriate.

13 Q. [Mr. DuTremble] Would you mind explaining to us what  
14 gunshot residue is?

15 A. Gunshot residue is a term that's used to describe  
16 any and all residue that is produced when a firearm is  
17 discharged. Our laboratory specifically analyzes for  
18 what is called primer gunshot residue.

19 Primer gunshot residue consists of residue from the  
20 primer component of the cartridge only. It does not  
21 include any of the other residue that can be produced  
22 when a gun is discharged.

23 Q. Okay. And is there something in particular when  
24 you're doing a gunshot residue analysis that you're  
25 looking for as part of that primer analysis?

1 A. For our laboratory, since we analyze for primer GSR,  
2 we are looking for three elements within a single  
3 particle. Those elements are barium, antimony, and lead.

4 Q. Okay. And how does GSR get on something?

5 A. Once a firearm is discharged, a cloud or a plume can  
6 be formed that will contain these molten particles. You  
7 of course cannot see them, but since they are  
8 microscopic, they can deposit on anywhere in the vicinity  
9 to that firearm being discharged.

10 Once a firearm is discharged and it is on your  
11 hands, you can transfer it. You can pick up a firearm  
12 that has been recently fired and transfer gunshot residue  
13 to your hands. You can also touch something that has  
14 gunshot residue on it and you can transfer it.

15 Q. Okay. And of course in your position, did you have  
16 the opportunity to analyze any piece of evidence in this  
17 case, the State vs. Michael McNeil?

18 A. Can you repeat that? I didn't hear the last part.

19 Q. Sorry. Did you analyze anything for GSR in this  
20 case?

21 A. I did.

22 Q. Okay. And do you know who handled the items prior  
23 to your analysis?

24 A. Prior to the case being submitted to SLED I do not  
25 know who would have handled it, other than I have

1 information on who collected the GSR kit. So, according  
2 to the paperwork that I received with the GSR kit, the  
3 collecting officer was Detective R and I can't make out  
4 the last name. But it was submitted by Kathy Hellman  
5 [phonetic] of the Charleston County Solicitor's Office.

6 Q. Okay. And when something comes into SLED, what is  
7 done to ensure the reliability of the evidence that is  
8 tested in your trace evidence lab?

9 A. For the? Could you repeat that, please?

10 Q. The reliability. I'm sorry.

11 A. When evidence is submitted to SLED it is submitted  
12 by the investigating agency, by one of their officers or  
13 evidence custodians.

14 They will submit the evidence into a locker system,  
15 which is a sealed locker that they put the evidence in  
16 and then the evidence is locked in the locker. The  
17 evidence control employees will then take the evidence  
18 from that locker, take it into their custody, assign the  
19 item of evidence a laboratory number.

20 Each item of evidence or each case that is submitted  
21 to SLED is given a unique laboratory number. Once a  
22 laboratory number is assigned, any additional items on  
23 that case are given sequential item numbers for the case.

24 They will make certain the evidence is appropriately  
25 sealed and it will be placed into their evidence storage

1 area for the different departments to pick up.

2 Q. Okay. And is there any term that you use for this,  
3 for tracking and maintaining who has handled items of  
4 evidence or removed it from those lockers?

5 A. There is a chain of custody that is associated with  
6 each item of evidence that is submitted.

7 Q. Okay. And just kind of briefly, what exactly is a  
8 chain of custody?

9 A. A chain of custody is an electronic or a paper copy  
10 of each step that that evidence takes in the laboratory.

11 It shows who brought the evidence in, it tracks the  
12 time and date for every transfer of that evidence from  
13 person to person or person to location.

14 Q. Okay. And are all SLED employees trained on the  
15 policies and procedures of chain of custody?

16 A. To my knowledge, yes.

17 Q. And is the chain of custody kept in the normal  
18 course of business for SLED?

19 A. It is.

20 Q. Okay. Would you accept an item and test it if it  
21 appeared to have been tampered with?

22 A. It depends on what your definition of being tampered  
23 with. Sometimes we receive evidence that does not  
24 contain a proper seal, which means the evidence may be  
25 sealed but not initialed. Sometimes the envelopes can be

1 opened but there may be an inner envelope that is sealed.  
2 But if the evidence appears to have been tampered with to  
3 a degree that it would affect my analysis, I would not  
4 analyze it.

5 Q. Alright.

6 [Whereupon, State's Exhibit Number 6 was marked for  
7 identification]

8 MR. DUTREMBLE: Your Honor, permission to approach?

9 THE COURT: Yes.

10 Q. [Mr. DuTremble] At this time, I'm showing you what  
11 has been proffered as State's Exhibit Number 6. Could  
12 you please take a look at this?

13 [Whereupon, the witness is shown exhibit]

14 Q. [Mr. DuTremble] Do you recognize that?

15 A. I do.

16 Q. And could you tell the jury what it is?

17 A. This is a copy of the chain of custody for the item  
18 that I analyzed in this case. And it has a stamp on it  
19 where it was prepared for release by the employee  
20 responsible for releasing the chains of custody.

21 MR. DUTREMBLE: Your Honor, at this time the State  
22 moves to admit Exhibit 6 in evidence.

23 [Whereupon, Mr. DuTremble and Mr. Lewis confer]

24 MR. LEWIS: Yeah. Yeah, that's -- you're good.  
25 You're good to go. No objection.

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1 THE COURT: Alright. State's Number 6 is admitted  
2 without objection.

3 [Whereupon, State's Exhibit Number 6 is admitted  
4 into evidence by the Court]

5 Q. [Mr. DuTremble] Alright. So you previously  
6 testified that you've analyzed one gunshot residue item  
7 in this case. Did you create a report with the findings?

8 A. I did.

9 MR. DUTREMBLE: Court's indulgence. Approach the  
10 witness, Your Honor?

11 THE COURT: Yes.

12 Q. [Mr. DuTremble] I'm going to show you what's been  
13 proffered as State's Exhibit Number 2. Could you please  
14 take a look at that and tell us if you recognize it?

15 [Whereupon, the witness is shown exhibit]

16 A. This is a copy of the report that I issued on the  
17 GSR kit that I analyzed.

18 MR. DUTREMBLE: Your Honor, at this time the State  
19 would move to admit Exhibit Number 2.

20 MR. LEWIS: No objection.

21 THE COURT: State's Number 2 is admitted without  
22 objection.

23 [Whereupon, State's Exhibit Number 2 is admitted  
24 into evidence by the Court]

25 MR. DUTREMBLE: Permission to publish, Your Honor?

1 THE COURT: Yes, sir.

2 [Whereupon, exhibit is published for the jury]

3 Q. [Mr. DuTremble] Lieutenant Nates, I'm showing you  
4 the first page of what is State's Exhibit Number 2. Just  
5 briefly, I'm going to show you the second page. Is that  
6 your signature on it?

7 A. It is.

8 Q. Alright. And so this is the report that you  
9 prepared in the course of this analysis?

10 A. Yes.

11 Q. Alright. And do you recall what the results of this  
12 test were?

13 A. I did find through my analysis that there were  
14 particles characteristic of primer gunshot residue found  
15 on the GSR kit.

16 Q. Okay. Can you tell us a little bit about how you  
17 test this GSR kit in order to come up with this result?

18 A. When a GSR kit is submitted, it will be -- it's an  
19 envelope that contains samples. Previously there were  
20 four samples for each GSR kit. Now there are only two.

21 In this case there were four samples. The samples  
22 are very small vials, probably about that big  
23 [indicates], if you can see me.

24 They have an adhesive coating on a round carbon  
25 planchet. So the investigating officer or the person

1 collecting the kit will dab it over the person's hand  
2 that they are performing the kit on. We receive the kit,  
3 we open it. We look at the information sheet inside the  
4 kit and compare it to the information on the outside of  
5 the kit.

6 We also compare that to the submission documents to  
7 make certain the kit that we have is actually from that  
8 person that it says it's from. We look at the samples,  
9 determine if they need any prep work for analysis and  
10 then we take it to an instrument for analysis.

11 The instrument is a standing electron microscope.  
12 We will set up an automated run that will basically scan  
13 the sample to see if there are any particles present on  
14 the sample that fit into the category of primer gunshot  
15 residue, meaning they contain barium, antimony, and lead.

16 So the automated run, it scans over each particle,  
17 it locates a particle, does a very quick x-ray to  
18 determine what elements are present and then goes to the  
19 next area.

20 Once the analysis is completed, the analyst, who in  
21 this case was me, went back and verified the particles  
22 that the instrument said was primer gunshot residue.

23 Sometimes the instrument can miscall something or it  
24 just -- it takes a very quick x-ray. There may not be  
25 enough counts so the analyst has to physically verify

1 each particle to determine if it is in fact primer  
2 gunshot residue. So I analyzed the samples, went back  
3 and verified the particles, compiled my data, and then  
4 issued the report.

5 Q. Okay. Now, you've talked about particles and you've  
6 talked about different elements. But at the end of the  
7 day, when you do a gunshot residue kit analysis what does  
8 that evidence actually tell you?

9 A. For gunshot residue evidence, what we are looking  
10 for is for the presence or absence of the particles of  
11 gunshot residue.

12 What it can tell you is that if you find gunshot  
13 residue on a person, it means they could have fired a  
14 weapon, they could have been in the vicinity to the  
15 discharge of a weapon, or they could have handled  
16 something with gunshot residue on it.

17 Q. Okay. And specifically with respect to someone  
18 being in the vicinity of a firearm being fired, what are  
19 the sorts of things that could affect that outcome?

20 A. In the vicinity? Intervening objects can affect how  
21 much gunshot residue is deposited on a person, where a  
22 person sustained a gunshot wound, how far they were from  
23 the gun when it was discharged, and activity after the  
24 deposition of the particles.

25 Q. Alright. Now, when you're doing this analysis it'll

1 tell you these things are present but it won't  
2 necessarily make a finding as to where someone was with  
3 respect to that gun; right? It couldn't tell you that it  
4 was two feet versus five feet, for example?

5 A. No. We are not able to tell that. With gunshot  
6 residue, the deposition and the production can vary from  
7 gun to gun, from ammunition to ammunition, so it's not  
8 consistent. It's a very random deposition.

9 So we are looking for the presence of absence just  
10 to state whether that person may have fired a weapon, may  
11 have been in the discharge, or may have handled something  
12 with gunshot residue.

13 Q. Alright. Now, how does SLED prioritize a case like  
14 this where you have a gunshot residue kit on a gunshot  
15 victim?

16 A. Right now we do analyze victim kits but they are not  
17 a high priority analysis because if someone sustains a  
18 gunshot wound, they were in front of the muzzle of the  
19 gun when it was discharged and we expect to find gunshot  
20 residue there.

21 In the majority of the cases we are asked if the  
22 victim potentially fired a weapon, as well, and we are  
23 not really able to answer that question in most cases.  
24 So if I have a victim who has sustained a gunshot wound,  
25 I expect to find gunshot residue on them.

1 MR. DUTREMBLE: Okay. Court's indulgence, Your  
2 Honor?

3 THE COURT: Yes, sir.

4 [Whereupon, Ms. Norvell and Mr. DuTremble confer]

5 Q. [Mr. DuTremble] Lieutenant Nates, I don't have  
6 anything further for you at this time. Please answer any  
7 questions from the defense.

8 THE COURT: Cross-examination.

9 MR. LEWIS: Briefly, Judge.

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CROSS-EXAMINATION

BY MR. LEWIS:

Q. As part of GSR, you can't tell who shot who; right?

A. No.

Q. You can't tell if someone accidentally shot themselves?

A. No. I can just tell that gunshot residue is present.

Q. Gunshot residue is present?

A. Yes.

Q. Then again, if I fired a weapon and I'm within a certain distance of somebody they may have it on them, they may not, they could have washed their hands. Any number of things could have happened. The wind could have been blowing in a different direction?

A. That is correct. Many factors can affect it.

Q. Okay. But at the heart of it, you can't determine what actually happened, just that there's gunshot residue?

A. I can tell you gunshot residue is present.

MR. LEWIS: Thank you. Nothing further.

MR. DUTREMBLE: Nothing further from the State.

THE COURT: Thank you, ma'am. You may step down.

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

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1 MS. NORVELL: May we approach, Judge?

2 THE COURT: Yes, ma'am.

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

5 THE COURT: Ms. Norvell?

6 MS. NORVELL: Yes, Judge. Judge, at this time, the  
7 State rests.

8 THE COURT: Alright. Ladies and gentlemen of the  
9 jury, the State had rested its case at this time. The  
10 law requires that I send you to your jury room and take  
11 up some matters of law with the attorneys. So I will  
12 send you to your jury room and we will send for you when  
13 we are ready to resume the proceedings.

14 So if you will go to your jury room at this time.  
15 Please do not begin your deliberations. Do not seek to  
16 do any research about any issue which has been raised in  
17 this case by any means whatsoever. Thank you very much.

18 [Whereupon, the jury exits the courtroom at  
19 3:02 p.m.]

20 THE COURT: Alright. Since the State has rested, do  
21 we have any motions?

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MOTION FOR A DIRECTED VERDICT

BY MR. LEWIS:

Judge, at this time I move for a directed verdict. Of the evidence that's been presented here today I think the State has failed to meet their burden for specific intent to kill. We've heard of a discharge of one weapon and one person at one time from a firearm that the State has described, that I actually own one of, that carries a lot more than one round.

If the suggestion here were that if Michael McNeil were the person that fired that weapon, there's nothing that would suggest the intent was to continue firing until this party was deceased, nothing intended to take his life. So for that reason, I think the State has failed to meet their burden for any evidence.

In regards to the existence evidence, I understand we have differences of opinion about the credibility of witnesses but I get that goes to the jury. But in regards to specific intent to kill, I think they've fallen short. Thank you, Judge.

THE COURT: Ms. Norvell?

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1 MS. NORVELL: Thank you, Judge. The victim in this  
2 case, Maurice Washington, testified this morning that he  
3 was shot by a friend that he had known his entire life.  
4 He was -- he indicated that he was leaning into the  
5 defendant's car, following spending the entirety of the  
6 day with him, and watched him pull a gun out and point it  
7 at him and fire a shot at him as he was leaning towards  
8 him.

9 He further testified that he did not know whether  
10 the defendant intended to continue shooting and that is  
11 why he ran not directly down the middle of the road but  
12 ran towards the side to give himself some way to be  
13 shielded.

14 And with a directed verdict motion, Judge, again, we  
15 understand that the Court is concerned not with the  
16 weight of the evidence but with the existence or  
17 nonexistence. And we believe that the victim's testimony  
18 as to those two points can be reasonably inferred by the  
19 jury as specific intent.

20 And if that's the only proffer Mr. Lewis wants me --  
21 wants to address, then I believe that's the evidence --  
22 there is an existence of evidence as to the other facts.  
23 The attempt to kill being that the victim was shot by his  
24 close personal friend that he's known his entire life.  
25 And with the doctor's testimony that it certainly was --

1 could be life-threatening, based on the area in which he  
2 was shot, and the malice also being supported by the same  
3 testimony as the victim. As to the possession of a  
4 weapon, I don't -- do have a motion on that.

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1           MR. LEWIS: Judge, I mean, I understand that there's  
2 been a claim. You understand our differences of opinion  
3 about identity. I think to preserve my record; I will  
4 say I ask the Court to grant my motion for a directed  
5 verdict on that as well.

6           THE COURT: Understood.

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1 MS. NORVELL: And as to the possession of a weapon,  
2 Judge, the victim was able to testify that he has known  
3 the defendant to have this weapon for several years. He  
4 was able to identify it by color, by model, and by  
5 caliber, and he knew him to carry it regularly.

6 I believe frequently is what he testified to. And  
7 certainly the attempted murder being a violent crime, we  
8 believe that there is an existence of evidence as to each  
9 prong of each charge that the defendant is indicted for.

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1 defendant and that the weapon which has been talked about  
2 by the victim was in the defendant's possession while  
3 that violent crime was being committed. So I think there  
4 is evidence that a gun was present. The victim  
5 identified the -- by make and model and caliber. So for  
6 those reasons I respectfully deny your motions for  
7 directed verdict.

8 MR. LEWIS: Yes, Your Honor.

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FIFTH AMENDMENT RIGHTS

THE COURT: Alright. I think now would be as good a time as any to talk with the defendant about his ---

MR. LEWIS: --- yes, sir ---

THE COURT: --- right to testify.

MR. LEWIS: Alright.

THE COURT: Mr. McNeil, if you could stand up for me, sir.

[Whereupon, Mr. McNeil complies]

THE COURT: Please raise your right hand for me.

[Whereupon, Mr. McNeil is duly sworn by the Court]

THE COURT: Alright. Mr. McNeil, the Fifth Amendment to the United States Constitution gives you the right to remain silent in a criminal trial. No one can compel you to testify against yourself. If you choose not to testify, I will tell the jury that that cannot be considered by them in any means whatsoever.

So I assume that your lawyers have talked about you with this issue and while we are on break I want to give you the opportunity to confer with your counsel one last time and make sure that you're making a knowingly and voluntary decision on whether you want to waive your right against self-incrimination and testify on your own behalf. Again, that -- if you choose not to testify, that will not be used against you whatsoever and I will

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1 instruct the jury as such. So we are going to take about  
2 another five minutes. Well, let's say ten. We'll be  
3 back at 3:00 -- a little more than ten, 3:25, and I want  
4 you to talk with Mr. Lewis, Mr. D'Angelo, talk about your  
5 whether you want to testify or not and I will ask you to  
6 give me an answer when we come back into the courtroom at  
7 3:25.

8 MR. LEWIS: Thank you, Judge.

9 THE COURT: Do you understand?

10 MR. MCNEIL: Yes, sir.

11 THE COURT: We'll be in recess until 3:25.

12 MS. NORVELL: Thank you, Judge.

13 [Whereupon, Court is in recess from 3:15 p.m. to  
14 3:25 p.m.]

15 THE COURT: Alright. Mr. McNeil, please stand up  
16 for me.

17 [Whereupon, Mr. McNeil complies]

18 THE COURT: Mr. McNeil, have you had enough time to  
19 speak with your lawyers about whether you want to testify  
20 on your own behalf?

21 MR. MCNEIL: Yes, sir.

22 THE COURT REPORTER: Sir, I need you to speak up.

23 MR. MCNEIL: Yes, sir.

24 THE COURT: And what is that decision?

25 MR. MCNEIL: Not testify.

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1 THE COURT: Alright. Mr. McNeil, has anybody forced  
2 or threatened you to make that decision?

3 MR. MCNEIL: No.

4 THE COURT: You're making this decision of your own  
5 free will?

6 MR. MCNEIL: Yes, sir.

7 THE COURT: Have you had enough time to discuss  
8 these issues with your lawyer and do you need any further  
9 time to discuss this decision with them now?

10 MR. MCNEIL: No, sir.

11 THE COURT: Okay. Alright. Thank you.

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1 THE COURT: Mr. Lewis?

2 MR. LEWIS: Yes, Your Honor?

3 THE COURT: The defense does plan to call a witness?

4 MR. LEWIS: Yes, Your Honor.

5 THE COURT: Alright. When the jury comes back in,

6 I'll recognize you to call your first witness and we'll

7 proceed with that. Do you think it's going to be one?

8 MR. LEWIS: Just one.

9 THE COURT: Alright. Are we ready for the jury?

10 MR. LEWIS: Yes, Your Honor.

11 THE COURT: Bring us the jury, please. Thank you.

12 Folks, just keep in mind I -- I can't imagine that  
13 the next witness will be on the stand for forty minutes.

14 MR. LEWIS: No, Your Honor ---

15 THE COURT: --- but we do have to ---

16 MR. LEWIS: --- not on mine ---

17 THE COURT: --- we do have to allow the juror to use  
18 her eye drops at 4:15 so.

19 MS. NORVELL: Absolutely.

20 THE COURT: If we do still have the witness on the  
21 stand, we'll just have to have a stop at that -- at that  
22 point in time.

