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STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

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S.C. SUPREME COURT

Certiorari to Greenville County

Honorable Alex Kinlaw, Circuit Court Judge

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CHRISTOPHER ERIC MEJEAN,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2019-000468

---

APPENDIX

---

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**INDEX**

|                                                                           |     |
|---------------------------------------------------------------------------|-----|
| INDEX .....                                                               | i   |
| TRIAL TRANSCRIPT DATED JUNE 2-4, 2015 .....                               | 1   |
| APPLICATION FOR POST-CONVICTION RELIEF .....                              | 242 |
| RETURN.....                                                               | 253 |
| POST-CONVICTION RELIEF HEARING<br>TRANSCRIPT DATED DECEMBER 18, 2018..... | 265 |
| ORDER OF DISMISSAL FILED FEBRUARY 14, 2019 .....                          | 352 |
| CLERK OF COURT RECORDS .....                                              | 372 |

STATE OF SOUTH CAROLINA  
COUNTY OF GREENVILLE

IN THE COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA, )  
 )  
 PLAINTIFF, )  
 )  
 -VS- )  
 )  
 CHRISTOPHER E. MEJEAN, )  
 )  
 DEFENDANT. )  
 \_\_\_\_\_ )

2013-GS-23-05236 - 05238

TRANSCRIPT OF RECORD

JUNE 2 - 4, 2015  
GREENVILLE, SOUTH CAROLINA

BEFORE:

THE HONORABLE R. KEITH KELLY

APPEARANCES:

ATTORNEY FOR PLAINTIFF:

KRIS HODGE, ASSISTANT SOLICITOR

ATTORNEY FOR DEFENDANT:

TIMOTHY SULLIVAN, ESQUIRE

SUSAN W. HUDGINS  
CIRCUIT COURT REPORTER

INDEX

| <u>WITNESS</u>                 | <u>PAGE NO.</u> |
|--------------------------------|-----------------|
| OPENING STATEMENTS             |                 |
| MS. HODGE -----                | 47              |
| MR. SULLIVAN -----             | 51              |
| TEE SMITH                      |                 |
| DIRECT BY MS. HODGE -----      | 53              |
| CROSS BY MR. SULLIVAN -----    | 65              |
| REGINA SMITH                   |                 |
| DIRECT BY MS. HODGE -----      | 67              |
| CROSS BY MR. SULLIVAN -----    | 80              |
| MELISSA MEJEAN                 |                 |
| DIRECT BY MS. HODGE -----      | 82              |
| CROSS BY MR. SULLIVAN -----    | 93              |
| ADAM DAVIS                     |                 |
| DIRECT BY MS. HODGE -----      | 99              |
| CROSS BY MR. SULLIVAN -----    | 137             |
| CHRISTOPHER E. MEJEAN          |                 |
| DIRECT BY MR. SULLIVAN -----   | 156             |
| CROSS BY MS. HODGE -----       | 167             |
| REDIRECT BY MR. SULLIVAN ----- | 178             |
| CLOSING ARGUMENTS              |                 |
| MR. SULLIVAN -----             | 183             |
| MS. HODGE -----                | 190             |



**INDEX**

| <b><u>WITNESS</u></b>   |       | <b><u>PAGE NO.</u></b> |
|-------------------------|-------|------------------------|
| CHARGE OF THE COURT     | ----- | 199                    |
| VERDICT OF THE JURY     | ----- | 226                    |
| SENTENCE OF THE COURT   | ----- | 236                    |
| CERTIFICATE OF REPORTER | ----- | 239                    |

EXHIBITS

| <u>NO</u> | <u>DESCRIPTION</u> | <u>ID</u> | <u>EVIDENCE</u> |
|-----------|--------------------|-----------|-----------------|
| S-1       | PHOTO -----        | 9         | 74              |
| S-2       | PHOTO -----        | 9         | 74              |
| S-3       | PHOTO -----        | 9         | 74              |
| S-4       | PHOTO -----        | 9         | 74              |
| S-5       | PHOTO -----        | 9         | 74              |
| S-6       | PHOTO -----        | 9         | 74              |
| S-7       | PHOTO -----        | 9         | 74              |
| S-8       | PHOTO -----        | 9         | 104             |
| S-9       | PHOTO -----        | 9         | 104             |
| S-10      | PHOTO -----        | 9         | 104             |
| S-11      | PHOTO -----        | 9         | 104             |
| S-12      | PHOTO -----        | 9         | 104             |
| S-13      | PHOTO -----        | 9         | 104             |
| S-14      | PHOTO -----        | 9         | 104             |
| S-15      | PHOTO -----        | 9         | 104             |
| S-16      | PHOTO -----        | 9         | 104             |
| S-17      | PHOTO -----        | 9         | 108             |
| S-18      | PHOTO -----        | 9         | 108             |
| S-19      | PHOTO -----        | 9         | 108             |
| S-20      | PHOTO -----        | 9         | 108             |
| S-21      | PHOTO -----        | 9         | 108             |
| S-22      | PHOTO -----        | 9         | 108             |
| S-23      | PHOTO -----        | 9         | 108             |

EXHIBITS

| <u>NO</u> | <u>DESCRIPTION</u> | <u>ID</u> | <u>EVIDENCE</u> |
|-----------|--------------------|-----------|-----------------|
| S-24      | PHOTO -----        | 9         | 108             |
| S-25      | PHOTO -----        | 9         | 108             |
| S-26      | PHOTO -----        | 9         | 108             |
| S-27      | PHOTO -----        | 9         | 108             |
| S-28      | PHOTO -----        | 9         | 108             |
| S-29      | PHOTO -----        | 9         | 108             |
| S-30      | PHOTO -----        | 9         | 108             |
| S-31      | PHOTO -----        | 9         | 108             |
| S-32      | PHOTO -----        | 9         | 108             |
| S-33      | PHOTO -----        | 9         | 120             |
| S-34      | PHOTO -----        | 9         | 120             |
| S-35      | PHOTO -----        | 9         | 120             |
| S-36      | PHOTO -----        | 9         | 121             |
| S-37      | PHOTO -----        | 9         | 121             |
| S-38      | PHOTO -----        | 9         | 121             |
| S-39      | PHOTO -----        | 9         | 121             |
| S-40      | PHOTO -----        | 9         | 121             |
| S-41      | PHOTO -----        | 9         | 121             |
| S-42      | PHOTO -----        | 9         | 121             |
| S-43      | PHOTO -----        | 9         | 129             |
| S-44      | PHOTO -----        | 9         | 129             |
| S-45      | PHOTO -----        | 9         | 129             |
| S-46      | PHOTO -----        | 9         | 129             |

EXHIBITS

| <u>NO</u> | <u>DESCRIPTION</u>             | <u>ID</u> | <u>EVIDENCE</u> |
|-----------|--------------------------------|-----------|-----------------|
| S-47      | PHOTO -----                    | 9         | 129             |
| S-48      | PHOTO -----                    | 9         | 129             |
| S-49      | PHOTO -----                    | 9         | 129             |
| S-50      | PHOTO -----                    | 9         | 129             |
| S-51      | PHOTO -----                    | 9         | 129             |
| S-52      | PHOTO -----                    | 9         | 129             |
| S-53      | PHOTO -----                    | 9         | 129             |
| S-54      | SHELL CASING -----             | 115       | 116             |
| S-55      | SHELL CASING -----             | 115       | 116             |
| S-56      | SHELL CASING -----             | 115       | 116             |
| S-57      | METAL FRAGMENT -----           | 115       | 117             |
| S-58      | METAL SLUG -----               | 115       | 117             |
| S-59      | METAL FRAGMENT -----           | 115       | 117             |
| S-60      | SHELL CASING -----             | 115       | 118             |
| S-61      | SHELL CASING -----             | 124       | 124             |
| S-62      | SHELL CASING -----             | 124       | 125             |
| S-63      | SHELL CASING -----             | 124       | 126             |
| S-64      | SHELL CASING -----             | 126       | 126             |
| S-65      | SHELL CASING -----             | 126       | 127             |
| S-66      | SHELL CASING -----             | 127       | 127             |
| S-67      | EMPTY BOX FOR AMMUNITION ----- | 133       | 134             |
| S-68      | 8 CARTRIDGES IN BOX -----      | 133       | 135             |
| S-69      | EMPTY BOX FOR AMMUNITION ----- | 133       | 136             |

EXHIBITS

| <u>NO</u> | <u>DESCRIPTION</u>      | <u>ID</u> | <u>EVIDENCE</u> |
|-----------|-------------------------|-----------|-----------------|
| S-70      | BOX OF CARTRIDGES ----- | 133       | 136             |

EXHIBITS

| <u>NO</u> | <u>DESCRIPTION</u>   | <u>ID</u> | <u>EVIDENCE</u> |
|-----------|----------------------|-----------|-----------------|
| C-1       | JURY QUESTION -----  | 216       |                 |
| C-2       | JURY CHARGE -----    | 216       |                 |
| C-3       | JURY QUESTION -----  | 221       |                 |
| C-4       | COURT'S ANSWER ----- | 221       |                 |

1

2

jury list

1 jury list



1 (Whereupon State's exhibits 1 - 53 were marked for  
2 identification)

3 (Whereupon court convened at 10:05 am)

4 **THE COURT:** Mr. Sullivan.

5 **MR. SULLIVAN:** Judge, the case we're about to try with  
6 Christopher Eric Mejean, pre-negotiated with the solicitor,  
7 and she's been -- we've had cordial agreements. And she's  
8 furnished discovery.

9 And he's charged with three counts of attempted murder.  
10 They offered assault and battery, high and aggravated. He  
11 has that offer in writing. He has a copy of the discovery.  
12 We've met a couple of times and gone over it. There's not  
13 much difference on the facts of who did what. But he has  
14 rejected that offer and has chosen to stand trial for  
15 attempted murder times three.

16 **THE COURT:** Okay.

17 **MR. SULLIVAN:** Which I have explained to him, that is a  
18 zero to thirty, no suspension. So whereas the assault and  
19 battery, high and aggravated, is suspendable with probation.  
20 So he knows the risk he's taking. Is this a correct  
21 statement, Eric?

22 **MR. MEJEAN:** Yes, sir.

23 **THE COURT:** You want me to swear him and talk to him,  
24 Mr. Sullivan?

25 **MR. SULLIVAN:** Yes, sir, if you would.

1           **THE COURT:** I will. Sir, you are Christopher Eric --  
2 is it Mejean?

3           **MR. MEJEAN:** Mejean, yes, sir.

4           **THE COURT:** Mejean.

5           **MR. MEJEAN:** I go by Eric, yes, sir.

6           **THE COURT:** Eric. Mr. Mejean, I'm going to ask you to  
7 be sworn here, please.

8           **MADAME CLERK:** Would you raise your right hand. Do you  
9 swear or affirm that the testimony you're about to give is  
10 the truth, the whole truth and nothing but the truth so help  
11 you God?

12          **MR. MEJEAN:** Yes, ma'am.

13          **MADAME CLERK:** Thank you.

14          **THE COURT:** Now, Mr. Mejean, you've been in the  
15 courtroom during these few minutes that your lawyer -- well,  
16 you've actually been here for some time. You were here with  
17 the previous plea.

18          **MR. MEJEAN:** Yes, sir.

19          **THE COURT:** It's now eight minutes after ten by the  
20 clock in the courtroom. We're on the record here. And this  
21 lady's my court reporter seated to my left and your right.  
22 She's recording everything we say here.

23               Your lawyer has advised the Court that you desire to go  
24 forward with the attempted murder charge times three, and  
25 you have rejected the State's offer. I don't know what that

1 offer would have been, but it would be something besides  
2 what you're charged with. Do you understand that?