23 [Whereupon, the jury enters the courtroom at  
24 3:36 p.m.]

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

1           THE COURT: Thank you, sir. Thank you, ladies and  
2 gentlemen of the jury.

3           We are now in a position -- in a position to resume  
4 with the proceedings in the case. I just want to remind  
5 you, ladies and gentlemen, as we get a little bit late in  
6 the day sometimes it's a little bit hard to pay close  
7 attention.

8           Sometimes people's minds will wander. We are  
9 getting close to the finish line this afternoon. Just  
10 please do your best to pay close attention to the  
11 testimony and evidence that is presented. Mr. Lewis?

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1 MR. LEWIS: Thank you, Your Honor. The defense  
2 calls Shaderick Williams.

3 [Whereupon, Mr. Williams comes forward]

4 THE CLERK OF COURT: Please raise your right hand.

5 [Whereupon, Mr. Williams is duly sworn by the Clerk  
6 of Court]

7 THE CLERK OF COURT: You can take a seat.

8 [Whereupon, the witness takes the witness stand]

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

11 THE WITNESS: Shaderick Williams, W-I-L-L-I-A-M-S.

12 THE COURT REPORTER: Would you spell your first  
13 name, as well, please.

14 THE WITNESS: Oh. S-H-A-D-E-R-I-C-K.

15 - - - - -

16 SHADERICK WILLIAMS,

17 Having Been First Duly Sworn,

18 Was Examined and Testified as Follows:

19 DIRECT EXAMINATION

20 BY MR. LEWIS:

21 Q. Shaderick, do you go by something else?

22 A. Sed.

23 Q. Okay. Sed, where did you grow up?

24 A. North Charleston.

25 Q. And where do you live now?

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Shaderick Williams-Direct Examination by Mr. Lewis  
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- 1 A. Mount Pleasant.
- 2 Q. What do you do for a living?
- 3 A. I work as a CSA for -- at Lowe's.
- 4 Q. And how -- where is that Lowe's? Which Lowe's?
- 5 A. Market Place.
- 6 Q. Okay. So in Mount Pleasant?
- 7 A. Yes, sir.
- 8 Q. How many years have you been doing that job?
- 9 A. Eight-and-a-half now I believe.
- 10 Q. Alright. Do you have a family?
- 11 A. Yes, sir.
- 12 Q. Got kids?
- 13 A. Yep. Two.
- 14 Q. Married?
- 15 A. Yes, sir.
- 16 Q. How old are your kids?
- 17 A. Two years, and the baby just turned five months
- 18 today.
- 19 Q. Alright. Do you know Michael McNeil?
- 20 A. Yes, sir.
- 21 Q. Do you know Maurice Washington?
- 22 A. Yes, sir.
- 23 Q. How do you know these men?
- 24 A. Mike McNeil is my first cousin, and I know Junior
- 25 from the neighborhood.

1 Q. Alright. How long have you known each of them?

2 A. I've known Junior since he was a kid and Michael  
3 since I was, what, five, six; my whole life.

4 Q. Alright. Have you ever seen Michael McNeil shoot  
5 Maurice Washington?

6 A. No, sir.

7 Q. Has law enforcement ever asked you about that?

8 A. No, sir.

9 Q. How long have you been working at Lowe's?

10 A. Eight-and-a-half years.

11 Q. Okay. And that is the Lowe's in Charleston County?

12 A. Yes, sir.

13 Q. The whole time for eight-and-a-half years?

14 A. Uh-huh.

15 Q. Alright. Is there any way you could possibly be  
16 confused about whether Michael McNeil shot Maurice  
17 Washington?

18 A. I have no idea what's going on. I -- I don't even  
19 know why he brought me down here in this situation.

20 Q. Alright.

21 [Whereupon, Mr. Lewis and Mr. D'Angelo confer]

22 MR. LEWIS: No further questions, Judge. Thank you.

23 THE COURT: Cross-examination.

24

25

1 CROSS-EXAMINATION

2 BY MS. NORVELL:

3 Q. Hey Sed, how are you?

4 A. I'm alright ma'am.

5 Q. We've previously met on this case?

6 A. Yes, ma'am.

7 Q. I came to your house to talk to you and you didn't  
8 -- and then you came into my office later to talk to me  
9 about the case?

10 A. Yeah, I came to talk to you about the case.

11 Q. Okay. But prior to that you had not contacted  
12 anybody about this, about whether you had seen or not  
13 seen this?

14 A. Contacted your office?

15 Q. Yes.

16 A. No, ma'am.

17 Q. And prior to that meeting did you ever contact the  
18 police, once you heard that your name was involved in  
19 this situation, to tell them your story?

20 A. No.

21 Q. Okay. And did you ever contact anybody, once you  
22 heard that your name was involved in the story, to tell  
23 them that you weren't there and didn't see anything?

24 A. I didn't even know what was going on. My cousin  
25 contacted me and told me what was going on about the

1 whole situation.

2 Q. Your cousin being Michael McNeil?

3 A. No.

4 Q. A different cousin?

5 A. Yes.

6 Q. Okay. But this is your first cousin?

7 A. That is my first cousin.

8 Q. He's your closest cousin?

9 A. Yes, ma'am.

10 Q. Y'all talk regularly?

11 A. Yes, ma'am.

12 Q. Okay. So you have no -- it's your testimony today  
13 that you have no idea what's going on and why you are  
14 here?

15 A. I have no idea what's going on.

16 Q. So you have nothing to offer this Court and this  
17 jury? You know nothing?

18 A. I know nothing.

19 Q. Okay. And you've never told this to anybody else?  
20 You've never -- excuse me. You've never contacted anyone  
21 to tell them?

22 A. Well, after I was contacted about it or whatnot, you  
23 know I talked to my father about it, probably the only  
24 person I can remember I said something to about it.

25 Q. Okay. And you guys are -- you again are very close

1 with Mr. McNeil, your cousin?

2 A. I am.

3 Q. And today is the first day that you could help him  
4 out by doing anything?

5 A. Yes, ma'am ---

6 MR. LEWIS: --- objection, Your Honor. Burden-  
7 shifting.

8 THE COURT: Overruled.

9 Q. [Ms. Norvell] And would you do anything for your  
10 cousin?

11 A. I didn't see my cousin shoot that gun.

12 Q. That's fine. You'd do anything for your cousin?

13 A. No. I mean anything outside of lying for him about  
14 a situation like that.

15 MR. LEWIS: Very briefly, Judge.

16 THE COURT: Yes, sir.

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REDIRECT EXAMINATION

BY MR. LEWIS:

Q. You met with them before, though; right?

A. Yes.

Q. Before this trial started?

A. Yes, sir.

Q. And you told them he didn't shoot him?

A. Yes, sir.

Q. And they knew that going into today?

A. Yes, sir.

Q. And that you would say that?

A. Yes, sir ---

MS. NORVELL: --- objection ---

MR. LEWIS: --- nothing further.



1           THE COURT: Thank you, Mr. Lewis. Alright. Ladies  
2 and gentlemen of the jury, we are going to adjourn for  
3 today. You have heard all of the evidence and testimony  
4 that you will hear in this case. Tomorrow morning at  
5 9:30 we will resume this trial and we will resume with  
6 closing arguments of counsel and then I will charge you  
7 on the law after closing arguments and then we'll send  
8 you to your jury room to begin your deliberations.

9           Let me remind you over the evening that you are not  
10 to discuss this case with anyone. That includes spouse,  
11 significant other, children; anybody that you would come  
12 into contact with over the evening hours. You are not to  
13 do any research about any facts, any issues, anything  
14 that you have heard in this courtroom here today.

15           I don't know that there will be any news accounts of  
16 it, but -- as I don't see any press in the building but  
17 if there's any news accounts on this evening, don't watch  
18 them. You can't get any information about this case  
19 other than what you hear in the courtroom.

20           And with those instructions I'm going to excuse you  
21 for the day and we will have you back tomorrow morning.  
22 We will start at 9:30. If you would be here by 9:15.  
23 Thank you very much.

24           [Whereupon, the jury exits the courtroom at  
25 3:47 p.m.]

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RENEWED MOTION FOR A DIRECTED VERDICT

THE COURT: Alright. Mr. Lewis, have you got any new motions or want to renew any old motions?

MR. LEWIS: I think I'm going to renew some old ones, Judge.

THE COURT: Alright.

MR. LEWIS: I'd like to renew my previous motions for a directed verdict on all charges for the same reasons as previously put on the record.

THE COURT: Thank you, Mr. Lewis. I don't think anything that we've heard in the defense's case has changed my opinion. I will respectfully deny those motions based upon the same rationale that was given when they were denied at the end of the State's case.

MR. LEWIS: Yes, Your Honor.

1           THE COURT:    Alright, folks.  Let's talk about --  
2 before we talk about jury charges, because this may  
3 impact the jury charges, let's talk about lesser  
4 included.  I don't believe that there's any lesser  
5 included for the possession of a weapon during a violent  
6 crime.

7           And certainly that charge will hinge upon what  
8 decision the jury makes on the attempted murder and any  
9 other lesser includeds which may be charged.  What's the  
10 State's position on any lesser-includeds of the attempted  
11 murder charge?

12          MS. NORVELL:  Judge, I think that we're asking for  
13 all of the levels of assault as lesser includeds of the  
14 attempted murder charge.  I think that ABHAN -- and I'm  
15 happy to limit it if you want to with like the lesser  
16 degrees of assault.  But I think if I ask for one I have  
17 to -- we'd have to go with all of them.

18          I think that it could be reasonable for a jury to  
19 also infer from the victim's testimony that ABHAN for a  
20 lesser included assault would be an inappropriate finding  
21 and that's what we would ask for.  And if you need for me  
22 to specify what parts of the victim's testimony we think  
23 would support that finding, I'm happy to.  I think in  
24 response to some questioning on cross-examination by the  
25 defense, the victim indicated that his injury was not so

1 serious until the pain started settling in however it  
2 could or the healing process began for his injury.  
3 Obviously, we believe that the attempted murder is  
4 supported but I think that may have opened it up to the  
5 level of the rush of lesser included.

6 MR. LEWIS: I -- well, as I'm sure the Court would  
7 imagine, I disagree. Specifically, the only expert  
8 witnesses that we heard from were doctors that described  
9 how serious this injury was, could have resulted in  
10 death, femoral arteries punctures, everything else. Did  
11 not question them at all, did not question that they said  
12 this is -- you know, could have caused murder and it  
13 could have killed him.

14 I think by asking about a witness being in pain,  
15 which the issue -- it doesn't matter now but according to  
16 his medical records he was a ten out of ten on the pain  
17 scale except today he had no pain or was not in pain at  
18 that point. I don't think there's any evidence that's in  
19 the record that takes it below an attempted murder.

20 My concern here, Judge, obviously is we're in a LWOP  
21 situation and we don't need to split the baby but still  
22 give my client life when there's no evidence to suggest  
23 anything less than that. You certainly will not hear me  
24 arguing tomorrow to the jury in closing that my client  
25 hurt him; it just wasn't that bad. And so for those

1 reasons, Judge, I would ask the Court to deny the lesser  
2 includeds and leave it as all or nothing.

3 THE COURT: Well, I think -- and I'm just thinking  
4 out loud. I think there is room for a jury to think, we  
5 don't think he specifically intended to kill him but he  
6 shot him and therefore assault and battery high and  
7 aggravated.

8 I think that is -- I mean, you know, notwithstanding  
9 the malice component, while there's a difference in those  
10 charges for a malice component and the specific intent to  
11 kill. So I think based upon what I've heard here, that  
12 this was a life-threatening -- potentially a life-  
13 threatening injury. I think ABHAN is certainly a lesser  
14 included based upon the evidence that's before me now.

15 The lesser -- the lesser degrees of assault, I don't  
16 think that there's any evidence that this was moderate  
17 bodily injury, you know, based upon the doctor's  
18 testimony that, you know, this type of injury is the type  
19 of injury that could cause great bodily injury and/or  
20 death.

21 And Mr. Washington was lucky in the fact that this  
22 bullet didn't fracture any bones, land in any -- or end  
23 up in any joint spaces, or sever any arteries. So I  
24 don't think assault and battery second degree is  
25 appropriate to be charged. And I guess that leaves us

1 with assault and battery first, which the wording of that  
2 statue is somewhat confusing but it does talk about great  
3 bodily injury. So I'm going to charge -- I'm going to  
4 charge ABHAN as a lesser included. I'm trying to decide  
5 about assault and battery first. I'll be happy to hear  
6 from both of you on that issue.

7 MR. LEWIS: Judge, I would just say that if we're  
8 steering in that direction as to allowing the lesser  
9 includeds, I don't think first would be appropriate. I  
10 would agree that the second and the third would  
11 definitely not be.

12 I would think first because of -- now, granted, the  
13 experts testified that it could have led to death or  
14 great -- or serious, you know, permanent disfigurement.  
15 At the end of the day, he was ambulatory that night. He  
16 didn't even spend a single night in the hospital; was  
17 released. He's been walking around, he's able to still  
18 work in landscaping.

19 So, in theory, good for the goose, we get ABHAN in,  
20 I would -- I would ask that A&B first be there, as well.

21 THE COURT: Well, I think Ms. Norvell would like  
22 that, too. I think she would be happy if I charged them  
23 all. I just -- I just don't think there is any evidence  
24 that this was anything other than, at a minimum, great  
25 bodily injury and that's why -- you know, and it's very

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1 fortunate for Mr. Washington that he was ambulatory with  
2 -- and remains that way with this projectile in his upper  
3 leg, lower groin area. So as to the lesser includeds, I  
4 think ABHAN and assault and battery first are  
5 appropriate.

6 MR. LEWIS: Yes, sir.

7 THE COURT: And, you know, if we get into a  
8 situation where the jury makes a decision that, say, for  
9 example, well, this is an assault and battery first, then  
10 that would obviously make any verdict on the ---

11 MR. LEWIS: --- right ---

12 THE COURT: --- the possession of weapon charge  
13 because y'all correct me if I'm wrong, ABHAN --  
14 obviously, attempted murder is a violent crime and I  
15 believe ABHAN, as well.

16 MR. LEWIS: Yes, sir.

17 MS. NORVELL: It is.

18 THE COURT: Is ABHAN a most serious offense?

19 MS. NORVELL: It is.

20 THE COURT: Alright. I thought it was. I just  
21 wanted to make sure.

22 So the lesser includeds will be -- and the way I  
23 intend to put them on the verdict form, I'll start with  
24 the most serious charge, not guilty or guilty, and then  
25 have some language if you answered not guilty to count --

1 or to attempted murder, then you can consider, and just  
2 guide them through and ---

3 MR. LEWIS: --- right ---

4 THE COURT: --- it'll be on one verdict form.

5 MR. LEWIS: Yes, sir.

6 THE COURT: And then a separate verdict form for the  
7 weapon charge.

8 MR. LEWIS: Yes, sir.

9 MS. NORVELL: With instructions that they must  
10 consider the violent -- potentially violent crime before  
11 the weapon?

12 THE COURT: I don't know that I want to -- I don't  
13 know if that would be a comment on the facts. I think --  
14 I think if they come back with an inconsistent verdict  
15 and it's, say, for example, guilty of assault and battery  
16 first degree, then -- and then guilty of possession of a  
17 weapon during a violent crime, I think I could set that  
18 verdict aside because it's an impossible verdict at that  
19 point.

20 MR. LEWIS: Right.

21 THE COURT: I think if I put any language on the  
22 verdict form that says you must find, I just -- I think  
23 that gets into the comment on the facts and ---

24 MS. NORVELL: --- I understand not wanting to put  
25 language on it but I think it could be solved with an

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1 instruction. But I'm also comfortable with you ---

2 THE COURT: --- yeah. You know, and I ---

3 MS. NORVELL: --- making your determination on it if  
4 there were an inconsistent verdict ---

5 THE COURT: --- yeah I think -- I think if it's  
6 inconsistent there's a mechanism -- certainly a mechanism  
7 for the Court ---

8 MS. NORVELL: --- okay ---

9 THE COURT: --- to deal with that. And as far as  
10 jury charges, I've done a rough draft. I've got the  
11 standard duties of jury and trial judge, charge, arrest  
12 and indictment is not evidence, charge about there being  
13 multiple charges and each charge is a separate and  
14 distinct offense, you must decide each indictment  
15 separately on the evidence and law applicable to it  
16 uninfluenced by your decision as to any other indictment.

17 The defendant may be convicted or acquitted on any  
18 or all of the offenses charged, you'll be asked to write  
19 a separate verdict of guilty or not guilty for each  
20 indictment. Then the standard presumption of innocence,  
21 reasonable doubt, and -- presumption of innocence, the  
22 burden of proof standard is included in that, direct and  
23 circumstantial evidence, credibility of witnesses, prior  
24 inconsistent statements, failure of defendant to testify,  
25 identification, intent, prior record of witness -- of

1 witness. This is obviously referring to Mr. Washington  
2 and it basically states that a person who has a past  
3 criminal record is competent to testify during a trial,  
4 past record does not affect the ability of a witness to  
5 testify, past record may only be considered, if at all --  
6 by you, if at all, in determining the witness'  
7 believability, remember you're the sole judges of the  
8 facts in the case, and the believability of any and all  
9 of the witnesses.

10 Then I've got a definition of what attempt is. Just  
11 generally attempt is an effort to accomplish a crime  
12 which does not succeed; an attempt includes a specific  
13 intent to do a particular criminal act along with an act  
14 falling short of the act intended.

15 Then that dovetails into the attempted murder  
16 charge, just the general. And I've got the -- I've  
17 revised the charge to include the language regarding  
18 specific intent to kill. And then I'll have to add the  
19 lesser includeds of ABHAN and assault and battery first.

20 And then possession of a weapon during the  
21 commission of a violent crime; just the substantive  
22 charge on that. I know that's throwing a lot at y'all in  
23 a short period of time. And once I add the lesser  
24 includeds I'll be happy to email it to you so you can  
25 review it later on. But as far as -- that seems to cover

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1 it in my mind.

2 MR. LEWIS: The ---

3 THE COURT: --- anything specific that y'all want to  
4 advocate for?

5 MR. LEWIS: The only thing I thought about, I don't  
6 know if it was included under your credibility, is bias  
7 and general bias.

8 THE COURT: Okay.

9 MR. LEWIS: I know that there's -- I've seen a  
10 couple of different charges on it.

11 THE COURT: Let me see what I've got it here. And  
12 that was obviously an issue with the dealing with some of  
13 those pending charges. Let's see.

14 [Whereupon, the Court reviews documents]

15 THE COURT: The credibility portion, and I don't  
16 know if you wanted to get -- want to go into a little  
17 more detail but it -- in determining what the true facts  
18 are in this case you must decide whether or not the  
19 testimony of a witness is believable. It will be --  
20 well, that's from the beginning charge. I'm sorry. I'll  
21 get rid of that.

22 [Whereupon, the Court reviews documents]

23 THE COURT: Yeah, there is a reference to bias in  
24 my credibility charge but if you want something more  
25 specific, I'll be happy to consider it but I don't think

1 there's anything else, a specific charge on bias, in the  
2 -- in the standard charges that we were given by Court  
3 Administration.

4 MR. LEWIS: Yes, sir.

5 MS. NORVELL: And I've always seen bias just within  
6 the confines of the credibility. And I'm most  
7 comfortable with that but happy to look at anything  
8 specifically that you propose.

9 MR. LEWIS: I'll double-check. I have an ancient  
10 one from Charleston County. I don't know if it's still  
11 good. I'll just glance at that real quick. But I ---

12 THE COURT: --- okay ---

13 MR. LEWIS: --- as long as the phrase or the word  
14 specifically bias is included, then I'm good to go.

15 THE COURT: Okay. Let me make absolutely certain  
16 that what I've got --

17 [Whereupon, the Court reviews documents]

18 MR. LEWIS: Yeah. The last provision of the old  
19 one, Judge, is you may consider whether any witness has  
20 exhibited to you any interest, bias, prejudice or other  
21 motive in this case. I don't know if it's still in  
22 there, or if the Court has it.

23 [Whereupon, the Court reviews documents]

24 THE COURT: Mr. Lewis, if you could get that to me  
25 in a -- in a digital format over the evening?

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1 MR. LEWIS: Yes, sir, I can. I -- I can just type  
2 it up and send it as an email right now if that works.

3 THE COURT: That's absolutely fine.

4 MR. LEWIS: I think that's the one we always used.

5 [Whereupon, all counsel confer]

6 MR. LEWIS: And, Judge, does your presumption of  
7 innocence have the robe of righteousness?

8 THE COURT: It does have the robe of righteousness  
9 in there.

10 MR. LEWIS: Okay. Great.

11 [Off the record momentarily]

12 THE COURT: Okay. Mr. Lewis, have you sent?

13 MR. LEWIS: I did. Hopefully, I did not send it to  
14 the wrong email.

15 THE COURT: Let's see.

16 [Off the record momentarily]

17 THE COURT: Okay. You have that language. And I  
18 apologize for making you type it. It's basically  
19 verbatim. It's what's included in the credibility of  
20 witnesses charge so ---

21 MR. LEWIS: --- no problem ---

22 THE COURT: --- it will be -- so anything else  
23 specific, other than what we've talked about? And I'm  
24 not going to hold you to it. If you get -- if you get  
25 home tonight and think, oh, gosh, I meant to ask the

1 judge this or to charge this, just send me an email. But  
2 I will put together the proposed jury charges and sample  
3 verdict forms and email all of those to y'all here  
4 shortly and if we need to tweak them a little bit in the  
5 morning that will be fine, too.

6 The one thing, I want to -- want to ask y'all not to  
7 do, since I am emailing you, please don't -- you can  
8 print the charges out but what I don't want is for you to  
9 stand up and say I'm reading -- in your closing argument,  
10 I'm reading from the judge's charge right here, you know.

11 MR. LEWIS: Oh, yeah ---

12 THE COURT: --- most lawyers don't do that, but  
13 some try and I think I may have actually been guilty of  
14 trying that one time as a young lawyer. So, you know,  
15 that's just my only caveat.

16 But if you want to -- if you want to take language  
17 from the charge and use it in your closing, just don't  
18 say this is coming from the judge's charge and so that  
19 makes what I'm about to tell you ---

20 MR. LEWIS: --- right ---

21 THE COURT: --- true, more important, whatever. So  
22 I will email this stuff to y'all as soon as I get it  
23 done. Is there anything else we need to take up before  
24 we adjourn for today?

25

1 MS. NORVELL: Briefly. Based on the testimony of  
2 Shaderick Williams, we would be interested in calling a  
3 reply witness, Akeem Fredericks, who is Ched [phonetic]  
4 that was testified to.

5 We believe that the evidence that was put in by the  
6 defense, the issue that was raised is that it was the  
7 insinuation that the in the argument, arguably, that the  
8 defendant and the victim were not together at all the day  
9 of the shooting. And so for the limited purposes of  
10 addressing that we would like to call that reply witness.

11 MR. LEWIS: They were aware of the information,  
12 Judge. They interviewed the same person that I called.  
13 They could have called this person in their case in  
14 chief. I wasn't hiding the ball on anything. We've  
15 already both closed and sent them home. It seems  
16 cumulative at this point.

17 I did not say they weren't together, I said he  
18 didn't shoot him and that guy's a liar. Those are not  
19 the same things as we get to call in anybody else who can  
20 say, oh, well, they do hang out sometimes. This is -- we  
21 don't need to retry that issue.

22 MS. NORVELL: We're definitely not trying to say  
23 that they hang out sometimes. It's specifically to put  
24 them together in the afternoon of -- at the time that the  
25 victim was shot.

1           THE COURT: I'm going to -- I'm going to take this  
2 matter under advisement. Have him here. I'm going to do  
3 some -- I know I've got some research somewhere on reply  
4 testimony and reopening the case so I want to -- I think  
5 this is a vital issue; I don't want to make an off-the-  
6 cuff ruling.

7           So I will read those things and have a decision in  
8 the morning. But, Ms. Norvell, just have him here ready  
9 to go and if I decide to allow it, we'll take that up  
10 first thing and if not we're going to proceed to  
11 closings.

12           MS. NORVELL: Thank you, Judge.

13           THE COURT: Alright. If there is nothing else, we  
14 are adjourned until 9:30 tomorrow. I will be here about  
15 nine o'clock in case y'all need me.

16           MR. DUTREMBLE: Thank you, Judge.

17           [Whereupon, the jury trial adjourns at 4:20 p.m.]

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C E R T I F I C A T E

I, the undersigned, Joyce C. Rueger, Official Circuit Court Reporter for the Ninth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Charleston County, South Carolina on the 17th day of August, 2021.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

October 9, 2021

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Joyce C. Rueger, CVR-M  
Court Reporter

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PROCEEDINGS

THE COURT: Good morning, everybody. I know that there was some talk about some reply testimony this morning. Where are we with regards to the reply testimony?

MS. NORVELL: Thank you, Judge. Yesterday afternoon following the close of the defense case, the State indicated the desire to call a reply witness, Akeem Fredericks.

He is the individual that the victim, Maurice Washington, testified called while the victim and the defendant were in the vehicle together on the afternoon that the victim was shot.

Initially the State indicated that we sought to present that witness for the limited scope of corroborating that they were in the vehicle together based on the testimony of the defense witness Shaderick Williams.

Yesterday afternoon, after the close of court, both Mr. Lewis and I had an opportunity to speak with Mr. Fredericks. He indicated to us both at that time that while he did speak with the defendant earlier in the day, he was unaware of anybody in the background so he would not be able to corroborate that testimony. However, it did become apparent, in both conversations with the State

1 and the defense, that the witness, Akeem Fredericks, had  
2 a subsequent conversation with the defendant, Michael  
3 McNeil, on the same evening of the shooting where the  
4 witness asked Mr. McNeil why did you shoot Crum and the  
5 defendant responded by laughing and saying, responding,  
6 Crum knows why I shot him.

7         During the defense redirect of the defense witness,  
8 Shaderick Williams, it was elicited by the defense. The  
9 question that was asked was so he didn't shoot him and  
10 the response from the witness was right, yeah. Based on  
11 that statement, the State would seek to introduce Akeem  
12 Fredericks' testimony.

13         Our questioning would be limited to his knowledge of  
14 the defendant, how he knows the defendant, and that  
15 conversation with the defendant on the night of the  
16 shooting. We don't need to introduce anything else. I  
17 understand that the defense would certainly will -- would  
18 fight to impeach him and have the right to do so and  
19 that's fine.

20         The -- based on the case that actually the defense  
21 sent to the Court yesterday, it is State v. Prather, 429  
22 S.C. 583, the admission of testimony which is arguably  
23 contradictory of and in reply to earlier testimony does  
24 not constitute an abuse of discretion. Any arguably  
25 contradictory testimony is proper on reply. That is

1 Prather citing State v. South, 285 S.C. at 535.

2 I do understand that the defense's argument is that  
3 we could have or should have called this witness in our  
4 case in chief. I think that Prather discusses that concern  
5 and addresses it, as well.

6 The defendant in Prather, in the Prather case, argued  
7 that the State was required to introduce this testimony during  
8 its case in chief and therefore it being a reply was improper.  
9 However, the Court held in that decision, this is Prather  
10 citing State v. McDowell, 272 S.C. 203.

11 The testimony was deemed unnecessary during the State's  
12 case in chief and only became necessary once the contradictory  
13 testimony had been raised by the defense witness. So it was  
14 proper in reply.

15 Here, Akeem Fredericks offered nothing to the State's  
16 case other than hearsay. Prior to this being brought up by the  
17 defense witness and therefore for the limited scope of this  
18 reply testimony, we believe that it would be proper and to  
19 present in reply because it is arguably contradictory to the  
20 testimony of the defense witness. I do -- that is my primary  
21 argument as to the reply.

22 I do have a collateral argument I just want to put on the  
23 record. There have been several statements, from defense  
24 opening through the cross-examination of Detective Wilson,  
25 where the line is being sort of skirted about third-party guilt

1 and/or like backdoor alibi defense. With regard to historical  
2 cell-site data and who else would have seen this, Cedric --  
3 Shaderick, excuse me, didn't see it.

4 So now eliciting the statement that the shooting couldn't  
5 possibly have happened if Shaderick did not see it, again, just  
6 because that the testimony of Akeem did not come in during our  
7 case in chief should not limit it now when there's no  
8 reasonable way that the defense isn't going to argue this in  
9 close. The State would be remiss not to offer this in reply.  
10 We would not be doing our job and there -- I'm just going to  
11 leave it at that.

12 MR. LEWIS: Judge?

13 THE COURT: Yes, sir?

14 MR. LEWIS: They re-crossed immediately after that and  
15 said you weren't there, you can't say it didn't happen. She  
16 asked. That was her final question. And he said, no, I  
17 wasn't.

18 That doesn't reopen the door now to eleventh hour of  
19 supposed confessions, by my client to the decedent's brother  
20 that we now get to bring in. It can't be corroborated by them.  
21 It hasn't been corroborated by us. We found it out at 5:30  
22 yesterday.

23 This is an LWOP trial and I'm asking you to use your  
24 discretion the other way to not allow this testimony in. We  
25 closed our case. We would not have called Sed if we knew that

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1 that just opens the door to them being able to bring in anyone  
2 else they find who wants to say something bad about Mr. McNeil  
3 at the last minute.

4 Another thing that I found out this morning that I think  
5 will be fleshed out on cross is that their witness is being  
6 brought here together. Akeem and Maurice are riding here  
7 together, Judge. This is crazy. I'm sorry.

8 I ask that the Court use its discretion to not allow  
9 eleventh-hour testimony that cannot be corroborated and that  
10 does not specifically address the testimony we presented, which  
11 is Sed. No one has anything to say about Sed. The whole  
12 reason we're having a trial is we're saying that Mike didn't  
13 shoot anybody. So, on that argument, that's why we're here.  
14 We've said that the whole trial ---

15 THE COURT: --- well, let me ask this question ---

16 MR. MCNEIL: --- they been -- why don't you ask her why  
17 she ---

18 THE COURT: --- hold on one second ---

19 MR. LEWIS: --- just stop, Michael ---

20 THE COURT: --- Mr. McNeil. Let me ask this question.  
21 Since this is an alleged statement by the defendant, how does  
22 Rule 5 interplay with ---

23 MR. LEWIS: --- absolutely ---

24 THE COURT: --- with the situation? Was this statement  
25 known?

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1 MR. LEWIS: No, Judge, not to anyone, not at the time of  
2 indictment, not at the time of preparation for trial, not known  
3 by anyone until yesterday at 5:30.

4 MS. NORVELL: This witness was interviewed ---

5 MR. MCNEIL: --- oh man ---

6 MS. NORVELL: --- by the other prosecutor that's handling  
7 the ---

8 THE COURT: --- hold on one second, Ms. Norvell.

9 MR. LEWIS: Sorry, Judge.

10 THE COURT: Mr. McNeil, if you have something that you  
11 want to address with your lawyer ---

12 MR. MCNEIL: --- he done -- excuse me, sir ---

13 THE COURT: --- sir ---

14 MR. MCNEIL: --- he just talked about ---

15 THE COURT: --- hold on one second. We're not going to  
16 talk over each other. You're not going to talk while either of  
17 the lawyers are talking and you're certainly not going to talk  
18 while I'm talking, okay? We are going to maintain decorum in  
19 this courtroom.

20 I will give you an opportunity to speak with your lawyers  
21 and they can convey what you want conveyed to the Court but  
22 they are the ones that are in charge of speaking on your behalf  
23 and we're not going to have a situation where people are  
24 talking over each other. Mr. Lewis?

25 MR. LEWIS: Thank you, Judge. The point he was trying to

1 make is one that is also contained under Rule 5. If she had  
2 known about the statement, she would have needed to have  
3 elicited it in her case in chief. We certainly didn't know  
4 about it. They certainly didn't know about it. Nobody knew  
5 about it.

6 But now that's when prejudice arises, Judge. We're going  
7 to get sprung on us a statement now at the last minute that's  
8 supposedly an admission against interest, that can't  
9 potentially even be investigated, by a witness who was driven  
10 here together with the complainant in the case.

11 MS. NORVELL: Thank you, Judge. As Mr. Lewis did  
12 indicate, it was not known to our office until it was directly  
13 asked of the defendant yesterday, or, excuse me, not the  
14 defendant, Mr. Fredericks yesterday. Mr. Fredericks was  
15 interviewed by another Solicitor in my office with regard to  
16 the case in which his brother is deceased.

17 He indicated that to me yesterday, that he did interview  
18 and that he fully acknowledges that he did not make -- provide  
19 the statement to law enforcement. He fully acknowledged that  
20 he did not provide this statement to my office or to anyone  
21 else.

22 I think that is a matter for cross-examination. I think  
23 that that goes to the weight of his testimony, not the  
24 admissibility of his testimony. The statement was actually  
25 disclosed to the defense in their conversation that occurred

1 prior to my conversation, so we effectively were advised of it  
2 at the exact same time. I understand Mr. Lewis' concern now in  
3 that his trial strategy is -- seems not as great right now once  
4 this happened, but the bell can't be un-rung. The question  
5 can't be unasked.

6 And he asked a witness, knowing that that witness'  
7 testimony was that he wasn't there, whether the defendant shot  
8 him and the witness answered obviously that he did not. And  
9 for that reason, knowing this information, it is the State's  
10 right to call on reply based on my reading and my understanding  
11 of the rule surrounding reply testimony.

12 Again, the admission of reply testimony which is arguably  
13 contradictory is proper and does not constitute an abuse of  
14 discretion. I don't -- I appreciate that it is -- it does not  
15 benefit the defense's case and I -- but I believe that it's  
16 proper to bring it in to reply.

17 MR. LEWIS: Judge, under that same logic, my cross -- my  
18 redirect question of so he didn't shoot him, that she then re-  
19 crossed on, to say you can't even say that, you weren't there,  
20 and he admitted it, under that logic she could present anything  
21 in reply, anything at all, because my question goes to the  
22 heart of the issue.

23 The objection should have been, you know, the heart of  
24 the issue or something like that. But it doesn't open the  
25 floodgate to any testimony she wants to present. Yes, I went

1 to the ultimate issue. I should have said four more words: he  
2 didn't shoot -- you didn't see the shooting, like I said on  
3 direct, and I did say that. She cleaned it up on recross. To  
4 now say that the door is completely opened up to any testimony  
5 is terrifying.

6 Oh, and in the case I -- I disagree with his  
7 interpretation. He's talking about that the -- the defendant  
8 testified and in the defendant's testimony, it's a murder, he  
9 said that the victim was standing. They re-called the  
10 pathologist to rebut that because the third shot had to have  
11 been done with a hard surface against the victim's head. That  
12 specifically rebuts the testimony of that witness.

13 Akeem will come in and just say generally bad stuff about  
14 Mike and that Mike confessed to him. Akeem will not say  
15 anything about Sed or what Sed said, or Sed was there. That's  
16 the only reason I called Sed is to rebut Maurice Washington  
17 claiming that Sed was standing next to Mike when Mike shot him,  
18 that's it; that there is one claimed eyewitness impeachment.

19 MS. NORVELL: Judge, the last thing that I want to put on  
20 the record is the citation from State v. Prather of State v.  
21 Durden. It is 264 S.C. 86. And the citation is the reply  
22 testimony was made necessary by the evidence which the  
23 Appellant had submitted. The reply testimony did not go beyond  
24 the reputation of that which the Appellant's witness had  
25 asserted. And that is what we are seeking here. We are not

1 seeking to open the flood gates by any stretch of the  
2 imagination. We are seeking only to refute the exact question  
3 that the defense asked and the reputation of their witness. It  
4 is very limited. And, again, they can -- I appreciate that you  
5 think that it's not limited, but it is one question. Thank  
6 you.

7 MR. LEWIS: A statement that is a claim of an admission  
8 against interest that has nothing to do with Shaderick  
9 Williams, not a single thing.

10 THE COURT: Alright. Folks, reply testimony obviously is  
11 a presentation of additional witnesses for the State, after the  
12 defense rests its case, where the reply witness' testimony will  
13 contradict issues presented by defense witnesses or address the  
14 credibility of defense witnesses.

15 So in my view, we are limited in this situation to any  
16 evidence which would contradict the testimony of the witness  
17 which was presented by the defense. The theme of his testimony  
18 was he doesn't -- wasn't there, he didn't see anything.

19 So then we're presented with a proposed reply witness  
20 who, if I understand what his testimony would be, would be a  
21 phone call between he and the defendant where the defendant  
22 made an admission. I can't see how that has any bearing or any  
23 correlation to rebut what the witness who testified for the  
24 defense stated yesterday. I'm further concerned about the  
25 fact that reply testimony -- while the admission of reply

1 testimony is within the discretion of the trial judge, there  
2 has to be a 403 balancing test. And that's under State v.  
3 Corley, 318 S.C. 260, reply testimony is subject to the  
4 determination of whether its prejudicial effect outweighs its  
5 probative value.

6 We've got a situation here where there is high probative  
7 value and high prejudicial effect. Obviously, an admission at  
8 this stage in the trial would have probative value but it would  
9 also have immense prejudicial effect. I'm worried about Rule 5  
10 issues that obviously are present in this situation. As we all  
11 know, statements by the defendant must be turned over.

12 And I know the State didn't get this statement until, as  
13 Mr. Lewis said, the eleventh hour and I find no fault with --  
14 and there's been no Rule 5 violation. But at the same time,  
15 you know, I've got to make an analysis based on when this  
16 statement was known to both sides. I just think that the  
17 prejudicial effect is too great in this case, given that it  
18 would be essentially an admission.

19 So, Ms. Norvell, I understand your argument and I -- I  
20 find no fault with the Solicitor's Office for how the case has  
21 been presented, but I just don't think that the -- the main  
22 theme of -- and it was...

23 MR. LEWIS: Shaderick Williams ---

24 THE COURT: --- of the witness yesterday, Shaderick, was  
25 that he wasn't there and he didn't see anything. And I don't

1 know how a conversation between another witness and the  
2 defendant goes to rebut whether or not he was there. He could  
3 say, I talked with Mike McNeil and he said that Shaderick was  
4 there, then I think we would be in a different situation. But,  
5 you know, the reply is to rebut something that was evidence  
6 that was presented by defense's witness and I just -- I don't  
7 think this gets there.

8 I don't think that there's a direct correlation between  
9 the proposed reply testimony and what the witness said  
10 yesterday, and I believe the prejudicial effect would outweigh  
11 the probative value.

12 So I'm going to deny the motion or the request from the  
13 State to offer reply testimony. I just -- I think -- I think  
14 it opens up Pandora's box and I just don't -- based on what I  
15 said before, I just don't think it's proper in this case.

16 MS. NORVELL: Thank you, Judge. I appreciate your  
17 ruling. I would ask as a follow up to that, based on your  
18 ruling, that the defense be narrowed and limited from arguing  
19 that effectively like I sort of brought forward in my  
20 presentation, a backdoor alibi.

21 We have never been provided any alibi based on what was  
22 elicited from Shaderick. To argue to the jury that it couldn't  
23 possibly have been this defendant would effectively accomplish  
24 that. And, similarly, to argue that it had to have been  
25 someone else, so effectively a third-party guilt argument,

1 would not be within -- it would not be a full presentation on  
2 the facts and it would not be forthright to the jury knowing  
3 what we know -- what being limited from being presenting what  
4 we know to the jury. And this goes back as far as the .9  
5 millimeter ammunition ruling to the introduction of the  
6 rebuttal witness.