3 MR. MEJEAN: Yes, sir.

4 THE COURT: And is that what you want to do?

5 MR. MEJEAN: Yes, sir.

6 THE COURT: Are you under the influence of any drug or  
7 alcohol or anything that affects your reasoning ability?

8 MR. MEJEAN: No, sir.

9 THE COURT: You are of clear mind and know what you're  
10 doing?

11 MR. MEJEAN: Yes, sir.

12 THE COURT: Mr. Sullivan has shared discovery with you?

13 MR. MEJEAN: Yes, sir.

14 THE COURT: He's answered all of your questions?

15 MR. MEJEAN: Yes, sir.

16 THE COURT: Okay. Do you need to talk to him any  
17 further about this case?

18 MR. MEJEAN: No, sir.

19 THE COURT: All right. And is that what you want to  
20 do? You still want to -- and I'll put it this way.  
21 Sometimes the State, once the case is at this point, they  
22 rescind the offer. And I don't know what that offer would  
23 be, but if you wanted it, even at this late hour, I would  
24 follow that if there is a recommendation. I want you to  
25 know that. Do you understand that?

1 I don't know what the recommendation is. I don't know  
2 what the offer was. Don't want to know unless you want  
3 that. But I'm telling you at this late hour, whatever it  
4 is, I would follow that if you wanted to take that. Do you  
5 want to take it or do you still want to reject it?

6 **MR. MEJEAN:** I still want to reject it.

7 **THE COURT:** Okay. Very good. Thank you. All right.

8 **MR. SULLIVAN:** Thank you, Your Honor.

9 **THE COURT:** Anything -- any matters from Defense? Any  
10 motion whatsoever before we bring the jury?

11 **MR. SULLIVAN:** No, Your Honor. The only thing we  
12 discussed in chambers is on the attempted murder would be  
13 the specific intent. If you would charge that, that may  
14 affect how I argue to them. I think we agree on pretty much  
15 what happened, just who did it.

16 **THE COURT:** Okay. Anything from the State?

17 **MS. HODGE:** No, Your Honor, just to clarify as far as  
18 what the plea offer was. Mr. Sullivan stated it was ABHAN.  
19 It's -- it was assault and battery, first degree, with a cap  
20 of five years.

21 **THE COURT:** Okay. I knew there was some offer of  
22 something less. I wasn't specific about what it was, and I  
23 certainly didn't know about the cap, but he has rejected  
24 that.

25 **MS. HODGE:** Okay. Thanks.

1           **THE COURT:** Okay. All right. We're ready for the  
2 jury. Thank you. You may be seated.

3           **MR. SULLIVAN:** Judge, I've never tried one with you.  
4 Do you bring them up one at a time?

5           **THE COURT:** Yes, sir.

6           **MR. SULLIVAN:** Okay.

7           **THE COURT:** Yes, sir. You want me to do it some other  
8 way?

9           **MR. SULLIVAN:** No, that's fine. I just like to be  
10 ready -- you ask them about victims of crime and stuff like  
11 that and law enforcement, relatives? Do you do that?

12           **THE COURT:** I'll -- you got any list you want me to --  
13 I'll -- law enforcement.

14           **MR. SULLIVAN:** Related to solicitor or law enforcement,  
15 victim of violent crimes, strong anti-gun feelings, I guess.  
16 That would be it.

17           **THE COURT:** I'm sorry, Mr. Sullivan, I didn't catch the  
18 last ...

19           **MR. SULLIVAN:** Victim of violent crimes and strong  
20 anti-gun feelings.

21           **THE COURT:** Anything from the State?

22           **MS. HODGE:** No, sir.

23           **THE COURT:** Okay.

24           **MR. SULLIVAN:** Excuse me, Judge. Do you pick an  
25 alternate?

1           **THE COURT:** Yes, sir.

2           **MR. SULLIVAN:** Okay, good. Judge, one more thing and  
3 I'll hush. Five and ten on attempted murder in the strikes?

4           **MS. HODGE:** I believe it's five and ten.

5           **THE COURT:** You know, that's -- let's just make sure  
6 we've got that right. I've got murder five and ten. I  
7 don't know about attempted murder. Does the State agree  
8 it's ten?

9           **MS. HODGE:** Your Honor, I believe that ABWIK was ten.  
10 And we don't have ABWIK anymore, but we have attempted  
11 murder almost in its place. Was that right or wrong?

12           **THE COURT:** If the State doesn't disagree, then we will  
13 do that and we'll save -- it won't be an issue then.

14           **MS. HODGE:** Oh, no, I'm wrong. So it'll be five and  
15 five. It was murder, manslaughter and they skipped ABWIK.  
16 Okay. So it is five and five.

17           **THE COURT:** I've got it five and five.

18           **MR. SULLIVAN:** That's fine, Your Honor. I just didn't  
19 want to keep striking away.

20           **MS. HODGE:** I misspoke.

21           **THE COURT:** Well, manslaughter is five and ten. Murder  
22 is five and ten.

23           **MS. HODGE:** Right. It's been a while since I've done  
24 one of these. I'm usually on CSC's, and they're always ten.

25           **THE COURT:** CSC is ten, five and ten.

1           **MS. HODGE:** Okay.

2           (Pause)

3           (Whereupon the jury panel entered the courtroom at  
4 10:19 am)

5           **THE COURT:** Ladies and gentlemen of the jury, good  
6 morning. We have been working in your absence. We've been  
7 here all morning and moving some other matters off of the  
8 docket that did not require your attention, but we find  
9 ourselves in need of your assistance at this time.

10          Some of you may have been in the courtroom yesterday  
11 when I introduced myself, but for the others, I'm Keith  
12 Kelly. I'm one of your resident -- well, I'm one of your  
13 circuit court judges, not one of your resident judges, but  
14 one of your circuit court judges in this State.

15          There are forty-nine of us throughout the State. And  
16 we rotate around in a circuit as, hence, the name circuit  
17 court. I'm usually stationed over in the Spartanburg area.  
18 That's home to me, the Spartanburg Seventh Circuit,  
19 Spartanburg and Cherokee County. And my chambers or office,  
20 if you will, actually is in Gaffney, the Cherokee County  
21 Courthouse. But it's good to be with you.

22          I'm assigned over here this week. And we also, if I  
23 didn't -- if you don't know that, we also change hats from  
24 week to week. I'm here in General Sessions, which is a term  
25 of criminal court. And last week and then next week I will

1 be wearing the Common Pleas hat or the civil court. So I'll  
2 take up civil matters next week. I'm taking up criminal  
3 matters this week.

4 And you also have some of your own judges here. I know  
5 Judge Hill is here. Judge Stilwell, Judge Miller are here.  
6 And Judge Miller and Judge Hill are also doing criminal  
7 matters, General Sessions. And Judge Stilwell was doing  
8 some civil court. So you have some of your own judges here  
9 as well.

10 Ladies and gentlemen, one thing I want to tell you  
11 about myself is that I stand a lot. And I want you to place  
12 no significance whatsoever on the fact that I might be  
13 sitting or standing if a witness is testifying or not -- or  
14 if I'm sitting or standing, it means nothing, okay? So I  
15 want you to place no significance on the fact that I might  
16 be standing while one witness is testifying and sit with  
17 another one. It simply means I don't -- I don't like to sit  
18 in a chair all day.

19 And so I stand a fair amount. But I do not want you to  
20 draw the wrong conclusion that the Judge believes or  
21 disbelieves what the witness is saying merely because he is  
22 sitting or standing. Trust me, it means nothing other than  
23 I just don't want to sit in the chair.

24 We are here in the matter of the State of South  
25 Carolina versus Christopher Eric Mejean. Mr. Mejean is



1 charged in three indictments with the offense of attempted  
2 murder. Now, I tell you that the indictment is merely a  
3 piece of paper. I hold it here in my hand. These three  
4 pieces of paper, they are merely a piece of paper. They are  
5 merely the charging instrument, if you will, that brings Mr.  
6 Mejean before this Court. It is no evidence of his guilt  
7 whatsoever.

8 In fact, he has entered a plea of not guilty to each  
9 and every indictment. And he is presumed by our law not to  
10 be guilty of each and every indictment. And so, again,  
11 these are nothing more than the charging instrument pieces  
12 of paper which bring him before the Court. The burden is on  
13 the State of South Carolina seated at this table, to my  
14 left, your right, but the burden is on the State of South  
15 Carolina to prove him guilty beyond a reasonable doubt on  
16 each and every element of each and every indictment.

17 Now, ladies and gentlemen, you were previously sworn by  
18 another judge, that would have been yesterday morning at  
19 jury qualification, and you were asked a series of  
20 questions. And, likewise, I'm required at this time to ask  
21 a few more questions with regards to this particular case.  
22 But I remind you that you remain under oath.

23 Ladies and gentlemen, has any member of the jury panel  
24 ever been related by blood or marriage to Christopher Eric  
25 Mejean? If so, please stand.

1 (No response)

2 **THE COURT:** Any member of the jury panel ever been  
3 related by blood or marriage to Mr. Mejean? If so, please  
4 stand.

5 (No response)

6 **THE COURT:** Any member of the jury panel have a close,  
7 personal or social relationship with Mr. Mejean? If so,  
8 please stand.

9 (No response)

10 **THE COURT:** Has any member of the jury panel ever been  
11 related by blood or marriage to Tee Smith, as in T-e -- two  
12 e's, T-e-e Smith, Regina Smith, or A.S., is that a minor?

13 **MS. HODGE:** Their minor child.

14 **THE COURT:** A minor -- or their minor child, identified  
15 by initials. Anybody related by blood or marriage to the  
16 Tee and Regina Smith or their family, ever been related by  
17 blood or marriage to those individuals, please stand.

18 (No response)

19 **THE COURT:** Any member of the jury panel have a close,  
20 personal or social relationship with any of those  
21 individuals, the Smith family? If so, please stand.

22 (No response)

23 **THE COURT:** A list of possible witnesses in this case,  
24 potential witnesses are Regina Smith, Tee Smith, Melissa  
25 Mejean, Officer Adam Davis and Officer David Bryan. Any

1 member of the jury panel ever been related by blood or  
2 marriage to any of those potential witnesses? If so, please  
3 stand.

4 (No response)

5 **THE COURT:** Any member of the jury panel ever had a --  
6 or have had or do have a social or personal relationship  
7 with any of those potential witnesses? If so, please stand.  
8 Such as you know them from the neighborhood, church, work,  
9 something of that nature, Facebook.

10 (No response)

11 **THE COURT:** I'm going to ask the lawyers to now  
12 introduce themselves. Yes, ma'am.

13 **MS. HODGE:** Thank you, Your Honor. My name is Kris  
14 Hodge. And I'm an assistant solicitor here in Greenville  
15 County. And at the table with me is Melissa Bishop. She's  
16 my investigator with the Solicitor's Office.

17 **THE COURT:** All right. Mr. Sullivan.

18 **MR. SULLIVAN:** I'm Tim Sullivan. I'm a defense  
19 attorney here. And I represent Eric Mejean in this case.

20 **THE COURT:** Has any member of the jury panel ever been  
21 related by blood or marriage to either of the lawyers in  
22 this case? If so, please stand.

23 (No response)

24 **THE COURT:** Any member of the jury panel have a close,  
25 personal or social relationship with either of the lawyers

1 in this matter? If so, please stand.

2 (No response)

3 **THE COURT:** Any member of the jury panel ever been  
4 represented by Mr. Tim Sullivan in any manner whatsoever?  
5 If so, please stand.

6 (No response)

7 **THE COURT:** Any member of the jury panel ever been a  
8 witness for the Thirteenth Circuit Solicitor's Office in any  
9 case whatsoever? If so, please stand.

10 (No response)

11 **THE COURT:** Any member of the jury panel have a close,  
12 personal or a family member -- friend or family member who  
13 is employed by the Thirteenth Circuit Solicitor's Office?  
14 If so, please stand.

15 (No response)

16 **THE COURT:** Any member of the jury panel have a close,  
17 personal or family relationship that's been employed in Mr.  
18 Sullivan's firm, please stand.

19 (No response)

20 **THE COURT:** Any member of the jury panel related to a  
21 member of law enforcement? You have a law enforcement  
22 member in your family. If so, please stand. Okay. We're  
23 going to do this -- we always do this by number. So  
24 starting -- yes, ma'am, your number, please?

25 **MS. BROWN:** 24.

1           **THE COURT:** That person is your?