7 I just don't know how they can have their cake and eat  
8 it, too, essentially. How can we be limited from presenting  
9 what we know and they also have the ability to put forth maybe  
10 a fully forthright and accurate picture to the jury during  
11 closing? So I would ask that their presentation be narrowed  
12 and limited in that way.

13 MR. LEWIS: Judge, I can assure the Court and Ms. Norvell  
14 that in my closing I'm not saying anything about we know  
15 anything definitively; in fact, the exact opposite. My closing  
16 is focused on we have been given two different stories, we  
17 don't have to take either of those as true, and we've been  
18 given no evidence from law enforcement at all to corroborate  
19 anything and that the -- you know, burden of proof, reasonable  
20 doubt.

21 I'm not going to be telling a story. I'm not going to  
22 say that Sed proves that Michael wasn't there, because that's a  
23 leap too far. What I will say, though, if allowed to and I  
24 imagine I will be, is that Maurice claimed that Sed was there  
25 and you heard it from Sed and he said he was not.

1           THE COURT: I think that's within the bounds of what's  
2 been presented to the jury in this case in terms of evidence.  
3 You know, I would just caution -- and I think I have a good  
4 idea of where you're -- where you're -- the focus of your  
5 closing is going to be, you know, obviously, well, based on  
6 what we've heard, some other guy must have done it, you know,  
7 we don't have any evidence. Your defense is he didn't do it  
8 but ---

9           MR. LEWIS: --- don't know how it happened.

10          THE COURT: Yeah, don't -- so just we all know the rule  
11 about third-party guilt. Just be cognizant of it. I know  
12 sometimes people when they get rolling in a closing argument  
13 things just kind of come out that may not have necessarily been  
14 intended.

15          And I know lawyers are hesitant to object during closings  
16 but, you know, Ms. Norvell, if you feel like -- if you feel  
17 like he's stepping over the line, I don't think he's going to  
18 but, you know, we'll address it if it comes up.

19          MR. LEWIS: I have no doubt that I will be called on it,  
20 Judge.

21          THE COURT: Folks did you have an opportunity to review  
22 the proposed verdict forms and jury charge?

23          MR. LEWIS: Judge, I did. The obsessive-compulsive in me  
24 just didn't like the font choice but the rest of it -- I  
25 understand as the Court always says you have to put one of the

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1 two first, guilty or not guilty, and usually that -- I did not  
2 see it or I didn't read closely enough in your charge to know  
3 if that's in there. But the headings ---

4 THE COURT: --- I will ---

5 MR. LEWIS: --- all look fine to me ---

6 THE COURT: --- I will tell the jury when I'm going over  
7 the verdict forms that they are to take no -- draw no  
8 inferences from the order in which the verdict -- possible  
9 verdicts are listed and that ---

10 MR. LEWIS: --- yes, sir. I ---

11 THE COURT: --- one has to come first.

12 MR. LEWIS: I get it.

13 THE COURT: And to that end, could I get an email address  
14 so I can send these items so I can have them printed?

15 THE CLERK OF COURT: Yes, sir.

16 [Off the record momentarily]

17 THE COURT: We're going to give the Clerk's staff one  
18 moment to get these items printed so we can once we bring the  
19 jury in we won't have to take any unnecessary breaks.

20 [Off the record momentarily]

21 THE COURT: Alright, folks. Just so the record is  
22 clear, as far as the order of closing the State will make its  
23 closing argument in full, defense, and then the State will have  
24 the opportunity to reply pursuant to State v. Beatty.

25 THE COURT REPORTER: State v?

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1 THE COURT: Beatty, like Justice Beatty.

2 THE COURT REPORTER: Got it.

3 THE COURT: Chief Justice Beatty, that is. Alright. Are  
4 we ready for the jury?

5 MS. NORVELL: Yes.

6 MR. LEWIS: Yes, Your Honor.

7 THE COURT: Could you bring us the jury, please.

8 [Whereupon, the jury enters the courtroom at 10:06 a.m.]

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

10 THE COURT: Thank you, sir. Ladies and gentlemen of the  
11 jury, thank you for your prompt return here this morning. As  
12 we ended court yesterday, the defense rested so you have heard  
13 all of the evidence and testimony you will hear in this case.

14 We have reached the point in the trial where the parties  
15 will give their closing arguments to you and following the  
16 closing arguments I will give you the charge on the law and  
17 then you'll retire to the jury room to begin your  
18 deliberations.

19 So I want to ask that you pay close attention to the  
20 attorneys as they make their closing arguments to you here this  
21 morning.

22 Ms. Norvell?

23 MS. NORVELL: Thank you, Judge.

24

25

1 CLOSING ARGUMENT

2 BY MS. NORVELL:

3 Maurice Washington has not pulled any punches with you,  
4 ladies and gentlemen. He told you why he did what he did and  
5 he told you what happened to him on July 20th, 2016. He has  
6 owned his prior drug use, he's owned his prior convictions, he  
7 has owned his reasoning, his rationale, his thought process.  
8 He has not purported to be anyone that he's not.

9 And what he told you during his testimony is that even if  
10 it were thirty years from now, he would still be telling you  
11 the same thing because he can't forget what happened to him on  
12 July 20th of 2016. He can't forget because he knows Michael  
13 McNeil, the defendant, and he's known him his entire life.

14 The way that he explained it when he was on the stand,  
15 how do I not know him. He knows him so well. He knows that's  
16 the person that he was riding with on July 20th, 2016. He  
17 knows that's the person that he was looking directly at getting  
18 out of his vehicle when he watched him pull a gun that he knows  
19 that he carries, pointed at him and shoot him.

20 Maurice owned the initial statement that he gave to law  
21 enforcement at the hospital. He acknowledged he had no  
22 intention of involving law enforcement. He had dropped his  
23 cell phone when he was running after being shot and he did not  
24 call law enforcement and he did not want to involve them. I  
25 think the way he said it is that he was going to take care of

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1 it himself, he was going to handle it. And he intentionally  
2 constructed his story that he told law enforcement that night  
3 to be ridiculous. He testified that it was July; nobody was  
4 wearing a hoodie or a skully. He doesn't remember the details  
5 of that story because he never intended to remember the details  
6 of that story. He never planned on telling it in the first  
7 place.

8 But then he explained to you why he had a change of  
9 heart. And that change of heart was simple. His cousin, Zia  
10 Fredericks, died. He talked to his family and he told you that  
11 he decided to do the right thing. And to him, doing the right  
12 thing was calling the North Charleston Police Department, he  
13 called them himself, and driving himself to City Hall to meet  
14 with the detectives and tell them the exact story that he told  
15 you, the same story that he would be retelling thirty years  
16 because he can't forget what happened to him on July 20th of  
17 2016.

18 He met with the North Charleston detectives initially and  
19 they indicated that's when they learned that they didn't have  
20 jurisdiction over the case and it had to be transferred to the  
21 Sheriff's Office. And then he met with the Sheriff's Office  
22 detectives that same day and he took them out to the scene and  
23 he showed them where everything happened, where he explained  
24 where it happened to you, and talked to them about it again  
25 telling the exact same story that he has explained to you-all

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1 today. He has been sharing the exact same experience since he  
2 had that change of heart and went and talked to all of those  
3 detectives on July 28th of 2016, eight days after he was shot.

4 Ladies and gentlemen, you have been provided with direct  
5 evidence in this case. You have heard testimony straight from  
6 Maurice himself and he has explained to you how long and why he  
7 knows that this is the person that shot him, initially grazing  
8 his hand and entering his pants at the waist at his groin.

9 In opening statements, the defense told you that you  
10 needed to have his testimony corroborated. I submit to you,  
11 you can take his testimony and you can believe him. But also I  
12 want to talk to you about a few ways that you can corroborate  
13 his testimony. First, Dr. Rodelsperger, when he testified he  
14 indicated that the victim was dropped off at Roper Northwoods  
15 hospital in a private vehicle.

16 While testifying, Maurice explained that the reason why  
17 he was getting out of the defendant's car is because his friend  
18 Boo was picking him up. That's who he believed was arriving at  
19 the trailer park. It wasn't him, but ultimately Boo did pick  
20 him up and Boo is the person who took him home. His  
21 information was corroborated by the doctor in that way.

22 Detective Wilson, when he testified that he came on to  
23 the case on July 28th, eight days after the shooting, he was  
24 able to recount for you the story that he was advised at that  
25 time, July 28th of 2016, and it impeccably aligned with what

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1 Maurice testified before you yesterday and explained. He  
2 recounted the joy-riding, that ultimately they ended up at  
3 Dunlap Street, that Maurice was shot, that Maurice was dropped  
4 off at the hospital by Boo, that Maurice changed his mind about  
5 the initial ridiculous story because Zia Fredericks, his first  
6 cousin, died.

7 He also testified that he has investigated hundreds of  
8 violent crimes and he indicated that in his personal experience  
9 when a victim and a defendant are close friends or family  
10 members, it is not uncommon at all that they initially don't  
11 want to be forthcoming. In fact, that did not surprise him in  
12 the least.

13 And he explained that when he met with Maurice and rode  
14 out to Dunlap Street to learn where the incident happened and  
15 to get that full story and information from Maurice, that  
16 Maurice never hesitated once he explained that Michael McNeil  
17 shot him. There was no hesitation. He testified that there  
18 was no doubt; Maurice had no doubt, that Michael McNeil is the  
19 one who shot him. Maurice was, in fact, certain.

20 The next corroborating witness you have was Detective  
21 Serrudo. He actually testified to the same thing. He works  
22 for a different agency than Detective Wilson. At the time, he  
23 worked for North Charleston but when he was working in the  
24 person's crimes division, he also indicated that when there's a  
25 close acquaintance or relationship between the two parties

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1 involved it's not at all unexpected when there is a difficulty  
2 in being forthcoming at first. For whatever reason, that was a  
3 decision that Maurice made on July 20th and he changed his mind  
4 and he has been telling the same story since July 28th.

5 Lieutenant Nates, she was from the State Law Enforcement  
6 Division, from SLED. She tested the gunshot residue kit and  
7 she cannot tell who fired the gun but what she was able to say  
8 is that there was gunshot residue on Maurice's hands, meaning  
9 that he was within the proximity, within the plume, of that gun  
10 being fired.

11 We have the gunshot residue; we have the pants, Maurice's  
12 pants, where the bullet entered at his waistband into his  
13 groin. We have the Doctors Fann and Rodelsperger who treated  
14 his gunshot wound. And there's no doubt he was shot and there  
15 was no doubt in Maurice's mind who shot him. Michael McNeil.

16 The charges that the defendant is facing, we briefly  
17 talked about this in opening, are the charges of attempted  
18 murder and possession of a weapon during the commission of a  
19 violent crime.

20 When we spoke during opening statements I told you what  
21 the elements, the building blocks, of those charges were just  
22 so you could have something to listen out for to try to piece  
23 the testimony with what those elements were. And the reason  
24 why I did that is because it is the State's burden of proof to  
25 prove to you beyond a reasonable doubt that those elements that

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1 -- excuse me, those crimes were committed by Mr. McNeil.

2 With regard to the attempted murder, there must be -- you  
3 must find that there's a specific intent to kill. Specific  
4 intent to kill means Michael McNeil wanted to kill Maurice  
5 Washington on July 20th of 2016.

6 Maurice testified to you that as they were approaching  
7 near -- or, excuse me. They were on Ashley Phosphate. They  
8 turned toward Dunlap Street and Maurice saw Boo at the Kangaroo  
9 gas station. Maurice thought, oh, this is perfect, I'll just  
10 call Boo and Boo can get me instead of Boo calling me and me  
11 having to rely on Michael McNeil to take me home.

12 Clearly he wasn't going to do that at that time. So  
13 Maurice testified that they saw Boo at the Kangaroo. Michael  
14 McNeil continued driving and ran a stop sign. And that's when  
15 Maurice said something started to feel off, I could just -- I  
16 felt like something was weird. He started to feel  
17 uncomfortable and then ultimately a few minutes later they went  
18 to Dunlap Street and that's where he was shot.

19 The defendant fired his XD .9 millimeter firearm at  
20 Maurice as Maurice was leaning into the passenger side of his  
21 vehicle. They were within a very close proximity. That is  
22 what more could you have than a specific intent to kill when  
23 you shoot somebody from your driver's seat to where they are  
24 leaning in through the passenger door? With that close  
25 proximity, Maurice was defenseless to react to that gunshot.

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1 He couldn't have -- he couldn't have moved with how quickly  
2 that bullet would have entered his body. And thankfully he was  
3 able to survive that wound. But as the doctors testified, he  
4 is lucky because he could have sustained life-threatening  
5 damage for that.

6 The next element of the attempted murder is an attempt to  
7 kill. You have to actually try to do something. It's not  
8 enough to not do anything at all. So the attempt to kill is  
9 the defendant shooting Maurice.

10 The final element of attempted murder is malice. Malice  
11 is ill will, a depraved heart. What -- the ways that we can  
12 show malice is by expressly saying it or it being implied  
13 through the actions that it's so obvious you have malice or ill  
14 will for this person.

15 Maurice and Michael McNeil were driving around together  
16 for hours that day. Was Michael McNeil attempting to lull him  
17 into this false sense of security? He waited until Maurice was  
18 exiting his vehicle to shoot him. He had that gun right beside  
19 his driver's seat, between the driver's door and the driver's  
20 seat the entire time.

21 Maurice testified he didn't have a firearm. He had  
22 literally sat down with his feet hanging out of McNeil's car  
23 when he started to back up. He had none of his belongings. He  
24 didn't even have the food that he had just gotten at Wendy's  
25 and McNeil took off, leaving him with all of his things at his

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1 apartment still, and drove him around for hours until he  
2 ultimately decided to shoot him. Again, the victim's  
3 defenseless position leaning in, leaning forward, being  
4 completely off-centered and balanced, when he was trying to tap  
5 McNeil and tell him Boo's here, I'm leaving, and that being  
6 when McNeil fired his shot.

7 Maurice -- I've harped on this enough -- Maurice knew  
8 Michael McNeil. They were lifelong friends. What more could  
9 it be than ill will to shoot somebody that you're so close with  
10 that you see every single day?

11 As to the possession of a weapon during a violent crime,  
12 we talked briefly at opening. If you find that Michael McNeil  
13 had that XD .9 millimeter firearm on him at the time that he  
14 tried -- attempted to kill Maurice, he is also guilty of  
15 possession of a weapon during the commission of a violent  
16 crime.

17 The elements of that offense is it requires that he  
18 possessed or he just displayed a firearm or a weapon when he  
19 committed a violent crime. Maurice knows what gun he had. He  
20 testified that he had had it for years. He knew exactly where  
21 he carried it, he knew what it looked like, and he knew exactly  
22 what was pointing at him when McNeil fired that shot.

23 The Judge is also going to charge you on some lesser  
24 included offenses. There's two of them. If you don't find  
25 that there was a specific intent to kill, you are going to be

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1 able to consider these two other assault charges. The first  
2 one that I want to give you a heads up that you'll be able to  
3 consider, only if you do not find that an attempted murder  
4 occurred, is assault and battery of a high and aggravated  
5 nature. We refer to it as ABHAN, just the abbreviation for it.

6 Assault and battery of a high and aggravated nature, it  
7 requires that you unlawfully injure another. So rather than  
8 the specific intent to kill, the difference in this one is that  
9 there's an injury; that you don't have the right under the law  
10 to shoot someone.

11 I certainly believe that McNeil specifically intended to  
12 kill Maurice when he shot him as he leaned in the passenger  
13 door of his vehicle. But if you find that there is only an  
14 unlawful injury, you would be looking at the ABHAN statute.

15 Along with that unlawful injury, the gunshot wound to his  
16 groin, obviously, you must find for ABHAN that that injury was  
17 reasonably likely to produce great bodily injury or death.  
18 Both of the doctors testified to you guys that they have seen  
19 patients die from gunshots to the groin. The femoral artery is  
20 right here [indicates].

21 I believe Dr. Fann is the one who testified the reason  
22 why he wanted to do the CAT scan is to check the vasculature,  
23 the blood flow, the veins, the vessels, the femoral artery in  
24 this area to make sure that the bullet hadn't struck that. If  
25 it had, that would be how Maurice could have bled out and

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1 that's how he would have sustained great bodily injury for  
2 that. And we're grateful that he didn't.

3 The other assault charge that will be charged to you, if  
4 you don't find for attempted murder, finally is specific intent  
5 to kill. Or under the assault and battery of a high and  
6 aggravated -- aggravated nature, excuse me, you'll be able to  
7 consider assault and battery in the first degree.

8 And what you are looking for when you -- when you  
9 consider this, or if you even get to consider this, offering or  
10 attempting to injure someone that means that could produce  
11 great bodily injury or death. So the reason that you'll have  
12 this as an option is this comes in if somebody doesn't actually  
13 injure them but they offer or attempt to. Personally, I just  
14 don't think that it's appropriate with the facts of the  
15 specific intent to kill but it will be charged to you.

16 I briefly mentioned, when I started talking about the  
17 elements, the State's burden of proof. It is the State of  
18 South Carolina's responsibility to leave you firmly convinced  
19 that Michael McNeil attempted to kill Maurice on July 20th of  
20 2016.

21 That is -- that firm conviction that is when we have met  
22 our burden of proving the charge beyond a reasonable doubt. It  
23 is not beyond all doubt, it is not beyond any doubt, it leaves  
24 you firmly convinced. In Maurice's testimony, he, with  
25 conviction, without hesitation, with absolute certainty, knows

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1 Michael McNeil. That has been well-established in his  
2 testimony.

3 Maurice knows what happened to him. Maurice told you  
4 what happened to him. Maurice will tell you in thirty years  
5 what happened to him, and that is Michael McNeil attempting to  
6 kill him.

7 I am going to ask you once you have retired to your jury  
8 room, considered all of the evidence, the physical exhibits,  
9 you'll have those back there, and re-work through the testimony  
10 that you have heard, I am going to ask you to return a guilty  
11 verdict for attempted murder and possession of a weapon during  
12 the commission of a violent crime. I appreciate your attention  
13 during this trial and I appreciate your time.

14 THE COURT: Mr. Lewis.

15 MR. LEWIS: Thank you, Judge.

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1 CLOSING ARGUMENT

2 BY MR. LEWIS:

3 Good morning, ladies and gentlemen. As Mr. D'Angelo told  
4 you at the start of this case, it's about fabrication without  
5 corroboration. To me, defense attorneys, and hopefully to all  
6 of you, corroboration is an incredibly important part of being  
7 in this room because otherwise you're just sitting around a  
8 table talking about what may have happened. That's fine when  
9 you're with your family or with your friends. That's not fine  
10 when you're in this room when someone's on trial for attempted  
11 murder. It's just not good enough.

12 Mr. D'Angelo mentioned these two stories and you've heard  
13 that Maurice told both of them. You heard that at the  
14 beginning. The way I view this is as a jigsaw puzzle. I want  
15 you to imagine, if you will, you're starting out and you're  
16 supposed to put the pieces together to create an image to show  
17 the story of what happened that day.

18 What you're left with from this case is in the middle of  
19 that puzzle. You have that Maurice was shot. That is true, he  
20 was shot. He was close to the firing, he was wearing pants  
21 with a Gucci belt and there's a bullet hole in each of them,  
22 and he was hit in the groin and those serious injuries were  
23 life-threatening. That part of the puzzle, no matter what the  
24 rest of it looks like, we agree to. That's absolutely correct.  
25 But you have not been given the pieces because in this -- in

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1 this room the pieces of a puzzle are the evidence that you hear  
2 that corroborates things from that witness stand, that you're  
3 able to put them together so that you actually see the image.  
4 He told you two stories but the front of this puzzle doesn't  
5 have to be either of them.

6       You get to decide what the front of that puzzle looks  
7 like and you've not been given any pieces to decide what it  
8 looks like. You don't have the ability to do it from this  
9 evidence. The because I said so or because Maurice said, not  
10 good enough here.

11       I think about that because as I dropped my kids off to  
12 school today, first day of school, I've said because I --  
13 because I say so a few times in my life. Usually, I have to  
14 use that when I've not got a good explanation for my behavior.  
15 Why do I have to put on my shoes right now? Because I said so.

16       I could have said for a good reason, or provided  
17 evidence, or anything else, but it's a fallback. That's not  
18 good enough for this room. Because I said so is not good  
19 enough regardless of the case, but especially in a case as  
20 serious as attempted murder.

21       Maurice Washington, actually, to his credit I'm surprised  
22 he admitted it lies come easily to him; that's sort of his  
23 default position, a fallback. And he's actually a convicted  
24 liar. He admitted to that because he had to, it's on paper,  
25 that in 2014, two years before all of these allegations, he was

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1 convicted for lying to the police, and then lied to the police  
2 again. Again, he uses lies to get himself out of trouble. He  
3 said he was -- thought he had a warrant so let me just tell a  
4 lie. Again, this is a courtroom that's not about lies. It's  
5 about truth, things that you can believe and believe not just  
6 today and when you render your verdict, but be at peace with  
7 forever. You have to be at peace with your decision.

8 He's also biased. That was the point of bringing out the  
9 idea that he was looking at the rest of his life in prison but  
10 for the actions of the Solicitor's Office. Had they not  
11 reduced his charge after he did what they wanted him to do, he  
12 would be in prison until 2046 or until he was carried out in a  
13 pine box.

14 But they didn't do that to him, and they dismissed his  
15 drug charge for good measure that carried another thirty years.  
16 He owes them his entire life, whether they'll admit it or not.  
17 Maybe that's him trying to pay his debt in some way today. I  
18 don't know.

19 Maurice uses manipulation to accomplish his goals. Even  
20 in his second story, if you believe it and I submit that you  
21 should not. But in the second story that he told you, he was  
22 going to use Boo, who none of us have heard from, obviously, to  
23 set up this sort of fake drug deal so that -- that Mike would  
24 drop him off. Just lying for whatever reason he feels  
25 necessary. And I'm not saying that any of that is true. It

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1 could be a lie within a lie. I'm saying you need to look for  
2 evidence that corroborates anything; and you don't have it  
3 here.

4 Maurice has some sort of ax to grind, whether it was the  
5 shooting, none of us can really, truly know what was going on  
6 here, or some other drama that they had between them. But his  
7 ill will exists enough that he can see a smirk through a man's  
8 mask, which impressed me very much.

9 We're still getting new details five years later, which  
10 is also pretty surprising. Added new details about a path of  
11 flight never before told to law enforcement, never before told  
12 to the Solicitor's Office. He added details about being scared  
13 after getting shot but also claimed that he stood there for  
14 three seconds after saying, Little Mike, you just shoot me.

15 Three seconds. So you're shot. One Mississippi, two  
16 Mississippi, three Mississippi. Can't pull the trigger again  
17 in three seconds? He's just adding new details that just don't  
18 make sense and that's the reason you can't convict based on  
19 what you've heard just from -- just from him, just from that  
20 man.

21 He originally told law enforcement and everybody else, I  
22 -- oh, I made up the story, I didn't want to get him in  
23 trouble. But now it's, well, I was going to handle it myself  
24 in the streets. Maybe that's because he wants to look tougher.  
25 I don't know. Maybe because it sounds better or maybe it just

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1 is consistent with he changes his story when it suits him. And  
2 it's important, the five years are important, because those  
3 things could have and should have come to light long before  
4 now. There should not be a lot of surprises in this trial  
5 because of that amount of time but there are.

6 Ladies and gentlemen, the most important part, at least  
7 for me and hopefully for you, in any criminal trial is  
8 evidence. And Mr. D'Angelo asked you at the beginning to  
9 listen for what's there. But for us, more importantly, what's  
10 not there and what should have been there.

11 The default isn't, and they acknowledged this, that if  
12 there is a benefit of the doubt to be given, it is always ours,  
13 always. It goes to the defense. You don't just assume, well,  
14 he's been consistent since 2016, June 28th, so we have to take  
15 that at its face value. No. This is about evidence in here.

16 North Charleston Police Department had the case for eight  
17 days. Detective Glen confirmed that his, their investigation  
18 of this case was that -- or that statement, nothing more. That  
19 was it. But they did also confirm, thankfully, that there were  
20 no shots-fired calls coming out of Dunlap Street, the trailer  
21 park that you-all were able to see a picture of.

22 Forty-four trailers pretty close to each other. Somebody  
23 would have heard something. And not everybody's trailer was  
24 where Mike lives. Which brings me to another interesting point  
25 that I just thought of this morning, which I'm kind of

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1 embarrassing myself, if you're going to shoot somebody, do you  
2 drive them to your home to do it? Your own house where the  
3 police can just, hey, get a search warrant? Go and looks for a  
4 gun, do anything.

5 But I'm going to take you to my house before I'm going to  
6 shoot you. I can shoot you anywhere. Could shoot you at the  
7 gas station, could drive you over here because you're not, I'm  
8 not going to let you out of the car, right, so I can shoot you  
9 anywhere but let me take you to my home. Does that make sense?

10 I do submit that North Charleston should have done a  
11 little bit of police work during that eight days, should have  
12 gone out and knocked on some doors, should have gone out,  
13 looked for that phone, should have done something. But they  
14 didn't.

15 What probably should have happened is the responding  
16 officer should have shown up at that scene that day, canvassed  
17 the area, knocked on the doors, looked for cameras. There's  
18 forty-four trailers. Knock on them all. Don't drive around in  
19 your car looking for Ring cameras. Is that police work? You  
20 have to actually talk to people.

21 You should look for evidence like shell casings or  
22 dropped phones. The detectives in their interviews, you don't  
23 just interview somebody and stop there. You listen to what the  
24 person says during the interview and you follow up on those  
25 things. That's the whole point of asking somebody questions.

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1 You get an answer, you listen to what they said, and then you  
2 investigate that. That's why you talk to these other  
3 witnesses. That's why you talk to Boo, Duvall Crummey, get  
4 what he says. You don't -- he said it would be hard to talk to  
5 him so he gave up. Okay. Again not good enough for this  
6 room; not good enough for a man on trial for attempted murder.

7 You have to investigate and corroborate. Something that  
8 was said just now, the doctor corroborates his story he was  
9 dropped off in a private vehicle. Does that mean its Boo? How  
10 about his momma or his daddy, anybody? Doctor didn't meet Boo.  
11 Doctor can't say it was Boo that dropped him off. That doesn't  
12 mean anything.

13 Maybe he didn't call the police. Which if I got shot and  
14 I'm not up to no good then I'm calling the police, please help  
15 me, I got shot in the groin. It's always -- it's a little  
16 suspicious to me and I hope that in your considerations, your  
17 deliberations, you see it as suspicious as well.

18 Law enforcement could have talked to Sed. Y'all heard  
19 from Sed. Thankfully for all of us, Maurice claimed that Sed  
20 was there. Sed is not out gangbanging or dealing crack all day  
21 every day. He's working at Lowe's for eight years, married  
22 with kids.

23 And he denied that claim that he was there. In front of  
24 -- he put his hand on a Bible and said so. You can take anyone  
25 of their words. You can take parts of things of their word.

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1 You're allowed to consider some testimony and ignore others.  
2 You'll make a decision who to believe. Maurice? Who to  
3 believe? Sed or either one. But weigh their testimony as  
4 you're making your deliberations. They didn't mention Sed at  
5 all, by the way. They may -- they may now when they get up and  
6 talk here in a minute, but they didn't mention him, which is  
7 suspect.

8       There should have been digital forensic evidence. I'm a  
9 little bit of a nerd, but I like this stuff. Automated license  
10 plate readers. They said they had these tools. They can track  
11 vehicles driving all around; we're all getting scanned. But  
12 you know what you have to do to get that data to see where  
13 we're going, what cars are going where? You have to try. And  
14 if you don't try, you don't know. They didn't try in five  
15 years. Ones and zeroes don't get erased, by the way. Those  
16 are here forever so please try, if you could.

17       Phone records, same thing, more ones and zeroes. Phone  
18 records are just forever. Supposedly they're making all these  
19 calls back and forth to each other, right? It could  
20 corroborate the story. You have not been provided those phone  
21 records to show you, hey, there's a scintilla of truth here.  
22 You don't have that, either.

23       One of my new personal favorites, because occasionally  
24 it's used against my clients in other cases, is historical  
25 cell-site data showing that phones are moving around town

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1 together with each other. Wouldn't data that could show you  
2 that these two men's phone were in the same car driving around  
3 town wouldn't that have been helpful to decide if there's any  
4 truth here? Again, you've got to put in the work if you want  
5 to have anything that works in this room. This is not, it's  
6 not a room of I said so. It can never be. It's a room of  
7 evidence.

8         Former Detective Mitch Wilson, thank God he is no longer  
9 investigating serious cases in North Charleston because if I  
10 were shot in my groin and that was the investigation that I was  
11 given, I would be pretty offended. He did nothing. Well, not  
12 fair. He did spend two hours searching for one name, in some  
13 data bases that he couldn't find and so he gave up.

14         She was able to go to his house. The Public Defender's  
15 Office, with our incredibly unlimited budget, was able to  
16 locate him but Charleston County could not; a man who's  
17 supposedly standing next to the shooting when it happened.

18         Detective Wilson did -- he was honest that he did not --  
19 there was no corroboration in his investigation other than what  
20 Maurice claimed. What kind of lead investigator drives around  
21 and doesn't get out and knock on doors? This one, I guess.

22         He admitted that he could have done more. He just chose  
23 not to. More of this take my word for it stuff which, again, I  
24 know I sound like I'm beating a dead horse but it's important.  
25 This is not a room where take my word for it can or should ever

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1 apply. You don't have to believe anything until you're proven  
2 that and you can be at peace with that conclusion. I asked him  
3 if I got arrested and brought in and I said I didn't do it, I  
4 asked -- I wondered if he would just say he would take my word  
5 for it but he did not. He said, no, he wouldn't.

6 He admitted he would have to investigate. And then he  
7 said I understood -- I understand where you're coming from,  
8 sir. Yeah. Where I'm coming from is you didn't do your job at  
9 all for anybody, and that's not fair to anyone here.

10 It is terrifying to me, ladies and gentlemen, because if  
11 Maurice had said that Ben Lewis is the person who had shot him,  
12 known Ben Lewis my whole life, he did it, then I would be  
13 sitting not in that chair [indicates] but I would be sitting in  
14 that chair [indicates] based on this evidence. That's what you  
15 have. Maurice said it so it must be true. Thankfully I'm not.  
16 I would be more stressed than I am right now.

17 You heard from Sed. I ask that you please give him the  
18 attention and the focus that he deserves. They'd love to tell  
19 you about a horrible record that he had, that he's been getting  
20 in trouble. They didn't, did they? He doesn't have the  
21 felonies, he doesn't have the drug charges, he doesn't have to  
22 lie. He said he wasn't there.

23 I know I'm getting a little long-winded and I'm going to  
24 try to wind down, ladies and gentlemen, but the presumption of  
25 innocence is something that has always been incredibly

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1 important to me. And I will admit that I laid a little of a  
2 bit of a trap in voir dire with the question how many of you  
3 have formed an opinion about the guilt or innocence of Michael  
4 McNeil. Nobody had an opinion.

5 It was trap I learned back in law school because everyone  
6 is innocent until they're proven guilty, right? So everyone's  
7 opinion of Michael McNeil when you came in here should have  
8 been the same. We all have an opinion of it. He's not guilty  
9 until you have been proven otherwise. That's why I'm talking  
10 about that in this room, those puzzlepieces. That's why they  
11 are so important.

12 Beyond just the presumption of innocence is how sure you  
13 must be in your verdict. That's the burden of proof. You've  
14 heard about it on TV. You've probably -- some of you may have  
15 been on juries previously. We are up here, beyond a reasonable  
16 doubt. It does not get more serious than the amount of proof,  
17 how firmly convinced you must be in here before you render your  
18 verdict.

19 We start down here with reasonable suspicion. That's  
20 what the police need to stop and detain somebody. Proof when  
21 taken together that a person is or is about to engage in a  
22 crime. That's stop and frisk, for somebody to stop you, want  
23 to see your I.D. They need about this much [indicates].  
24 Probable cause to arrest you, search your home, look through  
25 your stuff, circumstances that would cause a reasonable person

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1 to believe that a crime has been committed. Signed off by a  
2 judge often to get a search warrant. Preponderance of the  
3 evidence is the next step up. Greater than fifty percent  
4 probability. A little bit better. That's what they need to  
5 take a citizen's money in a civil case, even millions of  
6 dollars, a little bit of evidence.

7 Beyond that we have clear and convincing evidence, firm  
8 believe that the -- and conviction as to the truth, the level  
9 of proof needed to put someone in a mental hospital against  
10 their will, or take your kids from you. It's right here. That  
11 level of proof.

12 We're beyond that. We're as high as you can possibly  
13 get; the greatest level of proof that exists in our judicial  
14 system. That's what Michael is entitled to. So even if you're  
15 waffling about, um, what may have happened, I don't know, what  
16 evidence are you relying on to make that decision, right? And  
17 if it's fifty-fifty -- I don't think it should be with this  
18 evidence, but if it's fifty-fifty we always win because if any  
19 of us are sitting right there we deserve it and the  
20 Constitution says so. We are innocent until proven guilty.

21 Ladies and gentlemen, you're going to retire to your jury  
22 room here in a minute and I want you think are you truly  
23 convinced of anything that you've heard in this trial? I'll  
24 rephrase it. Not the doctors, not the GSR, not the SLED, not  
25 the pants, anything else. Yes, he was shot. Do we know

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1 anything else beyond a reasonable doubt? I submit to you that  
2 you do not and I would ask that you conduct your deliberations  
3 accordingly. And when you are done render the verdict that the  
4 evidence, the puzzle pieces, justify not guilty. Thank you,  
5 ladies and gentlemen.

6 THE COURT: Thank you Mr. Lewis. Ms. Norvell?

7 MR. LEWIS: Thank you, Your Honor.

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1 CLOSING ARGUMENT REPLY

2 BY MS. NORVELL:

3 Take my word for it, is not enough according to the  
4 defense unless and until they want you to take Sed's word for  
5 it because he works at Lowe's and he didn't sell drugs. I  
6 appreciate and I understand that they need Maurice to look bad  
7 for everything that they're arguing to work.

8 But Maurice, as I said when I first stood up here,  
9 Maurice hasn't pulled any punches with you. He has not tried  
10 to purport or pretend to be someone that he's not. He's just  
11 telling you that he lied at first and he had a reason for  
12 changing his mind.

13 And I understand that they need that reason to be  
14 something other than what it is, whether its charges that  
15 didn't even exist at the time that he was shot. He testified  
16 yesterday how could that have had anything to do with what he  
17 told the police and what he's still telling you here today,  
18 when they did not even exist at the time?

19 That played no role in what he told the police and what  
20 he has explained to you all. He told you that. He explained  
21 that his lie is Zia Frederick's death, his first cousin. He  
22 explained that he talked to his family and he made the  
23 determination to do the right thing. And that's not convenient  
24 for Mr. McNeil and I do understand that, but that's Maurice's  
25 why and that's what he has explained to you. Another thing

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1 that Mr. Lewis addressed is that Detective Wilson didn't do  
2 anything with the crime scene. He testified to you all the  
3 crime scene was the vehicle, was Mr. McNeil's vehicle. So they  
4 can't really knock on the doors of that vehicle and look at  
5 things like that.

6 Detective Wilson's meeting with Maurice, he explained  
7 that Maurice had no hesitation; there was absolutely no doubt  
8 in Maurice's mind what -- with what Maurice told Detective  
9 Wilson about who did this to him. And he said that that was  
10 satisfactory to him that was enough for him.

11 He explained his rationale and his reasoning for going  
12 back on what the ridiculous story he came up with at the  
13 hospital was and he explained that and he told him everything.  
14 At that point took him out to Dunlap Street, told him that --  
15 what happened in the car. And here we are still telling you  
16 that today.

17 I just want to leave you with this. The biggest point  
18 that the defense has, tried to make is that there's no  
19 corroboration of Maurice's story. We went through that in my  
20 initial closing argument with you and we explained and talked  
21 about the corroborating evidence that you do have to rely on.

22 It is, they cannot have their cake and eat it, too, and  
23 say that Sed is corroborating it or the detectives aren't  
24 corroborated. Maurice is certain of what happened. He is  
25 firmly convinced. And I'm asking you to retire to your jury

1 room and, considering everything, find a firm conviction. Find  
2 this defendant guilty.  
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JURY CHARGE

BY THE COURT:

Ladies and gentlemen of the jury, now that the closing arguments have been made it, is my duty as the presiding judge over this proceeding to charge you on the law which is applicable to this case.

Ladies and gentlemen, I remind you that during this trial you and I have had certain duties to perform. As the trial judge, it is my responsibility to preside over the trial of this case and I also have the duty to rule on the admissibility of evidence offered during this trial.

You are to consider only the competent evidence before you. If there was any testimony ordered stricken from the record in this case during this trial, you must disregard that testimony. You are only to consider the testimony which has been presented from this witness stand, any exhibits which have been made a part of the record in this case, and any stipulations of counsel.

I have the additional duty to charge you the law applicable to this case. As the presiding judge, I am the sole judge of the law of this case and it is your duty as jurors to accept and apply the law as I now state it to you. If you already have an idea as to what the law is or what the law ought to be and it does not agree with what I now tell you the law is, you must abandon this idea because you are sworn to

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1 accept the law and apply the law exactly as I state it to you.  
2 In every case tried in this court before a jury, the jury  
3 becomes the sole and exclusive judge of the facts in a case. A  
4 trial judge cannot intimate, state, comment on, or make any  
5 statement to a trial jury about the facts in a case.

6 Since you, the jury, are the sole judge of the facts in  
7 this case you are not to infer from anything I have said during  
8 the progress of this trial, or in ruling upon the admissibility  
9 of evidence or otherwise, or anything that I say now during the  
10 course of this instruction to you, that I have any opinion  
11 about the facts in this case.

12 The law does not allow me to have an opinion about the  
13 facts in this case. This is a matter solely for you, the jury,  
14 to determine. As jurors, it is your duty to determine the  
15 effect, value, weight, and the truth of the evidence presented  
16 during this trial.

17 Ladies and gentlemen, there are two indictments in this  
18 case, as I stated to you at the outset of the trial.  
19 Indictment number one is indictment 2017-GS-10-03652. It for  
20 possession of a weapon during the commission of a violent  
21 crime.

22 Indictment number 2017-GS-10-03653 is for attempted  
23 murder. I remind you that the fact that the defendant was  
24 arrested, charged, and indicted in this case is not evidence in  
25 this case and not to be considered by you as evidence of guilt

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1 in this case, nor does it create any presumption or inference  
2 of guilt. These documents are simply the formal written  
3 instruments which contain the charges made against the  
4 defendant. It is the -- these are the formal documents by  
5 which the case is brought into this court.

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

13 The defendant has pled not guilty to these indictments  
14 and these pleas put the burden of proof on the State to prove  
15 the defendant guilty. A person charged with committing a  
16 criminal offense in South Carolina is never required to prove  
17 himself innocent.

18 I charge you that it is an important rule of the law that  
19 the defendant in a criminal trial, no matter what the  
20 seriousness of the charge may be, will always be presumed to be  
21 innocent of the crime for which the indictments were issued  
22 unless guilt has been proven by evidence satisfying you of that  
23 guilt beyond a reasonable doubt.

24 This presumption of innocence does not end when you begin  
25 your deliberation but it accompanies the defendant throughout

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1 the trial until you reach a verdict of guilt based upon  
2 evidence satisfying you of that guilt beyond a reasonable  
3 doubt.