2           **MS. BROWN:** Nephew.

3           **THE COURT:** Would that fact interfere with your ability  
4 to be fair and impartial to both the State and Defense?

5           **MS. BROWN:** No.

6           **THE COURT:** Thank you, ma'am. You may stay. Yes,  
7 ma'am, your number?

8           **MS. VAUGHN-SCHAEFER:** 219.

9           **THE COURT:** Relationship?

10          **MS. VAUGHN-SCHAEFER:** My dad was highway patrol, my  
11 father-in-law is an FBI agent and my cousin is a current  
12 sheriff's deputy.

13          **THE COURT:** Okay. Would that interfere with your  
14 ability to be fair and impartial to both the State and the  
15 Defense?

16          **MS. VAUGHN-SCHAEFER:** No.

17          **THE COURT:** Ma'am, you may stay with us. Yes, ma'am.

18          **MS. SROMEK:** 206. Ex-husband.

19          **THE COURT:** Would that interfere with your ability to  
20 be fair and impartial to both the State and the Defense?

21          **MS. SROMEK:** No.

22          **THE COURT:** Thank you, ma'am. You may stay. Yes, sir,  
23 in the black.

24          **MR. HAYDEN:** 100. I have several cousins in federal  
25 law enforcement and a cousin that's a deputy in Greenville

1 County.

2 **THE COURT:** Would that interfere with your ability to  
3 be fair and impartial to both the State and Defense?

4 **MR. HAYDEN:** No, sir.

5 **THE COURT:** Thank you, sir. You may stay. Yes, sir.

6 **MR. JONES:** Number 116. I have a brother-in-law that  
7 was a highway patrolman, and he's retired now.

8 **THE COURT:** Would that interfere with your ability to  
9 be fair to both the State and Defense?

10 **MR. JONES:** No, sir.

11 **THE COURT:** Sir, you may stay. Thank you. Yes, ma'am,  
12 your number?

13 **MS. MACK:** I have a cousin that's married to a police  
14 officer in Spartanburg County.

15 **THE COURT:** Would that interfere with your ability to  
16 be fair and impartial in this trial?

17 **MS. MACK:** No, sir.

18 **THE COURT:** Your number, please?

19 **MS. MACK:** 137.

20 **THE COURT:** 137. Ma'am, you may stay with us. Thank  
21 you.

22 **MS. MACK:** Thank you.

23 **THE COURT:** Is there any member of the jury panel who  
24 has been a victim of a violent crime, victim of a violent  
25 crime? If so, please stand.

1 (No response)

2 **THE COURT:** Any member of the jury panel have a close,  
3 personal friend or family member that has been a victim of a  
4 violent crime? If so, please stand.

5 (No response)

6 **THE COURT:** Any member of the jury panel that does not  
7 allow firearms in your home? If so, please stand. Do not  
8 allow firearms in your home. Okay. Yes, sir, your number?

9 **MR. HARVEY:** 98.

10 **THE COURT:** Would that interfere with your ability to  
11 be fair and impartial to either -- both sides of this case?

12 **MR. HARVEY:** No.

13 **THE COURT:** Thank you, sir. You may stay. Yes, ma'am.

14 **MS. DELAHUNTY:** 52.

15 **THE COURT:** Would that -- the fact you do not allow  
16 firearms in your home, if a firearm were talked about in  
17 this case, would that interfere with your ability to be fair  
18 and impartial to both sides?

19 **MS. DELAHUNTY:** No.

20 **THE COURT:** Thank you. You may stay. Is there any  
21 member of the jury panel who is a member of or contributor  
22 to any group which has as its primary concern the promotion  
23 of law enforcement or victim's rights such as MADD, Mothers  
24 Against Drunk Driving, Students Against Drunk Driving, or  
25 Citizens Against Violent Crime? Any member of the jury

1 panel a member of any such organization or contribute to any  
2 such organization, please stand.

3 (No response)

4 **THE COURT:** Any member of the jury panel know of any  
5 reason why he or she should not serve as a juror in this  
6 case? If so, please stand.

7 (No response)

8 **THE COURT:** Anything from the State?

9 **MS. HODGE:** Nothing from the State, Your Honor.

10 **THE COURT:** From the Defense?

11 **MR. SULLIVAN:** Nothing from the Defense, Your Honor.

12 **THE COURT:** Okay. All right. Yes, ma'am.

13 **MADAME CLERK:** When I call your name, if you'd come  
14 forward and stand in between the two tables and face the  
15 attorneys. Also, bring your personal belongings should you  
16 be selected for the jury.

17 Juror number 192, Barbara Shaw-Twining.

18 (Whereupon juror number 192, Barbara Shaw-Twining, a  
19 white female, came forward)

20 **MADAME CLERK:** What says the State?

21 **MS. HODGE:** Please present the juror.

22 **MADAME CLERK:** Thank you. What says the Defendant?

23 **MR. SULLIVAN:** Swear the juror, please.

24 **MADAME CLERK:** Thank you. You may be seated in the  
25 jury box. Juror number 4, Taylor Ammons.



1 (Whereupon juror number 4, Taylor Ammons, a white male,  
2 came forward)

3 **MADAME CLERK:** What says the State?

4 **MS. HODGE:** Please present the juror.

5 **MADAME CLERK:** Thank you. What says the Defendant?

6 **MR. SULLIVAN:** Excuse this juror in this case, please.

7 **MADAME CLERK:** Thank you. You may be seated. You're  
8 excused from the trial of this case. Juror number 141,  
9 Sawyer Mayfield.

10 (Whereupon juror number 141, Sawyer Mayfield, a white  
11 male, came forward)

12 **MADAME CLERK:** What says the State?

13 **MS. HODGE:** Please present the juror.

14 **MR. SULLIVAN:** Swear the juror, please.

15 **MADAME CLERK:** Thank you. You may be seated in the  
16 jury box. Juror number 126, Denise Lambert.

17 (Whereupon juror number 126, Denise Lambert, a white  
18 female, came forward)

19 **MR. SULLIVAN:** 121?

20 **MADAME CLERK:** 126. What says the State?

21 **MS. HODGE:** Please present the juror.

22 **MADAME CLERK:** Thank you.

23 **MR. SULLIVAN:** Swear the juror, please.

24 **MADAME CLERK:** Thank you. You may be seated in the  
25 jury box. Juror number 189, Steven Schwark.

1 (Whereupon juror 189, Steven Schwark, a white male,  
2 came forward)

3 **MADAME CLERK:** What says the State?

4 **MS. HODGE:** Please present the juror.

5 **MADAME CLERK:** Thank you. What says ---

6 **MR. SULLIVAN:** Swear the juror, please, ma'am.

7 **MADAME CLERK:** Thank you. You may be seated in the  
8 jury box. Juror number 205, Kendra Sprogis.

9 (Whereupon juror number 205, Kendra Sprogis, a white  
10 female, came forward)

11 **MADAME CLERK:** What says the State?

12 **MS. HODGE:** Please present the juror.

13 **MADAME CLERK:** Thank you.

14 **MR. SULLIVAN:** Swear the juror, please, ma'am.

15 **MADAME CLERK:** Thank you. You may be seated in the  
16 jury box. Juror number 16, Amy Bird.

17 (Whereupon juror number 16, Amy Bird, a white female,  
18 came forward)

19 **MADAME CLERK:** What says the State?

20 **MS. HODGE:** Please present the juror.

21 **MADAME CLERK:** Thank you.

22 **MR. SULLIVAN:** Excuse the juror in this matter, please.

23 **MADAME CLERK:** Thank you. You may be seated. You're  
24 excused from the trial of this case. Juror number 21, John  
25 Brackett.

1 (Whereupon juror number 21, John Brackett, a white  
2 male, came forward)

3 **MADAME CLERK:** What says the State?

4 **MS. HODGE:** Please present the juror.

5 **MADAME CLERK:** Thank you.

6 **MR. SULLIVAN:** Swear the juror, please.

7 **MADAME CLERK:** Thank you. You may be seated in the  
8 jury box. Juror number 150, Robin Michaels.

9 (Whereupon juror number 150, Robin Michaels, a white  
10 female, came forward)

11 **MADAME CLERK:** What says the State?

12 **MS. HODGE:** Please present the juror.

13 **MR. SULLIVAN:** Swear the juror, please.

14 **MADAME CLERK:** Thank you. You may be seated in the  
15 jury box. Juror number 208, David Storay.

16 (Whereupon juror number 208, David Storay, a white  
17 male, came forward)

18 **MADAME CLERK:** What says the State?

19 **MS. HODGE:** Please present the juror.

20 **MADAME CLERK:** Thank you.

21 **MR. SULLIVAN:** Excuse the juror in this matter.

22 **MADAME CLERK:** Thank you. You may be seated. You're  
23 excused from the trial of this case. Juror number 195,  
24 Joshua Shockley.

25 (Whereupon juror number 195, Joshua Shockley, a white

1 male, came forward)

2 **MADAME CLERK:** What says the State?

3 **MS. HODGE:** Please excuse this juror.

4 **MADAME CLERK:** Thank you. You may be seated. You're  
5 excused from the trial of this case. Juror number 168,  
6 Raymond Parnell.

7 (Whereupon juror number 168, Raymond Parnell, a white  
8 male, came forward)

9 **MADAME CLERK:** What says the State?

10 **MS. HODGE:** Please excuse this juror.

11 **MADAME CLERK:** Thank you. You may be seated. You're  
12 excused from the trial of this case. Juror number 51,  
13 Robert Dean.

14 (Whereupon juror number 51, Robert Dean, a white male,  
15 came forward)

16 **MADAME CLERK:** What says the State?

17 **MS. HODGE:** Please present the juror.

18 **MADAME CLERK:** Thank you.

19 **MR. SULLIVAN:** Swear the juror in this matter.

20 **MADAME CLERK:** Thank you. You may be seated in the  
21 jury box. Juror number 98, Lloyd Harvey.

22 (Whereupon juror number 98, Lloyd Harvey, a white male,  
23 came forward)

24 **MADAME CLERK:** What says the State?

25 **MS. HODGE:** Please present the juror.

1           **MADAME CLERK:** Thank you.

2           **MR. SULLIVAN:** Swear the juror, please.

3           **MADAME CLERK:** Thank you. You may be seated in the  
4 jury box. Juror number 211, Stephanye Sullivan.

5           (Whereupon juror number 211, Stephanye Sullivan, a  
6 black female, came forward)

7           **MADAME CLERK:** What says the State?

8           **MS. HODGE:** Please present the juror.

9           **MADAME CLERK:** Thank you.

10          **MR. SULLIVAN:** Swear the juror, please.

11          **MADAME CLERK:** Thank you. You may be seated in the  
12 jury box. Juror number 169, Caitlin Paterson.

13          (Whereupon juror number 169, Caitlin Paterson, a white  
14 female, came forward)

15          **MADAME CLERK:** What says the State?

16          **MS. HODGE:** Please excuse this juror.

17          **MADAME CLERK:** Thank you. You may be seated. You're  
18 excused from the trial of this case. Juror number 24, Rita  
19 Brown.

20          (Whereupon juror number 24, Rita Brown, a white female,  
21 came forward).

22          **MADAME CLERK:** What says the State?

23          **MS. HODGE:** Please present the juror.

24          **MADAME CLERK:** Thank you.

25          **MR. SULLIVAN:** Swear the juror, please.

1           **MADAME CLERK:** Thank you. You may be seated in the  
2 jury box. Juror number 94, William Harkness.

3           (Whereupon juror number 94, William Harkness, a white  
4 male, came forward)

5           **MADAME CLERK:** What says the State?

6           **MS. HODGE:** Please excuse this juror.

7           **MADAME CLERK:** Thank you. You may be seated. You're  
8 excused from the trial of this case. Juror number 90,  
9 Christopher Greathouse.

10          (Whereupon juror number 90, Christopher Greathouse, a  
11 white male, came forward)

12          **MADAME CLERK:** What says the State?

13          **MS. HODGE:** Please present the juror.

14          **MADAME CLERK:** Thank you.