4       The presumption of innocence is like a robe of  
5 righteousness placed about the shoulders of the defendant,  
6 which remains with the defendant until it has been stripped  
7 from the defendant by evidence satisfying you of the  
8 defendant's guilt beyond a reasonable doubt.

9       The presumption of innocence is not mere legal theory, it  
10 is not just a legal phrase, it is -- it is a substantial right  
11 to which every defendant is entitled unless you, the jury, are  
12 satisfied from the evidence of the defendant's guilt beyond a  
13 reasonable doubt.

14       Now, what is a reasonable doubt in the law? A reasonable  
15 doubt is the kind of doubt that would cause a reasonable person  
16 to hesitate to act. The State has the burden of proving the  
17 guilt -- the defendant guilty beyond a reasonable doubt. Some  
18 of you may have served as jurors in civil cases where you were  
19 told that it is only necessary to prove that a fact is more  
20 likely true than not true, such as by the greater weight or  
21 preponderance of the evidence.

22       In criminal cases, the State's proof must be more  
23 powerful than that. It must be beyond a reasonable doubt.  
24 Proof beyond a reasonable doubt is proof that leaves you firmly  
25 convinced of the defendant's guilt. There are very few things

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1 in this world that we know with absolute certainty and in  
2 criminal cases the law does not require proof that overcomes  
3 every possible doubt. If based on your consideration of the  
4 evidence you are firmly convinced that the defendant is guilty  
5 of the crimes charged, you must find the defendant guilty. If  
6 on the other hand you think there is a real possibility that  
7 the defendant is not guilty, you must give the defendant the  
8 benefit of the doubt and find him not guilty.

9       There are two types of evidence which are generally  
10 presented during a trial: direct evidence and circumstantial  
11 evidence. Direct evidence is the testimony of a person who  
12 claims to have actual knowledge of a fact, such as an  
13 eyewitness. Circumstantial evidence is proof of a chain of  
14 facts and circumstances indicating the existence of a fact.

15       The law makes absolutely no distinction between the  
16 weight or value to be given to either direct or circumstantial  
17 evidence, nor is a greater degree of certainty required of  
18 circumstantial evidence than of direct evidence. You should  
19 weigh all of the evidence in the case.

20       After weighing all the evidence, if you are not convinced  
21 of the guilt of the defendant beyond a reasonable doubt you  
22 must find the defendant not guilty. Direct evidence directly  
23 proves the existence of a fact and does not require deduction.  
24 Circumstantial evidence is proof of a chain of facts and  
25 circumstances indicating the existence of that fact. Crimes

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1 may be proven by circumstantial evidence. The law makes no  
2 distinction between the weight or value to be given to either  
3 direct or circumstantial evidence. However, to the extent that  
4 the State relies upon circumstantial evidence, all of the  
5 circumstances must be consistent with each other and when taken  
6 together point conclusively to the guilt of the accused beyond  
7 a reasonable doubt.

8         If these circumstances merely portray the defendant's  
9 behavior as suspicious, the proof has failed. The State has  
10 the burden of proving the defendant guilty beyond a reasonable  
11 doubt. This burden rests with the State regardless of whether  
12 the State relies on direct evidence, circumstantial evidence,  
13 or some combination of the two.

14         Necessarily, ladies and gentlemen, you must determine the  
15 credibility of the witnesses who have testified in this case.  
16 Credibility simply means believability. It becomes your duty  
17 as jurors to analyze and to evaluate the evidence and determine  
18 which evidence convinces you of its truth. In determining the  
19 believability of witnesses who have testified in this case, you  
20 may believe one witness over several witnesses or several  
21 witnesses over one witness.

22         You may believe a part of the testimony of a witness and  
23 reject the remaining part of the testimony of that same  
24 witness. You may believe the testimony of a witness in its  
25 entirety or reject the testimony of a witness in its entirety.

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1 You may consider whether any witness has exhibited to you any  
2 interest, bias, prejudice, or other motive in this case. You  
3 may also consider the appearance and manner of a witness while  
4 on the witness stand.

5       There has been evidence presented to you that witnesses  
6 have made prior statements which are not consistent with the  
7 witness' present testimony. You may use this evidence to  
8 decide whether to believe the witness. You may also use the  
9 evidence of the earlier contradictory statements to determine  
10 the truth of those statements.

11       It is up to you to decide whether to believe the earlier  
12 statements, or the testimony given at trial. If a witness is  
13 shown to have knowingly testified untruthfully concerning any  
14 material matter, you may consider this in determining whether  
15 to trust the witness' testimony as to other matters. You may  
16 reject all of the testimony of that witness or give all or part  
17 of the testimony the weight you think it deserves.

18       I instruct you and emphasize that the fact that the  
19 defendant did not testify is not a factor to be considered by  
20 you in any way in your deliberation and in your consideration  
21 of the question of the guilt or innocence of the defendant.

22       It must not be considered by you in any manner  
23 whatsoever. A defendant has the constitutional right to remain  
24 silent and the assertion of this right must not be considered  
25 by you in your deliberations. I repeat, under your oath you

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1 are to draw no conclusion whatsoever from the fact that the  
2 defendant in this case did not testify. The fact that this  
3 defendant did not testify should not even be discussed in the  
4 jury room. The burden of proof, as I have stated to you, is on  
5 the State. The defendant is not required to prove his  
6 innocence. The burden of proof remains on the State to prove  
7 guilt beyond a reasonable doubt.

8 An issue in this case is the identification of the  
9 defendant as the person who committed the crimes charged. The  
10 State has the burden of proving identity beyond a reasonable  
11 doubt. You must be satisfied beyond a reasonable doubt the  
12 accuracy of the identification of the defendant before you may  
13 convict the defendant.

14 Identification testimony is an expression or belief or  
15 impression by a witness. You must determine the accuracy of  
16 the identification of the defendant. You must consider the  
17 believability of each identification witness in the same way as  
18 any other witness. You may consider whether the witness had an  
19 adequate opportunity to observe the offender at the time of the  
20 offense.

21 This will be affected by things like how long or short a  
22 time was available, how far or close the witness was, the  
23 lighting conditions, and whether the witness had the chance to  
24 see or know the person in the past. Once again, I instruct you  
25 the burden of proof is on the State. The burden of proof on

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1 the State extends to every element of the crime charged and  
2 this specifically includes the burden of proving beyond a  
3 reasonable doubt the identity of the defendant as the person  
4 who committed the crime. If after examining the testimony you  
5 have a reasonable doubt as to the accuracy of the  
6 identification, you must find the defendant not guilty.

7 In order to establish criminal liability, criminal intent  
8 is required. For example, the mental state required to be  
9 proven by the State for a particular crime might be purpose,  
10 intent, knowledge, recklessness, or criminal negligence.  
11 Criminal intent must be proven by the State beyond a reasonable  
12 doubt. Criminal intent is always a matter that must be  
13 determined by the jury from the circumstances surrounding the  
14 situation.

15 There is no way to prove intent to a mathematical  
16 certainty. There is no way medical science can dissect a  
17 person's brain and determine what the person had in mind so the  
18 law says that criminal intent may be inferred from the  
19 circumstances shown to have existed.

20 This is how you make the determination of whether or not  
21 the element requiring intent was present. It is not necessary  
22 to establish the intent by direct and positive evidence but  
23 intent may be established by inference in the same way as any  
24 other fact, by taking into consideration the acts of the  
25 parties and all the facts and circumstances of the case.

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1 Criminal intent is a mental state, a conscious wrongdoing. It  
2 is up to you to determine what the defendant intended to do  
3 based upon the circumstances shown to have existed. Criminal  
4 intent can arise from action or a failure to act. It may arise  
5 from negligence, from recklessness, or an indifference to duty,  
6 or consequences that are considered by the law to be equivalent  
7 of criminal intent.

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

15 An attempt is an effort to accomplish a crime which does  
16 not succeed. An attempt includes a specific intent to do a  
17 particular criminal act along with an act falling short of the  
18 act intended. The State must show more than mere preparation  
19 and intent. There must be some overt act committed in the  
20 effort to commit the crime.

21 Intent means intending the result which actually occurs  
22 not accidentally or involuntary. Intent may be shown by acts in  
23 conduct of the defendant and other circumstances from which you  
24 may naturally and reasonably infer intent.

25 Ladies and gentlemen, the defendant is charged with

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1 attempted murder. In order to prove this crime, the State must  
2 prove the defendant acted with the specific intent to kill  
3 another person and the defendant attempted to kill another  
4 person with malice aforethought either expressed or implied.

5 Malice is hatred, ill will, or hostility towards another  
6 person. It is the intentional doing of a wrongful act without  
7 just cause or excuse and with an intent to inflict an injury or  
8 under circumstances that the law will infer an evil intent.

9 Malice aforethought does not require that malice exists  
10 for any particular time before the act is committed but malice  
11 must exist in the mind of the defendant just before and at the  
12 time the act is committed. Therefore, there must be a  
13 combination of the previous evil intent and the act.

14 Malice aforethought may be either express or inferred.  
15 These terms express and inferred do not mean different kinds of  
16 malice but merely the manner in which the malice may be shown  
17 to exist. That is either by direct evidence or by inference  
18 from the facts and circumstances which are proved.

19 Express malice is shown when a person speaks words or --  
20 words which express hatred or ill will for another or when the  
21 person prepared beforehand to do the act which was later  
22 accomplished. For example, lying in wait for a person or any  
23 other acts of preparation going to show that the deed was  
24 within the defendant's mind would be express malice. Malice  
25 may be inferred from conduct showing a total disregard for

1 human life. If facts are proved beyond a reasonable doubt  
2 sufficient to raise an inference of malice to your  
3 satisfaction, this inference would be simply an evidentiary  
4 fact to be considered by you, the jury, along with other  
5 evidence in the case and you may give it the weight you decide  
6 it should receive.

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

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

18       Evidence of the character of the act, the character of  
19 the instrument used and the manner in which it was used for the  
20 purpose to be accomplished, and the resulting wounds or  
21 injuries, may be considered in determining the intent for which  
22 the act was committed.

23       Intent may also be inferred when it is demonstrated that  
24 the defendant voluntarily and willfully commits the act, the  
25 natural tendency of which is to destroy another's life.

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1           Now, ladies and gentlemen, if you find the State has  
2 failed to prove beyond a reasonable doubt that the defendant  
3 attempted murder, you may consider whether the State has proven  
4 beyond a reasonable doubt that the defendant committed assault  
5 and battery of a high and aggravated nature.

6           Ladies and gentlemen, this is what is known as a lesser  
7 included offense. A person commits the offense of assault and  
8 battery of a high and aggravated nature if the person  
9 unlawfully injures another person and great bodily injury to  
10 another person results or the act is accomplished by means  
11 likely to produce death or great bodily injury.

12           Great bodily injury means bodily injury which causes a  
13 substantial risk of death or which causes serious permanent  
14 disfigurement or protracted loss or impairment of the function  
15 of a bodily member or organ.

16           If you find that the State has failed to prove beyond a  
17 reasonable doubt that the defendant attempted murder and that  
18 the defendant is not guilty of assault and battery of a high  
19 and aggravated nature, you may consider whether the State has  
20 proved beyond a reasonable doubt that the defendant committed  
21 assault and battery in the first degree. This is a further  
22 lesser included offense.

23           A person commits the offense of assault and battery in  
24 the first degree if a person unlawfully offers or attempts to  
25 injure another person with the present ability to do so and the

1 act is accomplished by means likely to produce death or great  
2 bodily injury. Again, great bodily injury means bodily injury  
3 which causes a substantial risk of death or which causes  
4 serious or permanent disfigurement or protracted loss or  
5 impairment of the function of a bodily member or organ.

6 The defendant is also charged with possession of a weapon  
7 during the commission of a violent crime. The State must prove  
8 beyond a reasonable doubt that the defendant was in possession  
9 of a firearm or visibly displayed what appeared to be a firearm  
10 during the commission of the violent crime.

11 A firearm means any machinegun, automatic rifle,  
12 revolver, pistol, or any weapon which is designed to or may  
13 readily be converted to expel a projectile. In order to find  
14 the defendant guilty of possession of a weapon during the  
15 commission of a violent crime, you must first find the  
16 defendant guilty of either committing a violent crime or  
17 attempting to commit a violent crime.

18 Ladies and gentlemen, I will charge to you that attempted  
19 murder and assault and battery of a high and aggravated nature  
20 are both considered violent crimes. The State must prove  
21 beyond a reasonable doubt that the weapon further advanced or  
22 helped in the commission of the crime.

23 Now, Mr. Foreperson, if you would raise your hand for us.

24 [Whereupon, the foreperson complies]

25 THE COURT: The Clerk is going to hand you copies of the

1 verdict forms in this matter and I'm going to go over them with  
2 you.

3 Now, as you can see, there are two separate and distinct  
4 verdict forms which exist in this case. And looking at these  
5 verdict forms, looking at the verdict form for attempted  
6 murder, as you can see there is listed the first -- the first  
7 charge of attempted murder. And you are to consider that  
8 charge first.

9 There is no emphasis or nothing that should be drawn from  
10 the order in which the possible verdicts are listed. It is  
11 simply that one must go first. So, Mr. Foreperson, if you  
12 would attempt -- or in your deliberations you would consider  
13 that charge and once you've reached a decision on that charge  
14 you put a checkmark in the little box.

15 If you find that the State has failed to prove the  
16 defendant guilty of attempted murder, you would proceed to  
17 question 1-A and consider the lesser included offense of  
18 assault and battery of a high and aggravated nature.

19 Again, if you make a determination that the defendant is  
20 not guilty of that charge, you could then go to the final  
21 lesser included offense of assault and battery in the first  
22 degree, check the appropriate box and then sign the form.

23 So, sir, if -- the answering the questions is going to be  
24 based upon the answer to the prior question. For example, if  
25 you make the determination of guilt -- of guilty on the primary

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1 charge, you would then mark the appropriate box and then sign  
2 the verdict form. So it's -- the verdict form explains the  
3 procedure to follow in considering the primary charge and then  
4 these lesser included offenses.

5 And the verdict form for possession of a weapon during  
6 the commission of a violent crime is fairly straightforward.  
7 There are only two choices there and no lesser included  
8 offenses. And, again, you are to draw no inferences from the  
9 order in which the verdicts are listed. It is simply that one  
10 must come first.

11 Now, ladies and gentlemen of the jury, your verdict must  
12 be a unanimous one. Mr. Foreperson, when the jury agrees upon  
13 the verdicts, you will, you will check the appropriate boxes on  
14 the verdict forms, sign and date the verdict forms, and then  
15 knock on the jury room door and inform the bailiff that you  
16 have reached a verdict. At that time we will receive you back  
17 into the courtroom.

18 Now, in just a few moments, ladies and gentlemen of the  
19 jury, I'm going to send you to your jury room and I would ask  
20 that you not begin your deliberations at this time and wait  
21 until you are instructed by the bailiff to do so.

22 There are some matters which must be discussed with the  
23 attorneys before you begin your deliberations and the signal to  
24 begin your deliberations will be when the bailiff brings the  
25 items of evidence which were admitted in this case to the jury

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1 room for your consideration. So, ladies and gentlemen, with  
2 that being said, I'm going to ask you to go to the jury room at  
3 this time. Please do not begin your deliberations until the  
4 evidence is brought into the jury room for your consideration.  
5 Thank you very much.

6 [Whereupon, the jury exits the courtroom at 11:16 a.m.]

7 THE COURT: Folks, are there any objections or exceptions  
8 to the charge as read to the jury?

9 MS. NORVELL: Not from the State, Judge.

10 MR. LEWIS: No, Your Honor.

11 THE COURT: Alright, folks. If y'all will come and  
12 review the evidence that has been admitted in this case with  
13 Madam Court Reporter. As soon as the evidence is in order, we  
14 will send it to the jury and instruct them to begin their  
15 deliberations.

16 [Whereupon, counsel and the court reporter confer  
17 regarding the exhibits]

18 THE COURT REPORTER: Judge, we have them all.

19 THE COURT: Alright. The evidence can be taken to the  
20 jury and instruct the jury to begin their deliberations.

21 And we will be at ease until we hear from the jury.

22 [Whereupon, the evidence goes to the jury at 11:20 a.m.]

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1 [Whereupon, Court is in recess awaiting word from the  
2 jury]

3 THE COURT: Alright. Folks, let's come to -- let's come  
4 to order, folks.

5 THE BAILIFF: The alternates, Judge.

6 [Whereupon, the alternate jurors enter the courtroom]

7 THE COURT: Alright. Fellows, y'all can stand right  
8 there.

9 As the alternate jurors in this case you're not entitled  
10 to participate in the deliberations once the case is closed.  
11 You were essentially -- I always say that alternates are kind  
12 of like relief pitchers and if the primary jury pitches a  
13 complete game and they all stay in the game until the end of  
14 the trial, we don't need the relief pitchers.

15 But we couldn't go forward with cases without people  
16 being willing to serve as alternates. And in the current  
17 climate we're in, the odds that alternates will be used are  
18 fairly high with people getting ill. Thankfully, that didn't  
19 happen this week. And your service as jurors this week has now  
20 concluded.

21 I don't know exactly how Charleston County does it but  
22 you will be paid for your time. It will not come close to  
23 adequately compensating you your for the service you've done to  
24 the people of Charleston County and the State of South  
25 Carolina, but you have my thanks and appreciation. And with

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1 that, you are free to go. Thank you very much.

2 [Whereupon, the alternates are excused and exit the  
3 courtroom]

4 THE COURT: Alright, folks. We'll be at ease. Thank  
5 you.

6 [Whereupon, Court is in recess until 12:09 p.m.]

7 THE COURT: If we could have -- y'all can be seated.  
8 If we could have Mr. McNeil brought in.

9 [Whereupon, Mr. McNeil enters the courtroom]

10 THE COURT: Alright. Ladies and gentlemen, we have  
11 received a question from the jury signed by the Foreperson,  
12 John Green, Juror Number 118. The question is the difference  
13 between charge 1 and charge 1-A. In looking at the verdict  
14 form they are looking for the difference between attempted  
15 murder and assault and battery of a high and aggravated nature.

16 My thought is to bring the jury back out and re-charge as  
17 to those two specific offenses, but I'll be happy to hear from  
18 both sides if there are any other suggestions.

19 MS. NORVELL: I believe that that's the appropriate  
20 remedy is re-charging both attempted murder and ABHAN.

21 MR. LEWIS: I would tend to agree. I don't know if you  
22 want to read it to them or do you not want them to have the  
23 document themselves?

24 MS. NORVELL: I don't have a problem with that if  
25 you're...

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1 MR. LEWIS: I don't have a problem ---

2 MS. NORVELL: --- I know it's a little -- some judges  
3 really don't like it.

4 THE COURT: I think I'm just going to bring them back out  
5 and read it to them.

6 MR. LEWIS: Okay.

7 THE COURT: And if they were to ask for a copy of it, I  
8 would consider giving it to them. But at this juncture I'm  
9 just going to read it to them and see where that leads us.

10 MS. NORVELL: That's appropriate with the State.

11 MR. LEWIS: Yes, Your Honor.

12 THE COURT: Alright. If we could have the jury brought  
13 in.

14 THE BAILIFF: Yes, sir.

15 THE COURT: I'm going to have Madam Court Reporter mark  
16 the question as a Court's Exhibit.

17 [Whereupon, Court's Exhibit Number 5 is marked for  
18 identification by the court reporter]

19 [Off the record momentarily]

20 [Whereupon, the jury enters the courtroom at 1:04 p.m.]

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

22 THE COURT: Thank you, sir.

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JURY RECHARGE

1  
2 THE COURT: Thank you, ladies and gentlemen of the jury.  
3 We have received the question that you have written asking as  
4 to the difference between charge 1 and 1-A. And for the  
5 record, charge 1 is the count of attempted murder, 1-A is the  
6 lesser included offense of assault and battery of a high and  
7 aggravated nature.

8 Ladies and gentlemen of the jury, the proper procedure in  
9 my mind for a question like this is to recharge you on the law  
10 of attempted murder and assault and battery of a high and  
11 aggravated nature, and I'm going to do that now, so please  
12 listen closely as I recharge you the specific law as to these  
13 two separate offenses.

14 The defendant is charged with attempted murder. In order  
15 to prove this crime, the State must prove the defendant acted  
16 with the specific intent to kill another person and that the  
17 defendant attempted to kill another person with malice  
18 aforethought either express or implied.

19 Malice is hatred, ill will, or hostility towards another  
20 person. It is the intentional doing of a wrongful act without  
21 just cause or excuse and with, and with an intent to inflict an  
22 injury or under circumstances that the law will infer an evil  
23 intent. Malice aforethought does not require that malice exist  
24 for any particular time before the act is committed, but malice  
25 must exist in the mind of the defendant just before and at the

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1 time the act is committed. Therefore, there must be a  
2 combination of the previous evil intent and the act. Malice  
3 aforethought may be express or inferred. These terms express  
4 and inferred do not mean different kinds of malice but merely  
5 the manner in which malice may be shown to exist.

6 That is either by direct evidence or by inference from  
7 the facts and circumstances which are proved. Express malice  
8 is shown when a person speaks words which express hatred or ill  
9 will for another or when the person prepared beforehand to do  
10 the act which was later accomplished.

11 For example, lying in wait for a person or any other acts  
12 of preparation going to show that the deed was within the  
13 defendant's mind would be express malice. Malice may be  
14 inferred from conduct showing a total disregard for human life.  
15 If facts are proved beyond a reasonable doubt sufficient to  
16 raise an inference of malice to your satisfaction, this  
17 inference would be simply an evidentiary fact to be considered  
18 by you, the jury, along with the other evidence in the case,  
19 and you may give it the weight you decide it should receive.

20 If facts are proven beyond a reasonable doubt sufficient  
21 to raise an inference of malice to your satisfaction, again,  
22 this inference would simply be an evidentiary fact to be  
23 considered by you, the jury, along with the other evidence in  
24 the case. You may give it the weight you decide it should  
25 receive. A specific intent to kill is an element of attempted

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

5 Evidence of the character of the act, the character of  
6 the instrument used, the manner in which it was used, the  
7 purpose to be accomplished, and the resulting wounds or  
8 injuries, may be considered in determining the intent with  
9 which the act was committed. Intent also may be inferred when  
10 it is demonstrated that the defendant voluntarily and willfully  
11 commits an act, the natural tendency of which is to destroy  
12 another's life.

13 Now, ladies and gentlemen, if you find that the State has  
14 failed to prove beyond a reasonable doubt that the defendant  
15 attempted murder, you may consider whether the State has proved  
16 beyond a reasonable doubt that the defendant committed assault  
17 and battery of a high and aggravated nature.

18 A person commits the offense of assault and battery of a  
19 high and aggravated nature if the person unlawfully injures  
20 another person and great bodily injury to another person  
21 results or the act is accomplished by means likely to produce  
22 death or great bodily injury. Great bodily injury means bodily  
23 injury which causes a substantial risk of death or which causes  
24 serious permanent disfigurement or protracted loss or  
25 impairment of the function of a bodily member or organ.

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1 Ladies and gentlemen of the jury, that concludes the  
2 charge -- the charges of attempted murder or the charge on the  
3 law for the offenses of attempted murder and assault and  
4 battery of a high and aggravated nature.

5 I'm going to ask that you return to your jury room and  
6 continue your deliberations in this case. If you'll return to  
7 your jury room.

8 [Whereupon, the jury exits the courtroom at 1:09 p.m.]

9 THE COURT: Any objections from the State?

10 MS. NORVELL: None from the State, Your Honor.

11 THE COURT: Any from the defense?

12 MR. LEWIS: No, Your Honor.

13 THE COURT: Alright. We will be at ease until we hear  
14 further from the jury.

15 [Whereupon, a recess is taken from 1:09 p.m. to  
16 1:35 p.m.]

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1           THE COURT:  Alright.  Ladies and gentlemen, I've been  
2 informed that the jury has reached a verdict.  And this is a  
3 standard instruction that I give to attorneys, litigants,  
4 people who are bystanders watching a trial.

5           I understand that these situations are full of emotion.  
6 If there is anybody in the courtroom who doesn't believe that  
7 they can keep their emotions in check when the verdict is  
8 published, now is the time to leave the courtroom.  First and  
9 foremost, we're going to maintain a sense of order and decorum  
10 as the verdict is read.

11           So I know there are fewer people in the courtroom, than  
12 would be in here ordinarily, because of COVID restrictions but  
13 I do want to give that warning before the jury is brought in.

14           Is there anything else we need to discuss prior to the  
15 jury being brought in?

16           MS. NORVELL:  Nothing from the State, Judge.

17           MR. LEWIS:  No, Your Honor.

18           THE COURT:  Alright.  If you'll bring us the jury,  
19 please.

20           [Whereupon, the jury enters the courtroom at 1:40 p.m.]

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

22           THE COURT:  Alright.  Thank you, sir.

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VERDICT

THE COURT: Mr. Foreperson, has the jury reached a verdict?

THE FOREPERSON: Yes, we have, sir.

THE COURT: Is it unanimous?

THE FOREPERSON: No, sir. I'm sorry. Yes, sir, it is unanimous.

THE COURT: Okay. Just so the record is clear, is it unanimous?

THE FOREPERSON: Yes, sir.

THE COURT: Meaning all twelve jurors agree?

THE FOREPERSON: Have agreed. Yes, sir.

THE COURT: Alright. If you would hand the verdict forms to the Clerk, please.

[Whereupon, the Foreperson provides documents to the Clerk]

THE COURT: Madam Clerk, if you would publish the jury [sic], please.

THE CLERK OF COURT: Would the defendant please stand.

[Whereupon, Mr. McNeil stands]

THE CLERK OF COURT: In the Court of General Sessions, State of South Carolina, County of Charleston, The State versus Michael Anthony McNeil, case number 2017-GS-10-03653, as to the charge of attempted murder, we, the jury, unanimously find the defendant not guilty.

1           As to the lesser included offense of assault and battery  
2 of a high and aggravated nature, guilty of the lesser included  
3 offense of assault and battery of a high and aggravated nature.  
4 Signed by the Foreperson, dated August 18th, 2018.

5           As to the case number 2017-GS-10-03652, as to the charge  
6 of possession of a weapon during the commission of a violent  
7 crime, we, the jury, unanimously find the defendant guilty.  
8 Signed by the Foreperson, dated August 18th, 2021.

9           THE COURT: Thank you, Madam Clerk. Mr. Lewis, does the  
10 defense request polling the jury?

11           MR. LEWIS: Yes, Your Honor. Yes, Your Honor.

12           THE COURT: If we could poll the jury, please.

13           THE CLERK OF COURT: Yes, Judge.

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State v Michael A. McNeil  
Polling of the Jury  
August 18, 2021

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POLLING OF THE JURY

THE CLERK OF COURT: Ladies and gentlemen of the jury, I'm going to ask you each two questions, is this your verdict and is this still your verdict. Please answer each question appropriately. Also, please stand when I call your juror number.

Juror Number 118, is this your verdict?

JUROR NUMBER 118: Yes, it is.

THE CLERK OF COURT: Is this still your verdict?

JUROR NUMBER 118: Yes, it is.

THE CLERK OF COURT: You may be seated. Juror Number 174, is this your verdict?

JUROR NUMBER 174: Yes, it is.

THE CLERK OF COURT: Is it still your verdict?

JUROR NUMBER 174: Yes, it is.

THE CLERK OF COURT: You may be seated. Juror number 117, is this your verdict?

JUROR NUMBER 117: Yes, ma'am.

THE CLERK OF COURT: Is this still your verdict?

JUROR NUMBER 117: Yes, ma'am.

THE CLERK OF COURT: You may be seated. Juror number 260, is this your verdict?

JUROR NUMBER 260: Yes.

THE CLERK OF COURT: Is this still your verdict?

JUROR NUMBER 260: Yes.

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1 THE CLERK OF COURT: You may be seated. Juror number 40,  
2 is this your verdict?

3 JUROR NUMBER 40: Yes.

4 THE CLERK OF COURT: Is this still your verdict?

5 JUROR NUMBER 40: Yes, ma'am.

6 THE CLERK OF COURT: You may be seated. Juror number  
7 165, is this your verdict?

8 JUROR NUMBER 165: Yes.

9 THE CLERK OF COURT: Is this still your verdict?

10 JUROR NUMBER 165: Yes.

11 THE CLERK OF COURT: You may be seated. Juror 177, is  
12 this your verdict?

13 JUROR NUMBER 177: Yes.

14 THE CLERK OF COURT: Is it still your verdict?

15 JUROR NUMBER 177: Yes, ma'am.

16 THE CLERK OF COURT: Thank you. You may be seated.  
17 Juror number 252, is this your verdict?

18 JUROR NUMBER 252: Yes.

19 THE CLERK OF COURT: Is this still your verdict?

20 JUROR NUMBER 252: Yes.

21 THE CLERK OF COURT: You may be seated. Juror number  
22 244, is this your verdict?

23 JUROR NUMBER 244: Yes.

24 THE CLERK OF COURT: Is this still your verdict?

25 JUROR NUMBER 244: Yes.

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Polling of the Jury  
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1 THE CLERK OF COURT: You may be seated. Juror number 87,  
2 is this your verdict?

3 JUROR NUMBER 87: Yes.

4 THE CLERK OF COURT: Is this still your verdict?

5 JUROR NUMBER 87: Yes.

6 THE CLERK OF COURT: You may be seated. Juror number  
7 128, is this your verdict?

8 JUROR NUMBER 128: Yes.

9 THE CLERK OF COURT: Is this still your verdict?

10 JUROR NUMBER 128: Yes.

11 THE CLERK OF COURT: You may be seated. Juror number  
12 241, is this your verdict?

13 JUROR NUMBER 241: Yes.

14 THE CLERK OF COURT: Is this still your verdict?

15 JUROR NUMBER 241: Yes.

16 THE CLERK OF COURT: Thank you. You may be seated.  
17 Your Honor, the jury has been polled and the verdict stands.

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State v Michael A. McNeil  
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1 THE COURT: Thank you, ma'am. Ladies and gentlemen of  
2 the jury, this concludes your service obviously in this trial  
3 and concludes your service as jurors for this week. I want to  
4 commend you for your attention that you've paid this week and  
5 let you know that you've provided a great service to the State  
6 of South Carolina and the citizens of Charleston County.

7 You are now exempt from jury service for a period of  
8 three years. And, again, we greatly appreciate the service  
9 that you've provided this week. You will be compensated for  
10 your time and service as jurors, and that will happen at  
11 sometime in the not too distant future. But at this time you  
12 are free to go and your service this week has concluded. Thank  
13 you very much.

14 [Whereupon, the jury is excused and exits the courtroom  
15 at 1:45 p.m.]

16 THE COURT: Alright, folks. I assume that you need some  
17 time to gather some paperwork so we are going to take a recess  
18 until two o'clock. If I could see the lawyers in chambers real  
19 quick while -- just whichever one of y'all is not going to get  
20 the paperwork in order to --

21 [Whereupon, the Court and counsel confer in chambers]

22 [Whereupon, a recess is taken from 1:47 p.m. to  
23 2:10 p.m.]

24 THE COURT: Alright. Ms. Norvell?

25 MS. NORVELL: Thank you, Judge. The State is ready to

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1 proceed with sentencing. As we discussed in chambers, Judge,  
2 the State has filed and served a notice of intention to seek a  
3 sentence of life without parole on the defendant. That notice  
4 was signed and filed on December 9th of 2019.

5 Also filed along with the notice, the written notice was  
6 acknowledgment of service upon both the defendant and his  
7 counsel. Both of those acknowledgements of services were  
8 signed and filed on the same date, December 9th, 2019.

9 The notice and the State's intention to seek this LWOP  
10 sentence was based on the following prior convictions: It was  
11 a 2016 serious offense, assault and battery of a high and  
12 aggravated nature. The other offense that this is based on is  
13 a 2008 conviction for assault and battery with intent to kill,  
14 which is classified as most serious.

15 Judge, based on the jury's verdict today and the  
16 conviction for another count of assault and battery of a high  
17 and aggravated nature, which is classified as a serious  
18 offense, we believe that the notice and that sentence would  
19 thus be invoked.

20 The defendant's prior record, other than the charges that  
21 I've just mentioned, I would like to put on the record. He has  
22 a 2016 ---

23 THE COURT: --- Ms. Norvell, hold on.

24 MS. NORVELL: Sure.

25 THE COURT: I got a little bit ahead of myself.

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1 MS. NORVELL: That's okay.

2 THE COURT: I need to recognize Mr. Lewis. Before we get  
3 into too much detail I want to give him the opportunity to  
4 renew any motions. I should have recognized him first and for  
5 that I apologize. So, Mr. Lewis?

6 MR. LEWIS: Thank you, Judge.

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State v Michael A. McNeil  
Renewed Motion for Directed Verdict and Motion for New Trial  
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RENEWED MOTION FOR DIRECTED VERDICT  
MOTION FOR NEW TRIAL

BY MR. LEWIS:

At this time I renew all previous motions, especially those in regards to directed verdict. In addition, as part of a motion for a new trial, I think there is an issue with my failure to move for a mistrial immediately upon Mr. Washington's referencing that to release Mike would be dangerous or a threat to the community or something like along those lines.

The Court sustained my objection but at that point I should have pulled the trigger. And as I'm sitting here trying to think of what the jury hung their hat on, and obviously it's difficult for me as the defense attorney, but I don't know if that played a role in their thinking that to give him a sentence or to find him not guilty would be to put someone dangerous back on the street.

And I don't know if that weighed on them and I should have been more proactive in that moment. Thank you, Judge.

THE COURT: Alright. I will -- since he's renewed the motions based upon the prior arguments for a directed verdict, I will reaffirm my denial of those motions and deny the motion for a new trial.

With regard to the statement about it would be dangerous for him to get out, which was made by Mr. Washington, I did --

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Renewed Motion for Directed Verdict and Motion for New Trial  
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1 did sustain the objection and ordered that the jury would  
2 disregard that testimony. And there were no further motions  
3 made, so any grounds for failure to make any appropriate -- any  
4 motions at that time are not before this court. So I will deny  
5 the motion for a new trial. I certainly find that ---

6 MR. LEWIS: --- yes, Your Honor ---

7 THE COURT: --- that the defense has preserved their  
8 arguments as to the directed verdict motions and their denials  
9 and they are certainly preserved for appellate review.

10 MR. LEWIS: Thank you, Your Honor.

11 THE COURT: Alright. Let's proceed with the defendant's  
12 prior criminal record.

13 MS. NORVELL: Thank you, Judge. I would just briefly  
14 like to respond to the motion for a new trial, just put our,  
15 the State's, position on the record.

16 THE COURT: Yes, ma'am. I'm sorry. I ---

17 MS. NORVELL: --- not a problem at all. I appreciate the  
18 opportunity to say this.

19 There was no contemporaneous motion at the time of that  
20 statement by Mr. Washington. It was not elicited from the  
21 State. The defendant -- or, excuse me, the victim did not  
22 finish his sentence before the objection was raised and  
23 sustained by the Court and the Court promptly replied by  
24 striking that and providing a curative instruction to the jury.

25 We do not believe that there was a lack of evidence for

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Renewed Motion for Directed Verdict and Motion for New Trial  
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1 which the jury's verdict to be based. We believe that they  
2 accepted the direct testimony that they were presented by both  
3 the victim and eyewitness, the same person, Maurice Washington,  
4 and that the verdict -- the jury's verdict should stand.

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SENTENCING

MS. NORVELL: In proceeding with sentencing now, the defendant's prior criminal history, other than what has been presented to the Court as the basis for the notice of the intention to seek a life without parole sentence, he has a prior conviction in 2016 for strong armed robbery.

He has that 2016 assault and battery of a high and aggravated nature, possession of cocaine, possession of crack cocaine, possession of a firearm by a convicted felon, failure to stop for a blue light.

He has a 2015 driving violation and possession of marijuana; 2014, a failure to appear; and a 2008, that was the assault and battery with intent to kill.

Judge, I...

[Whereupon, Ms. Norvell and Mr. DuTremble confer]

MS. NORVELL: Before the State filed its notice of intention to seek the life without parole sentence, there was a global resolution presented to this defendant. He does have other pending charges at this time, Judge.

He has another pending attempted murder charge, a second pending attempted murder charge, a third charge pending for the charge of murder, and I believe that there are also weapons charges associated with that. There was a global plea offer, a global plea resolution to resolve all charges, presented to the defendant on September 9th of 2019 prior to the notice of

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1 intention to seek the life without parole sentence. That offer  
2 was for the defendant to plead guilty to assault and battery of  
3 a high and aggravated nature, voluntary manslaughter, and  
4 possession of a firearm during the commission of a violent  
5 crime.

6 That sentence would be capped at twenty years and  
7 pursuant to that resolution the State would not seek a life  
8 sentence. That offer was presented to the defendant through  
9 his counsel, Mr. Lewis, and that offer was rejected on the  
10 record on December 9th, 2019, in front of Judge Dennis.

11 Pursuant to that offer, all of the remaining charges  
12 would have been nol-prossed. Again, that offer was rejected on  
13 the same day that the LWOP notice was served and filed. And we  
14 would ask that the Court institute that sentence.

15 THE COURT: Thank you, Ms. Norvell. Mr. Lewis?

16 MR. LEWIS: Thank you, Judge. Michael is thirty-four  
17 years old, lived his entire life in the Charleston area along  
18 with his immediate family. We understand that the sentence --  
19 the Court has no discretion at this point in what sentence to  
20 impose.

21 I guess all I can add at this stage is that I wish him  
22 the best of luck in the hearings that will follow. And I have  
23 nothing else to say at this point. Thank you.

24 THE COURT: Alright. Thank you, Mr. Lewis. Is there  
25 anything that Mr. McNeil would like to add?

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1 MR. MCNEIL: I just you know ---

2 THE COURT: --- stand up for me, sir.

3 [Whereupon, Mr. McNeil complies]

4 MR. MCNEIL: I don't know what to say. You know, I just  
5 know -- I don't even know how I get found guilty, you know.

6 Like he say himself there be one eyewitness and the eyewitness  
7 that he's saying say that he ain't never seen nothing. So I  
8 don't know.

9 And he has got an agenda because they so-called saying I  
10 killed his cousin. And they saying so that's the reason why  
11 he's trying to get me locked up. He's telling y'all his self  
12 that, hey, man, like he need -- he need to get locked up and  
13 all this. You know, he had -- he had a murder charge and y'all  
14 let him go free because he cooperated.

15 He killed an innocent person. Ain't had nothing to do  
16 with nothing. But y'all give him five years probation. I -- I  
17 don't even -- ain't no evidence. Ain't no gun in this case.  
18 All this is hearsay. I'm saying that nobody corroborate his  
19 story, nothing. Like and I don't even understand what's going  
20 on, you know. But I guess I got to go through the legal  
21 process of getting justice through this way.

22 THE COURT: Well, certainly, Mr. McNeil, your lawyers  
23 will file the appropriate post trial motions and seek any post  
24 conviction redress that they feel is appropriate. But I thank  
25 you for your words.

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1           Mr. Lewis is correct; I have no discretion in this  
2 matter. I do find that Michael A. McNeil has a prior  
3 conviction for assault and battery with intent to kill, which  
4 is a most serious offense, and a prior conviction of assault  
5 and battery of a high and aggravated nature classified as a  
6 serious offense, in conjunction with the conviction today for  
7 assault and battery of a high and aggravated nature.