15          **MR. SULLIVAN:** Swear the juror, please.

16          **MADAME CLERK:** Thank you. You may be seated in the  
17 jury box. Juror number 116, Jeffrey Jones.

18          (Whereupon juror number 116, Jeffrey Jones, a white  
19 male, came forward)

20          **MADAME CLERK:** What says the State?

21          **MS. HODGE:** Please present the juror.

22          **MADAME CLERK:** Thank you.

23          **MR. SULLIVAN:** Swear the juror, please.

24          **MADAME CLERK:** Thank you. You may be seated in the  
25 jury box.

1           **THE COURT:** We have any matters concerning jury  
2 selection?

3           **MS. HODGE:** None from the State, Your Honor.

4           **MR. SULLIVAN:** None from the Defense, Your Honor.

5           **THE COURT:** Okay. Madame Clerk, will you swear the  
6 jury to try this case.

7           **MADAME CLERK:** Yes, sir, Your Honor. Would you please  
8 stand and raise your right hand. The response to the oath  
9 is I will.

10           You shall well and truly try cases 2013-GS-23-5236,  
11 5237, 5238, State versus Christopher Eric Mejean, indicted  
12 for attempted murder and a true verdict rendered according  
13 to the law and the evidence so help you God?

14           **THE JURY:** I will.

15           **MADAME CLERK:** Thank you. You may be seated.

16           **THE COURT:** Thank you. Ladies and gentlemen who were  
17 not selected, we have now chosen the jury. And as you can  
18 see, they have been sworn. So at this point, this case is  
19 going forward. We will not need your attention further  
20 today.

21           You're going -- the bailiff is going to take you back  
22 to the jury assembly room. And the personnel down there  
23 will tell you when to report back or what's needed. I don't  
24 know what's going on in the other courtrooms. And I don't  
25 know how far along those trials are, but we're starting this

1 one. And it will go through today, maybe even tomorrow. I  
2 don't know.

3 I don't know how many witnesses there are potentially.  
4 We have called out five, but I don't know how long that  
5 would take. So I don't know if another judge might need  
6 your services, but, if you would, if you would go back down  
7 with the bailiff, they'll have further instructions. Thank  
8 you.

9 (Whereupon the remaining jurors exited the courtroom)

10 **THE COURT:** All right. Juror number 192, Ms. Barbara  
11 Shaw, is it Twining, Twining?

12 **MS. SHAW-TWINING:** Twining.

13 **THE COURT:** Twining? Ma'am, you are hereby appointed  
14 the forelady of this jury. As is my custom, I alternate  
15 between a foreman and a forelady. And this time is time for  
16 a forelady. So I have selected you to be the -- you won the  
17 lottery twice today.

18 (Laughter)

19 **THE COURT:** So you are now selected as the foreperson  
20 or lady of this jury, to be politically correct, foreperson  
21 of the jury. Ma'am, I'm going to ask that you sit in an  
22 assigned seat. You don't have to move right this second,  
23 but when we -- we're going to get ready to take a quick  
24 break, and I'll explain that in just one second. But you  
25 will always be in an assigned seat. And that seat is the



1 seat that this gentleman in the green shirt is sitting in.

2 And, sir, you are my alternate juror. You will always  
3 be in that seat. That way when I look up to the jury, I  
4 always know where my alternate is and my forelady.

5 Everyone else here is hereby made an honorary rotarian,  
6 okay? I've been a rotarian for almost thirty years. And  
7 you're now honorary rotarians, which means that you can  
8 rotate seats. You can sit on the front. You can sit on the  
9 back. You can sit to the left or the right. You can change  
10 seats every time you come in the courtroom. I don't care.  
11 So, Madame Forelady and Mr. Foreman [sic], if you two would  
12 always be in the assigned seats.

13 Ma'am, the reason for that is is that you are the  
14 forelady, the spokesperson for the jury. And if the jury  
15 were to have an issue, somebody's car doesn't start, they  
16 get an emergency phone call, it would be your duty to relay  
17 that to me. And I would always want you sitting right  
18 there.

19 Likewise, you will hear me, and I will explain later  
20 that sometimes I have to have a conference with the lawyers  
21 outside of your presence. And I would always look to that  
22 first seat right there in giving you instructions to be  
23 removing the jury from the courtroom.

24 Now, having said that, as I've told you, we have been  
25 here working since 9:00 this morning. I got here at 8:06

1 this morning. The lawyers got here not long after that.  
2 And I've actually been in the courtroom handling other  
3 matters since 9:00 this morning.

4 So we are going to take, and my staff here, we're going  
5 to take about a fifteen minute break, allow us to refresh  
6 ourselves. I'm going to get some more ice for my water and  
7 pour my coffee out. It's gotten cold sitting up here. But  
8 we're going to take fifteen minutes and do that and then  
9 we're going to start this trial of this case.

10 Now, Madame Forelady, the bailiff is going to take you  
11 to a new room. This will be your jury assembly room. And  
12 this is where when we break for lunch here in a little while  
13 that you will leave from that room and you will return to  
14 that room. You will not go back downstairs to the jury  
15 assembly room. You're now going to be segregated and in the  
16 jury room itself, okay? So, Madame Forelady, your first  
17 official act, if you will take your jury out with this fine  
18 bailiff right here.

19 (Whereupon the jury exited the courtroom at 10:48 am)

20 **THE COURT:** Mr. Mejean, before we take a break I want  
21 to tell you that at the call of this case now your bond is  
22 revoked and you will technically be in custody. Mr.  
23 Sullivan and I have known each other for almost thirty  
24 years, believe it or not. He has had no problem getting in  
25 touch with you. You've always been where you're supposed to

1 be. So I'm going to extend the courtesy to you because of  
2 your lawyer that you will not be in custody, okay?

3 **MR. MEJEAN:** Thank you.

4 **THE COURT:** So you're free to go to the restroom, get a  
5 drink of water, whatever you do. But I'm telling you, we're  
6 on the record here, I'm telling you whether you're in that  
7 chair or not in that chair, in about five minutes after the  
8 hour of eleven we are going to trial in this case, you  
9 understand?

10 **MR. MEJEAN:** Yes, sir.

11 **THE COURT:** And if you're not there I'll issue a bench  
12 warrant for you to be picked up.

13 **MR. MEJEAN:** Yes, sir.

14 **THE COURT:** Now, if you're where you're supposed to be  
15 and we have to go overnight, I will extend that same  
16 courtesy and allow you to go home ---

17 **MR. MEJEAN:** Thank you, sir.

18 **THE COURT:** --- with the instructions and understanding  
19 that in the event you're not there in the morning, Mr.  
20 Sullivan will be proceeding with an empty chair.

21 **MR. MEJEAN:** Yes, sir.

22 **THE COURT:** Okay. You're free to go to the restroom,  
23 whatever. Fifteen minutes.

24 **MR. SULLIVAN:** Thank you, Your Honor, because I  
25 explained to him he may be having lunch back here or

1 spending the night with us. I appreciate that.

2 **THE COURT:** Yes, sir, Mr. Sullivan. You are so  
3 welcome.

4 (Whereupon court was in recess at 10:50 am)

5 (Whereupon court reconvened at 11:09 am)

6 **THE COURT:** Thank you. Please be seated. Let me see  
7 the lawyers, please.

8 (Whereupon a bench conference was held off the record)

9 **THE COURT:** Anybody need anything before we bring the  
10 jury?

11 **MS. HODGE:** No, sir.

12 **THE COURT:** Okay. We'll have our jury.

13 (Whereupon the jury entered the courtroom at 11:14 am)

14 **THE COURT:** Madame Forelady, any matters for the jury?  
15 Any matters for the jury?

16 **MADAME FORELADY:** No, sir.

17 **THE COURT:** Okay. Ladies and gentlemen of the jury,  
18 the case we're about to try is the matter of the State of  
19 South Carolina versus Christopher Eric Mejean. As I told  
20 you earlier, Mr. Mejean is charged by three indictments with  
21 the offenses of attempted murder.

22 It is alleged in the indictments that he did in  
23 Greenville County, South Carolina on July 12, I'm sorry,  
24 July 2 of 2012 unlawfully with malice aforethought and with  
25 the intent to kill attempted to kill Regina Smith, Tee Smith

1 and a child, a minor known as A.S. Smith, being the child of  
2 Tee and Regina Smith. I also have told you and I tell you  
3 now that the charging -- the indictments are nothing more  
4 than charging instruments. They are the method by which we  
5 come before this court today.

6 Mr. Mejean has entered a plea of not guilty to those  
7 indictments. And he is presumed under our law to be not  
8 guilty. The State, therefore, has the burden of proving him  
9 guilty beyond a reasonable doubt. They must prove each and  
10 every element of each and every indictment beyond a  
11 reasonable doubt.

12 Now, before we begin this trial I want to tell you that  
13 this trial will probably be different from what you might  
14 have come to expect. People do not have the chance often to  
15 attend actual court sessions as you are doing now. And many  
16 people believe from watching television, watching movies or  
17 reading books that trials are always full of high drama,  
18 intense action and riveting circumstances.

19 And while all of these things may be true at times,  
20 this trial is not for entertainment purposes. This trial is  
21 a fundamental part of our democracy. It is a search for the  
22 truth in an effort to make sure that justice is done between  
23 the parties before the court. I tell you that searching for  
24 the truth and making sure that justice is done is often  
25 slow, deliberate, and repetitive, just the opposite of what

1 we have seen on television, or in movies or read in books.

2 This courtroom is a place of honor dedicated to the  
3 protection and preservation of citizen's rights through what  
4 many have called the greatest justice system ever created.

5 I tell you that the lawyers appearing before you are  
6 advocates for the parties they represent, but first and  
7 foremost they are officers of this court sworn to uphold the  
8 integrity and the fairness in our judicial system. Again,  
9 we thank you for being here and playing an important role by  
10 your jury service in this trial today.

11 Now, what I say to you is intended to serve as an  
12 introduction to the trial of this case. My remarks are not  
13 a charge of the law. I'll instruct you on the law at the  
14 end of the trial before you retire to consider your verdict.  
15 My remarks are merely an explanation of the procedure that  
16 we will follow so that you may be better -- so that you may  
17 better understand what is happening.

18 I tell you that you are not to take notes of any kind  
19 during the trial of this case. As I previously told you,  
20 the Defendant is charged by indictment filed with this court  
21 with the criminal offense of attempted murder as I  
22 previously explained. And I've also explained to you that  
23 he has pled not guilty and he remains not guilty at this  
24 time.

25 The State, therefore, has the burden of proving each of

1 the elements of the indictment -- of each indictment beyond  
2 a reasonable doubt. And, ladies and gentlemen, it will be  
3 your duty to decide whether the State has met that burden of  
4 proof.

5 Your purpose as jurors is to find and determine facts.  
6 You are the sole judge of the facts in this case. If at any  
7 time I make a comment regarding a fact, you must disregard  
8 it. You are to determine the facts from the testimony you  
9 hear and the other evidence introduced in court.

10 It is up to you twelve jurors to determine the  
11 inferences which you think may be properly drawn from the  
12 evidence presented in this case. It is especially important  
13 that you perform your duty of determining the facts  
14 diligently and conscientiously because ordinarily there is  
15 no way to correct an erroneous determination of facts by a  
16 jury.

17 On the other hand and with equal emphasis, the same law  
18 that makes you the judge of the facts in this case makes me  
19 the judge of the law. The law as given by the court is the  
20 only law that you may consider. You must accept it and  
21 follow it even if you disagree with it. I cannot tell you  
22 what the facts are and you cannot disagree with me about  
23 what the law is, or what the law should be or what the law  
24 ought to be.

25 Your job is to take the law as I give it to you at the

1 end of the case and apply it to the facts as you find them  
2 to be from the testimony of the witnesses and any other  
3 evidence that is properly introduced during the trial. And  
4 after doing so you will render a verdict, a verdict under  
5 your solemn oath that you took as jurors.

6 But until I tell you that you may begin to deliberate,  
7 you must not discuss this case with anyone including your  
8 fellow jurors. You must not discuss it with friends or  
9 family members or anyone involved in the case.

10 The lawyers and the parties in this case and the  
11 witnesses have been advised by me that they are not to speak  
12 to you. So if anyone in this case -- if you see anyone in  
13 this case in the hallway and they do not speak, they are not  
14 being rude, they are simply following my instructions.

15 You must decide this case based solely on the evidence  
16 presented in this courtroom. During the trial you must not  
17 conduct any independent research about this case or any fact  
18 in this case, the evidence presented or the people or  
19 organizations involved in this case. Please do not try to  
20 learn information from any source outside of this courtroom.

21 In other words, you must not look at dictionaries or  
22 other reference materials, search the internet, websites, or  
23 blogs or use other electronic tools to discover or receive  
24 information about the case or to help you decide it. You  
25 may not use computers, telephones, cell phones, smart



1 phones, tablets, the internet or any other tool of  
2 technology with communication capability at any time while  
3 you are in the courtroom or during deliberations.

4 During breaks for lunch or overnight, if necessary, you  
5 may use those devices, but you must not use them to  
6 communicate with anyone about the case until it has ended.  
7 This means you must not use phone calls, emails, text  
8 messages, instant messages, Twitter or any blog, chat room  
9 or website including Facebook, Google Plus, Myspace,  
10 LinkedIn, YouTube or any social media website to receive or  
11 send information about this case. This information includes  
12 information about a party, a witness, a lawyer, court  
13 officer, news accounts about the case, research on any topic  
14 raised or any topic that you think might be helpful in  
15 deciding the case or testimony presented by any witness.

16 During the trial do not read, listen to or watch any  
17 news reports about this case. This includes anything that  
18 may be in a newspaper or on the internet, radio or  
19 television. You must not consider anything you have read or  
20 heard about this case outside of this courtroom whether  
21 before or during the trial.

22 Information on television, radio and the internet or  
23 from other sources might be wrong or certainly might be  
24 incomplete. In our judicial system it is important that you  
25 are not influenced by anything or anyone outside of this

1 courtroom.

2 If you become aware of a fellow juror's violation of my  
3 instructions, please inform me immediately. It is important  
4 that you keep an open mind and not decide any issue in this  
5 case until all of the evidence has been presented, the  
6 parties have made closing arguments and I have instructed  
7 you on the law.

8 Ladies and gentlemen, it is your solemn responsibility  
9 to determine the guilt or innocence of the Defendant. And  
10 your verdict must be based solely on the evidence as it is  
11 presented to you in this trial and on the law as I instruct  
12 during and at the end of the trial.

13 Now, in just a few moments the solicitor will make what  
14 we call an opening statement in what the solicitor will  
15 explain to you the issues in this case or at least what she  
16 thinks the issues are. The attorney for the Defendant may  
17 also make an opening statement, although, he is not required  
18 to do so.

19 I tell you that what the lawyers say in their opening  
20 statements is not evidence. It is only their contention as  
21 to what the issues are. The evidence in this case will be  
22 presented to you by the testimony of sworn witnesses from  
23 the witness stand and/or by exhibits that may be introduced  
24 into evidence.

25 Now, from time to time during the trial you may hear

1 one of the lawyers say something like, Your Honor, I believe  
2 we have a question or a matter of law to discuss with you or  
3 may we approach the bench for what we call a sidebar  
4 discussion. Sometimes I, myself, find it necessary to  
5 exclude you from the courtroom for a short while so the  
6 lawyers and I can discuss a matter.

7 And the reason for doing so is because the judges --  
8 because judges are the -- because you are the judges of the  
9 facts in the case and sometimes when I'm discussing a matter  
10 of law with the lawyers it may be necessary for me to make a  
11 comment as to the facts in connection with ruling on whether  
12 or not a particular law applies. I am not supposed to tell  
13 you what the facts are. So I will excuse you from the  
14 courtroom during my discussions so that you will in no way  
15 be influenced by anything that I might say or do.

16 Now, in determining what the true facts are in the case  
17 you must decide whether or not the testimony of a witness is  
18 believable. It is my responsibility to rule as a matter of  
19 law as to whether certain testimony is admissible, but once  
20 testimony is admitted, whether or not you believe it is  
21 solely for your determination.

22 In deciding whether to believe a witness you have the  
23 right to consider the interest of the witness, or any bias  
24 of that witness, or any prejudice of that witness, the  
25 opportunity of him or her to have seen the matters and

1 things about which the witness may testify and the way the  
2 witness acts on the witness stand. Ladies and gentlemen,  
3 you have a right to consider anything that is in the record  
4 that will help you evaluate the testimony of the witness.

5 And that means it is your duty to pay close attention  
6 to the witness, to observe them and listen to them and pay  
7 close attention to the lawyers. Please do not let your  
8 thoughts wander, but give strict attention to the testimony  
9 so that at the end of all the testimony, and after the  
10 arguments and the charge on the law you will be in a  
11 position to determine what the true facts are and to apply  
12 the law to those facts.

13 Now, ladies and gentlemen, I ask that you be prompt in  
14 your jury service. In a little while here we will stop for  
15 lunch. And I will give you a time to be back. And I would  
16 ask that you please, please be prompt in returning. The  
17 reason for that is we cannot proceed without all thirteen of  
18 you. So if there is one who is tardy that requires us to  
19 wait, all the other twelve have to wait on that particular  
20 juror.

21 We understand that things happen from time to time, but  
22 we cannot proceed without all thirteen of you. So in  
23 fairness to your brothers and sisters who are sitting there  
24 with you, please be prompt in your jury service.

25 Madame Forelady, as I've told you before, you are the

**OPENING STATEMENTS - MS. HODGE**

47

1     spokesperson for the jury. It will also be your duty at the  
2     end of this trial to write the verdict that the jury  
3     reaches. That will be a unanimous verdict. It would be  
4     your duty to write that verdict. And I will explain more  
5     about that at the close of the case.

6             Anything from the State?

7             **MS. HODGE:** Nothing from the ---

8             **THE COURT:** From ---

9             **MS. HODGE:** --- State, Your Honor.

10            **THE COURT:** --- the Defense?

11            **MR. SULLIVAN:** Nothing from the Defense, Your Honor.

12            **THE COURT:** Madame Forelady, ladies and gentlemen,  
13     please give your attention to the lawyers. Solicitor.

14            **MS. HODGE:** Thank you, Your Honor. May it please the  
15     Court.

16            **THE COURT:** Yes, ma'am.

17            **MS. HODGE:** Mr. Sullivan. Ladies and gentlemen of the  
18     jury, if this case had a title it would be there by the  
19     grace of God. There by the grace of God, or you could say  
20     good fortune, or good luck this is not a murder case, this  
21     is not a single, double or triple homicide that you're  
22     sitting on. There by the grace of God you are on an  
23     attempted murder case because Tee Smith, his wife, Regina  
24     Smith, and his daughter, A.S., did not get shot on  
25     this night when three separate shotgun fires came through

**OPENING STATEMENTS - MS. HODGE**

48

1     their home while they were sleeping.

2             There by the grace of God the one entered their  
3     bedroom, slightly higher than where Mr. and Mrs. Smith were  
4     sleeping. By the grace of God a shot came through the top  
5     of their living room, slightly higher than where their  
6     daughter was sleeping on the couch. And there by the grace  
7     of God the final shot or could be the first shot went  
8     through their kitchen, completely through their drawers,  
9     through their table, through another chair, just so happened  
10    no one was getting a glass of water or walking through the  
11    kitchen. There by the grace of God these people are alive,  
12    physically fine, though traumatized, obviously, but we're  
13    here on attempted murder, not actual murder.

14            The evidence is going to show that the Defendant is  
15    guilty of these attempted murder charges. It's going to  
16    come in the form of testimony from the witness stand and  
17    also physical evidence collected by law enforcement.

18            The testimony is going to show that on July the 1st,  
19    2012 the victims were asleep in their home, it was around  
20    11:00 at night, that they were woken up by a loud noise,  
21    which turned out to be gunfire, that the wife woke her  
22    husband up, nervous, didn't know what was going on, that he  
23    went and looked through the house and saw fragments of their  
24    kitchen table had been blown through, that he armed himself  
25    with his personal weapon and went to go see what's going on.

**OPENING STATEMENTS - MS. HODGE**

49

1     Went outside of their home, observed birdshot outside their  
2     bedroom window and two slug rounds in the outside of their  
3     living room and kitchen area. They called law enforcement.

4             The evidence will show shortly after that Mr. Smith  
5     goes back outside to see what, if anything, that he could  
6     see and he sees the Defendant, his next door neighbor, and  
7     at that time, friend. And he asks him, do you know what's  
8     going on? Did you shoot my house? Do you know anything?  
9     And the Defendant's answer was, no, and that he came  
10    aggressively at Mr. Smith with something that looked like a  
11    long gun saying where's my mother fucking bitch at?

12            See, the evidence will show that during the day prior  
13    to this the Defendant and his wife had been at a party and  
14    that the wife had decided to leave and take their children.  
15    The Defendant had been drinking. The wife decided not to  
16    stay at the home, to go ahead and leave since he had been  
17    drinking, and that he had now shown up and she wasn't there.

18            The evidence will show that law enforcement collected  
19    shotgun shells, spent shells outside the victim's home, that  
20    same type of shotgun shells were found around the  
21    Defendant's residence and his storage shed and that  
22    ammunition of this same kind was found inside his storage  
23    shed and outside, or excuse me, and inside his home.

24            Again, there by the grace of God none of these actually  
25    hit this family. There was no disagreements. There was no

**OPENING STATEMENTS - MS. HODGE**

50

1     hard feelings. These people were just innocently sleeping  
2     in their home. Again, they happened to be friends with the  
3     Defendant and his wife. And especially the wives had been  
4     good friends.

5             So why did this happen? The State can't answer why the  
6     Defendant may have done that. You can look to circumstances  
7     for that, but the State has to prove that the Defendant  
8     committed an attempted murder, which was attempting to kill  
9     someone with malice aforethought, express or implied. And  
10    the Judge is going to tell you more about that.

11            But what that means is if someone loads up a shotgun  
12    and starts firing it in the direction of where people are  
13    sleeping, you may imply from those facts that they intended  
14    to kill that person. And it might not be those specific  
15    people, but it may be someone else they believed might be in  
16    there. Maybe his wife. Don't know. We can't prove that.  
17    We don't know what's going on in a person's mind, but you  
18    can look at the evidence and try and determine and infer  
19    what the intentions were on this night.

20            And I submit if you use your common sense, you listen  
21    to the evidence, you examine all the evidence that at the  
22    conclusion of the State's case you will determine that the  
23    Defendant is, in fact, the person who did this and is guilty  
24    of the charges. Thank you.

25            **MR. SULLIVAN:** May it please the Court.



**OPENING STATEMENTS - MR. SULLIVAN**

51

1           **THE COURT:** Yes, sir.

2           **MR. SULLIVAN:** Ms. Hodge, Ms. Bishop.

3           **MS. HODGE:** Yes, sir.

4           **MR. SULLIVAN:** I'm Tim Sullivan. And this case is not  
5 going to take very long because I agree with everything Ms.  
6 Hodge said. There's no question somebody shot three shotgun  
7 shells through these people's home. And as she said, they  
8 were all friends. Mr. Mejean, his wife, and the Smiths,  
9 they were all good friends. Now somebody that night shot  
10 three shots through their house.

11           So in this case you really have three decisions to  
12 make. Mr. Mejean said he didn't do the shooting. There's  
13 no reason for him -- they're friends.

14           So first of all you've got to decide, after you hear  
15 the evidence, he's got his story, is did he fire the gun  
16 through the house? Then you have to decide was he  
17 attempting -- did he have a specific intent to kill  
18 somebody? Or was this just a reckless, crazy act?

19           There's a difference, the Judge will tell you, in what  
20 he could be guilty of. He could be guilty of attempted  
21 murder or he can be guilty of assault and battery high and  
22 aggravated. Nobody was hurt. To have a murder charge you  
23 have to have specific intent to kill somebody or you go to  
24 manslaughter. The same thing with attempted, you have to  
25 have that intent to kill a person.