8           Pursuant to Section 17-25-45, Mr. McNeil has the  
9 qualifying convictions of one most serious and two serious  
10 offenses. He was properly served and given notice of the  
11 State's intention to seek life without parole on December 9th,  
12 2019, in open court. Therefore, I have no discretion but to  
13 impose the sentence as prescribed by 17-25-45, which is --

14           Mr. McNeil, if you will stand up for me.

15           [Whereupon, Mr. McNeil complies]

16           THE COURT: On indictment 2017-GS-10-03653, on the charge  
17 of assault and battery of a high and aggravated nature,  
18 pursuant to Section 17-25-45, Mr. McNeil, you are committed to  
19 the State Department of Corrections for the term of life  
20 without the possibility of parole. You are given credit for  
21 the time you have served. Mr. Lewis, do you have the actual  
22 number?

23           MR. LEWIS: I can crunch that number for you, Judge ---

24           THE COURT: --- if you would ---

25           MR. LEWIS: --- I think it's close to 1,800 days.

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1 THE COURT: I think it makes it better or makes it easier  
2 if there is an exact number on the sentence sheet.

3 [Whereupon, Mr. Lewis reviews documents]

4 MR. LEWIS: Yes, sir. 1,844 days, Judge.

5 THE COURT: Alright. I have given him credit for the  
6 time he served of 1,844 days.

7 MR. LEWIS: Thank you, Your Honor.

8 THE COURT: Alright. Mr. McNeil, good luck to you.

9 And with regard to the weapons charge, I believe the law  
10 is clear that if an individual is sentenced to life for the  
11 underlying offense that -- the underlying violent offense which  
12 accompanies the weapons charge, that the Court shall not impose  
13 a sentence on the weapons charge, that charge is subsumed with  
14 the underlying violent offense so I would not -- I'm not going  
15 to fill out the sentence sheet for the weapons charge.

16 MR. MCNEIL: Your Honor, I can speak out one more time?

17 THE COURT: Talk with your lawyer for a second and let  
18 him know what you want to say first.

19 [Whereupon, Mr. Lewis and Mr. D'Angelo confer with the  
20 defendant]

21 MR. LEWIS: Judge, he had asked that I reach out to the  
22 State about the disposition of the other charges that are  
23 currently pending, that he was ready to accept responsibility  
24 rather than dismissing those cases in light of the life  
25 sentence he's been imposed today. I think they will probably

State v Michael A. McNeil  
Sentencing  
August 18, 2021

1 have to get back to us on that because I don't think they --  
2 even if they wanted to today, I don't think they would have the  
3 authority to dismiss a murder charge in court today.

4 MS. NORVELL: Judge, that's accurate. I asked Mr. Lewis  
5 if the defendant intended to plead guilty to those charges in  
6 light of this sentence. He indicated that he wanted -- he was  
7 seeking a dismissal.

8 Unfortunately, I am not able to do that right now. Those  
9 charges are still assigned to another prosecutor and so we will  
10 have to discuss that. I indicated to Mr. Lewis that we should  
11 be able to talk about this within a matter of the next week.

12 THE COURT: Alright. Mr. McNeil, what that means is Ms.  
13 Norvell has to speak with her supervisors. And every  
14 Solicitor's Office is different. Some give the prosecutor  
15 ultimate authority over things, some offices have to  
16 collaborate on decisions like this.

17 But as of right now, the charges that are not associated  
18 with this particular case, basically anything that was pending  
19 other than these two indictments, are currently still pending  
20 and the Solicitor's Office will touch base with your lawyer and  
21 they will discuss an appropriate resolution of those charges if  
22 any. But the only matters which are being dealt with today are  
23 indictments 2017-GS-10-03653 and 2017-GS-10-03652.

24 MS. NORVELL: And, Judge, the Court had asked when we  
25 were in chambers for the State to include on the sentencing

State v Michael A. McNeil  
Sentencing  
August 18, 2021

1 sheet for the possession of a weapon during the commission of a  
2 violent crime charge sheet the statute for the LWOP sentence.

3 I did not put that on there but if you ---

4 THE COURT: --- I checked. And I'm really looking at the  
5 -- looking at the assault and battery high and aggravated. I  
6 checked 17-25-45. That is the ---

7 MS. NORVELL: --- thank you, Judge ---

8 THE COURT: --- the statute that mandates the LWOP.

9 MS. NORVELL: Thank you, Your Honor.

10 THE COURT: So I think the record is clear. Even though  
11 there was a conviction, I am not signing the sentence sheet for  
12 possession of a weapon during commission of a violent crime and  
13 not imposing any sentence because of the life sentence.

14 MS. NORVELL: Thank you, Judge.

15 THE COURT: Alright.

16 MR. LEWIS: Thank you, Your Honor.

17 THE COURT: Alright.

18 [Whereupon, the jury trial concludes at 2:28 p.m.]

19 [Whereupon, Court's Exhibit Number 6 is marked for  
20 identification by the court reporter]

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C E R T I F I C A T E

I, the undersigned, Joyce C. Rueger, Official Circuit Court Reporter for the Ninth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Charleston County, South Carolina on the 18th day of August, 2021.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

October 9, 2021

\_\_\_\_\_  
Joyce C. Rueger, CVR-M  
Court Reporter

STATE OF SOUTH CAROLINA  
COUNTY OF CHARLESTON

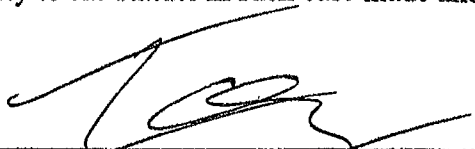
INDICTMENT

At a Court of General Sessions, convened June 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 20, 2016, the Defendant, Michael Anthony Meneil, 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: Attempted Murder; in violation of Section 16-23-490, Code of Laws of South Carolina, (1976, as amended).

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

  
EDWARD R. CORVEY, III  
ASSISTANT SOLICITOR

DOCKET NO. 2017-GS-10-03652

The State of South Carolina  
County of Charleston

**FILED**

7/3/2017 9:56:10 AM  
JULIE J. ARMSTRONG  
CLERK OF COURT

COURT OF GENERAL SESSIONS  
JUNE TERM 2017

THE STATE

VS.

MICHAEL ANTHONY MCNEIL  
B/M DOB:

Indictment for

POSSESSION OF A WEAPON DURING  
THE COMMISSION OF A VIOLENT  
CRIME

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

ERC/0320160  
WITNESSES

Charleston County Sheriff Office

AGENCY CASE NUMBER  
2016-011664

ARREST WARRANT NUMBER  
2016A1010203501

DATE OF ARREST

08/01/2016

ACTION OF GRAND-JURY

**TRUE BILL**

JUN 12 2017

*[Signature]*  
Foreperson of Grand Jury

Date:

VERDICT

Foreperson of Petit Jury Date:

ARREST WARRANT

2016A1010203501

STATE OF SOUTH CAROLINA  
County:  Charleston

2016-0111044B

THE STATE  
against

Michael Anthony McNeil

Address:

Phone: M [redacted]  
Sex: M Race: B Height: 5 7 Weight: 160  
DL State: SC DL #: [redacted]

DOB: [redacted] Agency ORI #: SC0100000

Prosecuting Agency: Charleston County Sheriff  
Prosecuting Officer: M. Wilson - 0854

Offense: Weapons/Poss. weapon during violent crime, if not also sentenced to life without parole or death

Offense Code: 0549  
Code/Ordinance Sec: 16-23-0490

This warrant is CERTIFIED FOR SERVICE in the County:  Municipality of

The accused is to be arrested and brought before me to be dealt with according to the law.

(L.S.)

Date:

RETURN

A copy of this arrest warrant was delivered to defendant on Michael McNeil

*Priscilla Bridges Baldwin*  
Signature of Constable/Clerk of Court

RETURN WARRANT TO:

General Sessions  
Charleston County Judicial Center  
100 Broad Street, Suite 106  
Charleston, SC 29401

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA  
County:  Charleston

Personally appeared before me the affiant M. Wilson

being duly sworn deposes and says that defendant Michael Anthony McNeil

did within this county and state on or about 7/20/2016

State of South Carolina (or ordinance of  County:  Municipality of Charleston)

in the following particulars:

WEAPONS/Poss. weapon during violent crime, if not also sentenced to life without parole or death

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:  
see affidavit

Signature of Affiant

*Michael Wilson*

STATE OF SOUTH CAROLINA  
County:  Charleston

Affiant's Address: 3691 Leeds Avenue

Affiant's Telephone: (843) 202-1700  
North Charleston, SC 29405-

466

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

it appearing from the above affidavit that there are reasonable grounds to believe that

on or about 7/20/2016 defendant Michael Anthony McNeil

did violate the criminal laws of the State of South Carolina for ordinance of Charleston Municipality of Charleston as set forth below:

DESCRIPTION OF OFFENSE: Weapons/Poss. weapon during violent crime, if not also sentenced to life without parole or death.

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable.

Sworn to and subscribed before me on 7/28/2016

*Priscilla Bridges Baldwin*  
Signature of Constable/Clerk of Court  
Priscilla Bridges Baldwin  
Judge's Code: 5749

Judge's Address: 3881 Leeds Avenue, Ste 200

Judge's Telephone: (843) 746-9822  
North Charleston, SC 29405-7469

Issuing Court:  Municipal  Circuit

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL



STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

STATE

VS.

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2017-GS-10-03653

MICHAEL ANTHONY MCNEIL

AKA: Michael Mcneil

Black/African

Race: American Sex: M Age: 34

DOB: SS#:

Address:

City, State, Zip:

DL#\* SID# SC01551905

A/W#: 2016A1010203502

Date of Offense: 07/20/2016

S.C. Code §: 16-03-0029

CDR Code #: 3410

RECEIVED

AUG 25 2021

SENES SHEET 80 Court of Appeals

\*CDL Yes  No  CMV Yes  No  Hazmat Yes  No

In disposition of the above indictment comes now the Defendant who was  CONVICTED OF or  PLEADS

TO: Assault and Battery of a High and Aggravated Nature

In violation of § 16-03-0600(b)(1) of the S.C. Code of Laws, bearing CDR Code # 3411

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

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

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

ATTEST:

Jordan Norvell

102368

Solicitor

SC Bar #

Defendant

Attorney for Defendant

76922

SC Bar #

WHEREFORE, the Defendant is committed to the  State Department of Correction  County Detention Center,

for a determinate term of Life without the possibility of Parole days/months/years/Time Served  Youthful Offender Act not to exceed        years

and/or to pay a fine of \$       ; provided that upon the service of        days/months/years/Time Served 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 Services standard conditions of probation, which are incorporated by reference.

The sentence shall run  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 SCDOC.

days/months 1,844 days

To include time spent on monitored house arrest prior to trial and sentencing.

The Defendant Shall be Released from County Detention Center.

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

STATE MICHAEL INDICTMENT/CASE#: 2017-GS-10-03653  
VS. ANTHONY MCNEIL

**SPECIAL CONDITIONS:**

**PTUP** after \_\_\_\_\_ months/years

**And Other Terms Listed Below:**

- Substance Abuse Counseling       Completion of GED       Random Drug/Alcohol Testing
- Attend Voc. Rehab. Or Job Corp       No Contact with Victim       Domestic Violence Intervention Program
- Mental Health Counseling       May serve W/E beginning: \_\_\_\_\_
- Sex Offender Registry pursuant to S.C. Code § 23-3-430       Public Service Employment \_\_\_\_\_ days/hours
- Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.
- Other: \_\_\_\_\_


**RESTITUTION:**     **Deferred**     **Def. Waives Hearing**     **Ordered**

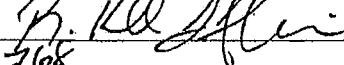
Total \$ \_\_\_\_\_ plus 20% fee: \_\_\_\_\_ \$ \_\_\_\_\_

Payment Terms: \_\_\_\_\_  Set by SCDPPPS

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

*Fine:		\$
Fine may be pd. in equal consecutive weekly/monthly pmts. of \$ _____ Beginning _____		
§14-1-206 (Assessments 107.5%)		\$
§14-1-211 (A)(1)(Conv. Surcharge)	\$100	\$ 100 <sup>00</sup>
§14-1-211 (A)(2)(DUI Surcharge)	\$100	\$
§56-5-2995 (DUI Assessment)	\$12	\$
§56-1-286 (DUI Breath Test)	\$25	\$
§14-1-212 (Law Enforce. Funding)	\$25	\$ 25 <sup>00</sup>
§14-1-213 (Drug Court Surcharge)	\$150	\$
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	\$41	\$
§50-21-114 (BUI Breath Test Fee)	\$50	\$
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)	TBD	\$ 3.75
<input type="checkbox"/> Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees	\$500	\$
<input type="checkbox"/> § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund	TBD	\$
<b>TOTAL</b>		<b>\$ 128.75</b>

Clerk of Court/Deputy Clerk:   
Court Reporter: Joy Reinger

Presiding Judge:   
Judge Code: 2768  
Sentence Date: August 18, 2021

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF CHARLESTON )  
 )  
THE STATE, )  
 )  
-vs- )  
Michael Anthony McNeil )  
 )  
Defendant. )  
 )

IN THE COURT OF GENERAL SESSIONS

VERDICT FORM

Case Number: 2017-GS-10-03652

1. AS TO THE CHARGE OF POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME:

WE, THE JURY, UNANIMOUSLY FIND THE DEFENDANT [CHECK ONE]:

GUILTY.

OR

NOT GUILTY.

John A. Grant 118

Foreperson

Sumter, South Carolina

August 18, 2021

Judge: R. Kirk Griffin  
Ct. Reporter: Joy Rueger

STATE OF SOUTH CAROLINA  
COUNTY OF CHARLESTON

INDICTMENT

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

**ATTEMPTED MURDER**

That in Charleston County, South Carolina, on or about July 20, 2016, the Defendant, Michael Anthony Mcneil, did, with intent to kill and malice aforethought, attempt to kill [REDACTED]

[REDACTED] 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.

  
EDWARD R. CORVEY, III  
ASSISTANT SOLICITOR

DOCKET NO. 2017-GS-10-03653

The State of South Carolina  
County of Charleston

**FILED**

7/3/2017 9:56:11 AM  
JULIE J. ARMSTRONG  
CLERK OF COURT

COURT OF GENERAL SESSIONS  
JUNE TERM 2017

THE STATE

VS.

MICHAEL ANTHONY MCNEIL  
B/M DOB: [REDACTED]

Indictment for

ATTEMPTED MURDER

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

ERC/0320160  
WITNESSES

Charleston County Sheriff Office

AGENCY CASE NUMBER

2016-011664

ARREST WARRANT NUMBER

2016A1010203502

DATE OF ARREST

08/01/2016

ACTION OF GRAND JURY

**TRUE BILL**

*Francisco* Sec *JUN 12 2017*  
Foreperson of Grand Jury Date:

VERDICT

Foreperson of Petit Jury Date:

ORIGINAL

AFFIDAVIT

STATE OF SOUTH CAROLINA  
 County,  Municipality of  
Charleston

Personally appeared before me the affiant M. Wilson who  
being duly sworn deposes and says that defendant Michael Anthony McNeil  
did within this county and state on or about 7/20/2016  
State of South Carolina, (or ordinance of  County/  Municipality of Charleston)  
in the following particulars:

DESCRIPTION OF OFFENSE: Murder/Attempted Murder

I further state that there is probable cause to believe that the defendant named above did commit  
the crime set forth and that probable cause is based on the following facts:  
see affidavit

*Antek Wilson*

Affiant's Address: 3691 Leeds Avenue,  
North Charleston, SC 29405  
Affiant's Telephone: (843) 202-1700

STATE OF SOUTH CAROLINA  
 County,  Municipality of  
Charleston

Signature of Affiant

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 7/20/2016 defendant Michael Anthony McNeil

did violate the criminal laws of the State of South Carolina (or ordinance of  
 County,  Municipality of Charleston)  
as set forth below.

DESCRIPTION OF OFFENSE: Murder/Attempted Murder

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or  
her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as  
soon thereafter as is practicable.  
Sworn to and subscribed before me  
on 7/28/2016

Signature of Issuing Judge  
Priscilla Bridges Baldwin (L.S.)  
Judge Code: 5749

Judge's Address: 3831 Leeds Avenue, Ste 200  
North Charleston, SC 29405-7469  
Judge's Telephone: (843) 746-9822

Issuing Court:  Magistrate  Municipal  Circuit

ORIGINAL

ORIGINAL

ORIGINAL

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ORIGINAL

ARREST WARRANT  
2016A1010203502

STATE OF SOUTH CAROLINA  
 County,  Municipality of  
Charleston 2016-011664B

THE STATE 1402  
against

Michael Anthony McNeil  
Address: [REDACTED]

Phone: [REDACTED] SSN: [REDACTED]  
Sex: M Race: B Height: 5 Weight: 160  
DL State: SC DL #: [REDACTED]

DOB: [REDACTED] Agency OR#: SC0100000  
Prosecuting Agency: Charleston County Sheriff

Prosecuting Officer: M. Wilson - 0854  
Offense: Murder/Attempted Murder

Offense Code: 3410  
Code/Ordinance Sec: 16-14-0020, 0100

This warrant is CERTIFIED FOR SERVICE in the  
 County,  Municipality of

is to be arrested and brought before me to be  
dealt with according to the law.

Signature of Judge  
Priscilla Bridges Baldwin (L.S.)

RETURN

A copy of this arrest warrant was delivered to  
defendant Michael McNeil  
on 8-1-16

Signature of Law Enforcement Officer  
Priscilla Bridges Baldwin 10563

RETURN WARRANT TO:

General Sessions  
Charleston County Judicial Center  
100 Broad Street, Suite 106  
Charleston, SC 29401

ORIGINAL

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FILED

2016 AUG 12 AM 9:11

JULIE J. ARMSTRONG  
CLERK OF COURT

WITNESSES

Name	Address	Telephone
Name	Address	Telephone
Name	Address	Telephone
Name	Address	Telephone
Name	Address	Telephone
Name	Address	Telephone
Name	Address	Telephone
Name	Address	Telephone
Name	Address	Telephone
Name	Address	Telephone

CODEFENDANTS

Bail set by Priscilla B. Baldwin

Judge on 8-2-16

Type and Amount: No Bond

Name of Surety:

PRELIMINARY HEARING held by

Judge on

Defendant Attorney:

Disposition:

Judge on by

(Indicate jury trial, bench trial, plea, no. pros., etc.)

Disposition:

Sentence:

JURORS

STATE OF SOUTH CAROLINA )  
 ) IN THE COURT OF GENERAL SESSIONS  
 COUNTY OF CHARLESTON )  
 )  
 )  
 THE STATE, )  
 )  
 )  
 -vs- ) VERDICT FORM  
 )  
 Michael Anthony McNeil ) Case Number: 2017-GS-10-03653  
 )  
 )  
 Defendant. )  
 )

1. AS TO THE CHARGE OF ATTEMPTED MURDER:

WE, THE JURY, UNANIMOUSLY FIND THE DEFENDANT [CHECK ONE]:

[ ] GUILTY OF ATTEMPTED MURDER.

OR

[  ] NOT GUILTY.

If not guilty, proceed to 1(a). If guilty, sign verdict form.

1(a). AS TO THE LESSER INCLUDED OFFENSE OF ASSAULT AND BATTERY OF A HIGH AND AGGRAVATED NATURE:

[  ] GUILTY OF THE LESSER INCLUDED OFFENSE OF ASSAULT AND BATTERY OF A HIGH AND AGGRAVATED NATURE.

OR

[ ] NOT GUILTY.

If not guilty, proceed to 1(b). If guilty, sign verdict form.

1(b). AS TO THE LESSER INCLUDED OFFENSE OF ASSAULT AND BATTERY 1<sup>ST</sup> DEGREE:

[ ] GUILTY OF THE LESSER INCLUDED OFFENSE OF ASSAULT AND BATTERY 1<sup>ST</sup> DEGREE.

OR

[ ] NOT GUILTY

John A. Graw 118  
Foreperson

Sumter, South Carolina

August 18, 2021

Judge: R. Kirk Griffin  
Ct. Reporter: Joy Rueger