OPENING STATEMENTS - MR. SULLIVAN

52

1           So if you find that he fired the shots, the question is  
2   was he just being reckless, crazy, drinking or something, or  
3   did he intend to kill somebody? Or it could be somebody  
4   else fired the shots that was breaking into his house and  
5   they had the gun. So that's the questions you're going to  
6   have to listen to.

7           I'll agree with most of the witnesses that the State  
8   puts up. If I don't ask somebody a lot of questions like  
9   the TV and hammering them and jump in their face, I don't do  
10   that. If they can't show light on what he's already said,  
11   I'm not going to ask him are you sure you saw that? No, I'm  
12   just going to say I have no questions.

13          So because I have no questions of somebody doesn't mean  
14   that I'm ignoring them, it's just, okay, we'll take what he  
15   says as true. But what does that prove this was -- Mr.  
16   Mejean -- I may call him Eric because I'm more familiar with  
17   that. If I say Eric, that would be the Defendant. But if  
18   you listen to everything, then you have those three choices,  
19   not guilty, guilty of assault and battery, high and  
20   aggravated, or guilty of attempted murder. So it's going to  
21   be up to y'all. This case won't take long. You're not  
22   going to be here but two or three days, okay? Thank you.

23           **THE COURT:** Thank you, Mr. Sullivan. Solicitor.

24           **MS. HODGE:** Thank you, Your Honor. The State calls Tee  
25   Smith.

**TEE SMITH - DIRECT EXAMINATION BY MS. HODGE**

53

1           **MADAME CLERK:** Sir, would you come forward to be sworn  
2 in. Place your left hand on the Bible and raise your right.

3                           **Tee Smith,** being duly  
4 sworn testified as follows;

5           **MADAME CLERK:** Thank you. You may be seated.

6           **THE COURT:** Sir, tell us your full name and spell your  
7 last name, please.

8           **MR. SMITH:** My name is Tee Graham Smith, S-m-i-t-h.

9           **THE COURT:** Solicitor.

10          **MS. HODGE:** Thank you, Your Honor.

11   **Direct Examination by Ms. Hodge:**

12   Q. Mr. Smith, can you tell us a little bit about yourself.  
13 How old are you?

14   A. Right now I'm twenty-seven.

15   Q. Do you have a birthday coming up?

16   A. Uh-uh (negative).

17   Q. Oh, okay. You just said right now. I thought that  
18 might mean tomorrow you'd be twenty-eight. Are you married?

19   A. Yes, ma'am.

20   Q. All right. Who are you married to?

21   A. Regina Smith.

22   Q. Do you guys have any children?

23   A. We have two.

24   Q. All right. And how old are your children?

25   A. My daughter's eight. And I got one's a month old.

**TEE SMITH - DIRECT EXAMINATION BY MS. HODGE**

54

1 Q. Okay. So a brand new baby?

2 A. (Affirmative nod).

3 Q. What's that baby's name?

4 A. [REDACTED] J.S. [REDACTED].

5 Q. So a little boy?

6 A. Yes, ma'am.

7 Q. All right. Do you work?

8 A. Yes, ma'am.

9 Q. And where do you work?

10 A. Ingles.

11 Q. How long have you been with Ingles?

12 A. Since 2006.

13 Q. You live in Greenville County currently?

14 A. Yes, ma'am.

15 Q. Do you know the Defendant, Mr. Mejean?

16 A. Yes, ma'am.

17 Q. All right. Tell us how -- how did you meet him or when  
18 did you first meet him?

19 A. The residence I lived at, I've been living there for a  
20 couple years. And they had moved in. And they was in the  
21 yard one day, and I went and introduced myself to him.

22 Q. Okay. So you were living -- where were you living at  
23 the time?

24 A. [REDACTED] Davis Road.

25 Q. And that's in Greenville County?

TEE SMITH - DIRECT EXAMINATION BY MS. HODGE

55

1 A. Pelzer.

2 Q. Pelzer, okay.

3 A. Yes, ma'am.

4 Q. All right. And so you guys had been living there first  
5 and the Defendant and his family moved in?

6 A. Yes, ma'am.

7 Q. Where did they move? Right next door or ...

8 A. Yeah, right next door. I don't know the address.

9 Q. And is this a subdivision or a trailer park or ...

10 A. A woman owns the property. And she owns several  
11 trailers on that property. And she rents them out.

12 Q. Okay. And who all moved in with him at that time?  
13 What was his family situation?

14 A. It was his wife, her daughter, her son. And she was  
15 pregnant at the time.

16 Q. Okay.

17 A. And they had another little girl.

18 Q. Okay. How old was that little girl? Do you know? Or  
19 about -- round about?

20 A. Probably two.

21 Q. And were you -- did y'all become friends or friendly?

22 A. Yes, ma'am. We -- well, I hung out with him probably  
23 almost every day just because there wasn't nothing to do  
24 where we was at. You know, something to do.

25 Q. Right. And did your wife get along with the Defendant

**TEE SMITH - DIRECT EXAMINATION BY MS. HODGE**

56

1 and his wife?

2 A. Yes, ma'am. They would -- they would talk when me and  
3 Eric wouldn't be around and stuff like that.

4 Q. Okay. And how about kids? Did y'all's kids ---

5 A. My daughter played with her -- his son. They played  
6 almost every day, too.

7 Q. Okay. And when you say they were right next door, next  
8 door neighbors, ---

9 A. Um-hum (affirmative).

10 Q. --- which side would that be on?

11 A. It'd be on the left side of my house.

12 Q. If we were facing your house and looking at your house,  
13 left ---

14 A. If I was standing in my front yard, ---

15 Q. Um-hum (affirmative).

16 A. --- their house would be on the left of my driveway,  
17 the exit would be on the right.

18 Q. Okay. At that time did you guys have an automobile?

19 A. We had two.

20 Q. Would you park in the front or back?

21 A. Backyard.

22 Q. Okay. Do you recall July 1st, 2012?

23 A. Yes, ma'am.

24 Q. All right. Tell us what you were doing that day.

25 Let's start with the day and we'll go to the night.

TEE SMITH - DIRECT EXAMINATION BY MS. HODGE

57

1 A. Well, that day I had -- I got called into work early.  
2 And I had asked Melissa and Eric would they watch my  
3 daughter til my wife got off work. And they told me that  
4 was fine. Eric was asleep. Melissa said it was fine, she'd  
5 take care of her.

6 So I left and went to work and worked my eight hour  
7 shift at work. When I got off Regina said that they was  
8 hanging out that day, swimming. And I was just exhausted.  
9 So I watched TV for a little bit and made sandwiches for us.  
10 And I laid down and went to sleep.

11 Q. Okay. Let me just stop you there. When you said you  
12 had to work, do you remember what time you worked?

13 A. I worked at 11:00 in the afternoon til eight at night.

14 Q. Okay. And Regina had been working that night?

15 A. She had worked that morning. She had to work like a  
16 third shift almost.

17 Q. Okay. What time was she supposed to get home?

18 A. She was supposed to got off at 8:00 that morning. They  
19 held her there til 12:30, one, somewhere around in there.

20 Q. All right. So that short time while you were gone your  
21 daughter ended up going over to ---

22 A. Yes, ma'am.

23 Q. --- the Defendant's? Okay. And then when you come  
24 home from work is your wife home and your daughter? Were  
25 they home or ---

**TEE SMITH - DIRECT EXAMINATION BY MS. HODGE**

58

1 A. Yes, ma'am, they was home.

2 Q. Okay. All right. And so y'all made some sandwiches  
3 and ...

4 A. Went on to bed.

5 Q. Relaxed?

6 A. Um-hum (affirmative).

7 Q. Okay. And you didn't have the baby, obviously, at that  
8 time, it ---

9 A. Uh-huh (affirmative).

10 Q. --- was just your daughter? Okay. You said you went  
11 to sleep, is that right?

12 A. Yes, ma'am.

13 Q. Okay.

14 A. When I had went to sleep, I was dreaming pretty good  
15 because that night, it was storming. When I had got woke up  
16 my wife was nudging me, telling me to get up, just like a  
17 nervous habit. I told her to turn on the bedroom light.

18 Then what happens, I heard a bang. I looked over and I  
19 seen bullet marks all on my wall. My picture had fell off  
20 the wall where it was hanging. I had wood all over my bed,  
21 all on the floor.

22 So I got up. When I went to examine what went on, I  
23 thought it was just a lightening bolt or something had hit  
24 the house -- it was a trailer. I went into my kitchen and I  
25 seen red wood all on my floor. I didn't realize what it



TEE SMITH - DIRECT EXAMINATION BY MS. HODGE

59

1 was, but I had told my wife, I said, something had happened,  
2 it's in here, it's all over the floor.

3 Well, she came in there and looked and she seen a  
4 bullet hole that had went through the table. Well, from  
5 there we had walked into the living room where my daughter  
6 was sleeping. Maybe four foot above her head was another  
7 shot, and it had went out through the roof.

8 So I went in there in my room and I had got my pistol  
9 out of the closet. I loaded it up, went out the house, as  
10 soon as I went out of the house I fired two shots in the  
11 air. It was like warning shots.

12 Well, I ran around the house and tried to see if I  
13 could see anybody. There wasn't nobody out there. It was  
14 pouring down rain. And I came back in and I told my wife, I  
15 said that the outside is blown up, too. So somebody had to  
16 shoot our house.

17 Well, I brought them into the back bedroom. And they  
18 went in the bathroom. My wife and my daughter sat on the  
19 floor. And I asked her did she know how to use a gun. And  
20 I was going to get one just in case somebody came in. She  
21 said she didn't know how to use it.

22 So she started calling 911. And at that time I was  
23 still pacing back and forth wondering what was going on, who  
24 was outside and if they were still outside. And I guess she  
25 got in touch with Greenville County. Greenville County said

**TEE SMITH - DIRECT EXAMINATION BY MS. HODGE**

60

1     that there was somebody on the way.

2             While she was doing that, I was still calling 911  
3     trying to figure out if they was coming.  Somebody was still  
4     out there.  I didn't want to go out there and somebody be  
5     right there at the door.

6             Well, she finally got a little bit calm and got my  
7     daughter calm.  And she was on the phone calling Melissa.  
8     And I didn't understand why she was doing that, but she said  
9     she was worried about them.  So she was still on the phone.  
10    I said I was going to be right back, just stay in the back  
11    bedroom.

12            When I went out the door, Eric was coming out of his  
13    house going towards his shed.  And when he went towards his  
14    shed he came back out and started approaching me.  And I  
15    said, Eric, my house just got shot.  Did you shoot my house?  
16    His response was, where's my mother fucking bitch?

17            At that time my wife heard me talking to somebody.  She  
18    told me to come back in, that something was going to happen  
19    to me and that he would shoot me or something would happen.  
20    So before he got the chance to keep coming towards me a  
21    little bit more, I closed the door.

22            And when I closed the door, we sat down til Greenville  
23    County got there.  And she was on the phone with Greenville  
24    County and Melissa at the same time, like keep calling  
25    people because she's panicking, don't know what to do.

TEE SMITH - DIRECT EXAMINATION BY MS. HODGE

61

1 Q. Okay. Let's go back just a little bit. Melissa is ---

2 A. Eric's wife.

3 Q. --- Defendant's wife? Okay. And you said you saw the  
4 Defendant when you went back out the ---

5 A. The second time.

6 Q. --- second time, you saw him coming from his house ---

7 A. His house.

8 Q. --- to the shed?

9 A. Yes, ma'am.

10 Q. Is that shed close to his house or ...

11 A. It's maybe six foot away from his house.

12 Q. Okay.

13 A. He'd walk off his back porch five or six steps and then  
14 there's a storage building.

15 Q. Okay. And did it -- were there any lights on or  
16 anything at this point?

17 A. He had a light on on the storage building. With the  
18 door wide open, you could see the ground and his back -- the  
19 door. But him walking towards me, you could just see a  
20 figure, not what -- what was -- he had in his hand at that  
21 time.

22 Q. Okay. What did it look like to you in his hand?

23 A. Looked like something long, like he was holding it down  
24 to his side. It reminded me of a shotgun as long as it was.  
25 And I knew he had one, but I didn't know if he had it on

**TEE SMITH - DIRECT EXAMINATION BY MS. HODGE**

62

1 him.

2 Q. Okay. All right. And kind of describe the property.

3 Is it -- is it a busy street, the property ---

4 A. No, ma'am.

5 Q. --- where these trailers are?

6 A. It's -- there's a trailer at the very top of the road.

7 And it's facing the road. And then there's a driveway

8 beside that road. And that driveway leads to the second

9 trailer. And the next trailer is our trailer.

10 And then theirs was the very last trailer on this -- if

11 you would have kept going down our road, between mine and

12 his trailer was the only driveway. Like he would take a

13 right to pull in his driveway, and we'd take a left and be

14 in our driveway. We'd be like side by side.

15 Q. Okay. All right. So do you have a lot or did you have

16 a lot of people just randomly coming down your road that ---

17 A. No, ma'am.

18 Q. --- didn't live on that road? All right. And when you

19 were woken up by the loud noise and you went to investigate

20 did you hear any cars leaving ---

21 A. It was ---

22 Q. --- or driving off?

23 A. There was no cars. The Defendant's cars -- their truck

24 was not there.

25 Q. Okay.

TEE SMITH - DIRECT EXAMINATION BY MS. HODGE

63

1 A. So I didn't know if they were there or not. So that's  
2 why she was trying to call somebody, I guess. But I didn't  
3 see no cars out there.

4 Q. All right. Is it a gravel or paved road?

5 A. Gravel road. You could hear cars coming down the road.

6 Q. Okay. But you did not hear anything that you woke up  
7 and started looking around?

8 A. No, ma'am.

9 Q. And is there some woods kind of back behind ---

10 A. Yes, ma'am. The property has woods behind it. And in  
11 front of my yard is a cow pasture, a horse pasture or  
12 something. It's a big field.

13 Q. All right. Did you see anybody in the field or ---

14 A. No, ma'am.

15 Q. --- towards the woods? Okay. And earlier this day you  
16 and Eric, y'all are cool, right?

17 A. Yes, ma'am.

18 Q. Okay. Didn't have any problems or anything like that?

19 A. Uh-uh (negative).

20 Q. Okay. Did you have any personal knowledge, you don't  
21 have to talk about details, do you have any personal  
22 knowledge of he and his wife having any problems, marital  
23 problems?

24 A. Yes, ma'am, they had problems.

25 Q. Okay. And one of the first things your wife wanted to

TEE SMITH - DIRECT EXAMINATION BY MS. HODGE

64

1 do was call his wife?

2 A. Um-hum (affirmative).

3 Q. When you went outside and spoke to or saw the Defendant  
4 -- and you're sure it was the Defendant?

5 A. Yes, ma'am.

6 Q. Okay. Come and spoke to him, did he ask you anything  
7 about how are you, or what happened or anything like that?

8 A. I guess when he heard my voice he got enraged and got  
9 angry. And then his tone, when he was asking me where was  
10 his bitch at, ---

11 Q. Um-hum (affirmative).

12 A. --- it was yelling. So he knew I was right there and  
13 who he was talking to, but he didn't -- he didn't ask me  
14 anything about what was going on, what had happened to you.  
15 Because I had told him what happened, he didn't really care  
16 at that time.

17 Q. All right. Didn't show any concern ---

18 A. No, ma'am.

19 Q. --- for your house just being shot up or anything?

20 Okay. And did -- let's see. Did it take a little while for  
21 the police to get there?

22 A. It felt like forever, but it took maybe forty-five to  
23 an hour tops for the police to get down there because they  
24 had calls before us.

25 Q. Okay. When the police got there did you talk to them

**TEE SMITH - CROSS EXAMINATION BY MR. SULLIVAN**

65

1 and basically tell them what you've told us?

2 A. Yes, ma'am. Everything I've told y'all, I told the  
3 officers. And they just told us to stay in the house until  
4 they figured out what was going on.

5 Q. Okay. Was the Defendant there? Did he -- was he  
6 present at all when the police were there?

7 A. No, ma'am. He was nowhere to be found.

8 Q. Okay. All right. The Defendant ever been inside your  
9 trailer?

10 A. Yes, ma'am.

11 Q. All right. So did he know the layout of where the  
12 living room, kitchen, bedrooms were?

13 A. Yes, ma'am.

14 Q. And is the person that you are referring to as Eric,  
15 the Defendant, is he present in court today?

16 A. Yes, ma'am.

17 Q. Okay. And where is he?

18 A. To the right of me in the green shirt.

19 Q. Okay. All right. Thank you. Please answer any of Mr.  
20 Sullivan's questions.

21 A. Okay.

22 **MR. SULLIVAN:** Just a couple.

23 **Cross Examination by Mr. Sullivan:**

24 Q. So y'all had a friendly relationship?

25 A. Yes, sir.

**TEE SMITH - CROSS EXAMINATION BY MR. SULLIVAN**

66

1 Q. So there was no reason for him to try and kill you and  
2 your family as far as you know?

3 A. Not that I -- not that I know of.

4 Q. When he approached you and you asked him did he shoot  
5 the trailer, did he say -- what?

6 A. He yelled at me and asked me where was his mother  
7 fucking bitch at.

8 Q. Did he tell you that he did not shoot the trailer?

9 A. Nothing else came out of his mouth.

10 Q. Did you see him shoot the gun?

11 A. No, sir.

12 Q. And could you today beyond a reasonable doubt say he  
13 had a gun in his hand when you saw him or just something  
14 long?

15 A. I honestly think it was a gun. I know what a gun looks  
16 like.

17 Q. What kind of gun was it?

18 A. It looked like -- I had a Mossberg. And it was what it  
19 looked like, was a Mossberg, how long it was, a long barrel  
20 shotgun is what it looked like.

21 Q. Did you know he had one? Did y'all ever ---

22 A. Yes, ma'am. Yes, ---

23 Q. --- hunt together?

24 A. --- sir, I did.

25 Q. Did you know where he kept his guns? You been in his



**REGINA SMITH - DIRECT EXAMINATION BY MS. HODGE**

67

1 house?

2 A. No. I wouldn't -- I wouldn't tell nobody where my guns  
3 was. So, no.

4 Q. So you did not see whoever shot the shot?

5 A. No, sir.

6 Q. You assumed what happened afterwards?

7 A. Yes, sir.

8 Q. And he was worried about his wife in some fashion?

9 Where is she, right?

10 A. Yes, sir.

11 Q. Okay.

12 **MR. SULLIVAN:** I have nothing further, Your Honor.

13 **THE COURT:** Thank you. Anything?

14 **MS. HODGE:** No, sir.

15 **THE COURT:** All right. Sir, you may step down. Please  
16 be careful.

17 **MS. HODGE:** Your Honor, the State would call Regina  
18 Smith.

19 **THE COURT:** Mrs. Smith, come up, please.

20 **MADAME CLERK:** Ma'am, if you'd place your left hand on  
21 the Bible and raise your right.

22 **Regina Smith,** being duly  
23 sworn testified as follows;

24 **MADAME CLERK:** Thank you. You may be seated.

25 **THE COURT:** Ma'am, tell us your name, your full name

**REGINA SMITH - DIRECT EXAMINATION BY MS. HODGE**

68

1 and spell your last name, please.

2 **MRS. SMITH:** Regina Jeanette Smith, S-m-i-t-h.

3 **THE COURT:** Thank you. Solicitor.

4 **MS. HODGE:** Thank you, Your Honor.

5 **Direct Examination by Ms. Hodge:**

6 Q. Mrs. Smith, let's find out a little about you as well.

7 How old are you?

8 A. I'm twenty-eight.

9 Q. And you're married to Tee?

10 A. Yes, ma'am.

11 Q. And how long have y'all been married?

12 A. We have been married for four years.

13 Q. Any children?

14 A. Yes, ma'am. We've got two.

15 Q. Is it ---

16 A. **A.S.** And she's eight. And at the time she was  
17 five. And then I now have **J.S.**, who is one.

18 Q. Okay. And you are also familiar with the Defendant?

19 A. Yes, ma'am.

20 Q. All right. You guys were married and living in that  
21 trailer when he moved in, is that correct?

22 A. Yes, ma'am.

23 Q. Okay. And did you make friends with his wife also once  
24 he moved -- they moved in?

25 A. Yes, ma'am.

REGINA SMITH - DIRECT EXAMINATION BY MS. HODGE

69

1 Q. So in your opinion or tell us a little bit, were y'all  
2 social? Did y'all hang out a lot? What was the  
3 relationship like?

4 A. We were together every day. There really wasn't hardly  
5 even a day that went by that we weren't together. The only  
6 time we were not together was when they had had an argument  
7 and she had went and stayed with her mother and father  
8 across the street. She stayed there for approximately about  
9 two weeks. And I went up there a couple of times during  
10 that time and visited her. But other than that, we were  
11 together pretty much every day.

12 Q. Okay. And you work?

13 A. Yes, ma'am.

14 Q. Do you work now currently?

15 A. Yes, ma'am.

16 Q. Okay. Did you work back then?

17 A. Yes, ma'am.

18 Q. All right. Where ---

19 A. I work at Ingles. And I was working at Ingles at the  
20 time. I've also been there since 2006.

21 Q. Okay. And did Mrs. Mejean work?

22 A. At the time that this happened she had recently quit  
23 her job.

24 Q. But so what I'm getting at, sometimes y'all were at  
25 work or ---

REGINA SMITH - DIRECT EXAMINATION BY MS. HODGE

70

1 A. Yes.

2 Q. --- other places?

3 A. Yes.

4 Q. When you were having your social time away from work,  
5 y'all were hanging out?

6 A. We were together, yes, ma'am.

7 Q. Okay. And everybody seemed to get along fine?

8 A. Yes, ma'am.

9 Q. Okay. So tell me about what you were doing on July  
10 1st, 2012. Start with the day and then into the night.

11 A. Okay. I had worked third shift the night before. I

12 knew they -- my husband had asked them to watch [REDACTED] A.S.

13 Well, they decided that they were going to go swimming. And

14 I had not been swimming all Summer. So I wanted to go

15 swimming, too. So instead of going home, getting [REDACTED] A.S.

16 and going to bed, I went -- I asked them could I go swimming  
17 with them.

18 So on the day that this happened, as soon as I got home  
19 we all got ready. We went to Eric's mother's house. And we  
20 were over there approximately maybe an hour before Eric  
21 decided he wanted to leave. After he left, we had been  
22 there for probably going on about three hours. And when it  
23 started -- it was about to come up a storm.

24 And Melissa had already called Eric and asked him to  
25 come pick them up. Eric would not come get them. So I told

REGINA SMITH - DIRECT EXAMINATION BY MS. HODGE

71

1 Melissa, I said, well, you know, I'll be glad to take you  
2 where he's at so you can get your vehicle. So we loaded up  
3 in my car, we went and I dropped them off, dropped the kids  
4 off at the place where he was hanging out.

5 Eric come to the car, greeted me, told me thank you for  
6 dropping the kids off, and they all got out and left. When  
7 I went home, it was approximately 7:30-ish, 8:00. When I  
8 got home, I realized that Melissa had left her cigarettes in  
9 my car. So I texted her and I told her, I said, you're  
10 going to be mad, you left your cigarettes in my car, but  
11 I'll leave the door unlocked. You're welcome to get them  
12 out when you come home.

13 So Tee made me a sub, and I fell asleep in the living  
14 room recliner because I had been up for approximately about  
15 thirty hours at this point. So I remember Tee waking me up  
16 about 10:30, 10:40-ish asking me to come to bed.

17 Once I got in there I remember it had started storming  
18 pretty good. I heard a loud noise, wasn't really sure what  
19 it was. And I nudged Tee and asked him to please wake up.  
20 Well, when he woke up he says turn the light on. I reached  
21 over to my right and turned the light on and all I could see  
22 was my wall was plastered. There was pellets and pieces of  
23 wood all over my bed.

24 Tee jumps over me, starts walking through the house.  
25 I'm following behind him. And we see all this debris on our

REGINA SMITH - DIRECT EXAMINATION BY MS. HODGE

72

1 kitchen and living room floor, but we're not really sure at  
2 this point where it come from. Tee goes and gets his gun,  
3 he goes outside and walks the perimeter of our trailer. And  
4 he comes back in at this point. You know, we both  
5 determined that our house has gotten shot.

6 The first thing I do is pick up my phone and call  
7 Melissa because I'm more concerned about her. That's my  
8 best friend, her and her children. And I was, you know, I  
9 wanted -- I was worried that if something had happened to  
10 me, that it could have possibly happened to them and I had  
11 just lost my best friend.

12 So I called her and I asked her, you know, I said,  
13 Melissa, my house just got shot. Are y'all okay? Her  
14 statement was that they were not at home. She says, but  
15 Eric is at home because he just called me from the house and  
16 he sounded like he was yelling and screaming. And I said,  
17 oh, my God, well, something could have happened to him. Let  
18 me get off the phone with you, let me call the police.

19 So I hung up with her and I called the police and, you  
20 know, told 911 that my house had been shot. And after I'd  
21 gotten off the phone with the police, it was probably about  
22 twenty, thirty minutes later I hear several more shots go  
23 off over to the direction where they lived.

24 And so at this point I'm nervous because I'm thinking  
25 whoever shot my house is still outside. I hear those shots

**REGINA SMITH - DIRECT EXAMINATION BY MS. HODGE**

73

1 go off and I call 911 again, you know, whoever has done this  
2 is still outside, you know, you need to get somebody out  
3 here, you need to get them out here now because I'm scared  
4 that they could hurt us, you know.

5 So about that time that I'm still on the phone with 911  
6 I hear Eric and Tee talking like -- but Eric sounds angry  
7 and I couldn't make out anything that he was saying because  
8 he was -- he just sounded angry. And so I told Tee to come  
9 inside and shut the door. And as he come in and shut the  
10 door, it was approximately ten to fifteen minutes later that  
11 the police arrived.

12 Q. Let me stop you right there. I'm going to show you a  
13 couple of pictures, okay? I'm going to show you what's been  
14 marked State's number 1. They have little stickers on top.

15 A. Okay.

16 Q. Through State's number 7. If you will look at those.  
17 Just look at them individually, as a group.

18 (Pause)

19 Q. What are these pictures of? Just in general, what is  
20 this of?

21 A. The shots that were through my trailer and the debris  
22 inside of my trailer.

23 Q. Okay. And I'm going to put them up here individually  
24 and let you tell the jury what we're looking at, okay?

25 A. Yes, ma'am.

**REGINA SMITH - DIRECT EXAMINATION BY MS. HODGE**

74

1 Q. Well, first of all, are these true and accurate  
2 representations of how your house looked this night?

3 A. Yes, ma'am.

4 Q. All right.

5 MS. HODGE: At this point we would move to admit 1  
6 through 7.

7 MR. SULLIVAN: 1 through 7.

8 THE COURT: Any objection?

9 MR. SULLIVAN: No objections, Your Honor.

10 THE COURT: They're admitted without objection.

11 (Whereupon State's exhibits 1 - 7 were admitted into  
12 evidence)

13 MS. HODGE: Thank you, Your Honor.

14 MR. SULLIVAN: We've had those in discovery. So I've  
15 been over them.

16 THE COURT: Yes, sir.

17 MR. SULLIVAN: And my client has seen them.

18 Q. I'll show you State's number 1 here. What is it we're  
19 looking at in this picture?

20 A. In this picture, that is my bedroom ---

21 Q. Can you see?

22 A. --- window.

23 Q. It's really a bad set-up. I'm not sure where to stand  
24 so that everybody can see.

25 A. In this picture, that is my bedroom window. To the



REGINA SMITH - DIRECT EXAMINATION BY MS. HODGE

75

1 right of that window, which you can't really see it very  
2 well in that picture, but that was where the birdshot went  
3 through my bedroom approximately a foot above my bed. And  
4 there were several, I mean, like probably at least a hundred  
5 pellet holes in that -- in that side of the trailer.

6 Q. I'll put up State's number 2. What is this?

7 A. This right here is between my living room and kitchen  
8 area. That first small window, if you look to the right of  
9 it down towards the bottom of the trailer you can see a  
10 bullet hole through -- that went through my kitchen.

11 Q. All right. And how long is your trailer?

12 A. Approximately -- I think it's seventy foot.

13 Q. Okay. And your bedroom window would have been farther  
14 to the left?

15 A. Yes.

16 Q. If we're going from left to right?

17 A. Yes, ma'am.

18 Q. Okay. Show you State's number 3.

19 A. This right here is my front -- my front porch. If you  
20 look to the left is the living room window. Right inside of  
21 that is the loveseat that my daughter was sleeping on. Up  
22 to the top in the dark brown there to the right of that  
23 window, in between the window and the front door, you can  
24 see there is a bullet hole there.

25 Q. All right. I'm going to show you -- and these bullet

REGINA SMITH - DIRECT EXAMINATION BY MS. HODGE

76

1 holes were not there before you ---

2 A. No, ma'am.

3 Q. --- went to bed this night?

4 A. No, ma'am.

5 Q. All right. I'll show you State's number 4. What are

6 we ---

7 A. This right here is a view from my living room into my

8 kitchen area. Right there on the right side you can see the

9 wood on the floor from where it went through my kitchen

10 table and chair.

11 Q. Okay. And to the left is the front of the trailer?

12 A. Trailer, yes, ma'am.

13 Q. The right side is the back ---

14 A. Is the back side, yes, ma'am.

15 Q. Okay. And State's number 5 is?

16 A. Now this right here is just a view from my kitchen into

17 my bedroom.

18 Q. Okay. So, again, we're coming down the trailer?

19 A. Yes, ma'am.

20 Q. And then let me show you State's number 6.

21 A. This is inside of my bedroom. Our bed was to the left.

22 And there to the right right there behind that fan there is

23 a mirror, a full body mirror. And the pellets that were

24 shot through on the left side actually hit that mirror and

25 damaged that mirror.

REGINA SMITH - DIRECT EXAMINATION BY MS. HODGE

77

1 Q. Okay. And finally State's number 7.

2 A. That is the birdshot that was through my bedroom. And  
3 that's -- right there to the left of the black curtain you  
4 can see where my wall was plastered.

5 Q. Okay. And there was a picture hanging there?

6 A. There was a picture hanging there that fell off the  
7 wall.

8 Q. Okay. And that's the bed you and your husband were  
9 sleeping in?

10 A. Yes, ma'am.

11 Q. All right. Let's see. So that night after you called  
12 the police when you heard this, something between your  
13 husband and the Defendant, the police arrived, you said,  
14 shortly thereafter, ---

15 A. Yes, ma'am.

16 Q. --- fifteen minutes?

17 A. Approximately ten or fifteen minutes after.

18 Q. Okay. Did Melissa ever come home during this time?

19 A. After all was pretty much said and done, after the  
20 police had gotten there and everything, Melissa -- the  
21 police did ask Melissa to come home. And so at that time  
22 she did.

23 Q. Okay. Did you see her or talk to her or anything that  
24 -- don't tell me what y'all said, but just did you see her  
25 or was she just talking to the police that night?

**REGINA SMITH - DIRECT EXAMINATION BY MS. HODGE**

78

1 A. No. She -- we had actually talked. Now, she didn't  
2 talk to me very much, but, yeah, we had -- we had had, you  
3 know, conversation.

4 Q. Okay. But she was okay that night?

5 A. Yes, ma'am.

6 Q. She had not been at the house that night?

7 A. No, ma'am.

8 Q. Okay. And you had a car and your husband had a car, is  
9 that correct?

10 A. Yes, ma'am.

11 Q. Were your cars at home and in your driveway this night?

12 A. Yes, ma'am.

13 Q. And when she got there did she drive her car back or  
14 their car back to the house?

15 A. I really can't say because I was asleep.

16 Q. Okay. At that point. All right. Now I think you had  
17 mentioned maybe that she had stayed at her mom's at some  
18 point, they had some marital issues?

19 A. Yes, ma'am.

20 Q. Were you -- you don't have to tell me -- don't tell me  
21 any details, but were you aware that they had problems?

22 A. Yes, ma'am.

23 Q. Okay. And had you ever observed any problems between  
24 them? Any ---

25 A. I had never actually been present at the time that they

**REGINA SMITH - DIRECT EXAMINATION BY MS. HODGE**

79

1 had had any, you know, marital problems or anything, but I  
2 had knowledge of it.

3 Q. Through her?

4 A. Through her.

5 Q. Tell you those things?

6 A. Yes, ma'am.

7 Q. Okay. And, again, the Defendant, himself, and his wife  
8 and family had been inside your house?

9 A. Yes, ma'am. We had actually had Easter together, you  
10 know. I mean, they had come over and had dinner. There was  
11 times, you know, that they just come over, you know, to hang  
12 out or whatever, not very often. Most the time we went to  
13 their house.

14 And, you know, there was times that I've had to let  
15 Melissa use my washer and dryer because something may have  
16 happened at their house, you know. So they were well aware  
17 of where everything was in my house.

18 Q. In your house?

19 A. Yes, ma'am.

20 Q. Where your bedroom was, where your ---

21 A. Yes, ma'am.

22 Q. What about -- your daughter was sleeping in the living  
23 room at this point?

24 A. Yes, ma'am, on the loveseat.

25 Q. Was that a normal thing or ...

**REGINA SMITH - CROSS EXAMINATION BY MR. SULLIVAN**

80

1 A. Not always. But she did like to sleep in there. She  
2 didn't like sleeping in her bedroom. And she still does to  
3 this day.

4 Q. Is it to watch TV or is it just ...

5 A. I really don't know because she's always had a TV in  
6 her room. I don't know. But she still to this day sleeps  
7 in the living room.

8 Q. Okay. All right. And the person that you're referring  
9 to is Eric, the Defendant in this case. Is he present in  
10 the courtroom?

11 A. Yes, ma'am, to my right in the green shirt.

12 Q. Okay. Please answer any of Mr. Sullivan's questions.

13 A. Thank you.

14 **Cross Examination by Mr. Sullivan:**

15 Q. Just a couple, Mrs. Smith. Now in this -- as best you  
16 can remember the sequences. Somebody shot three shots into  
17 your house?

18 A. Yes, sir.

19 Q. And then your husband saw Eric?

20 A. Yes, sir.

21 Q. And then there were more shots fired?

22 A. No, sir. There were more shots fired prior to him  
23 seeing Eric.

24 Q. So you heard three that penetrated your house?

25 A. Yes, sir.

REGINA SMITH - CROSS EXAMINATION BY MR. SULLIVAN

81

1 Q. And then three where?

2 A. There were -- I don't know exactly how many shots were  
3 fired. So I can't answer on that as far as to what I heard.  
4 But the ones that I heard were towards his residence.

5 Q. So they were away from yours?

6 A. Yes, sir.

7 Q. These are not -- not the shots that Tee fired when he  
8 went out with his pistol?

9 A. No, sir. These were different because Tee was standing  
10 inside with me when those shots went off.

11 Q. The three that or some that you don't know who shot?

12 A. Exactly, yes, sir.

13 Q. You don't know who shot -- except for Tee shooting his  
14 pistol, you don't know who shot any of these rounds, do you?

15 A. No, sir, I can't honestly say.

16 Q. You were in your house, you don't know who shot the  
17 three and you don't know who was shooting the others?

18 A. No, sir.

19 Q. And y'all were all friends?

20 A. We were.

21 Q. Nothing further.

22 **THE COURT:** Thank you. Anything, solicitor?

23 **MS. HODGE:** No, sir.

24 **THE COURT:** Thank you. Ma'am, you may step down.

25 Please be careful. How long will the next witness take?

**MELISSA MEJEAN - DIRECT EXAMINATION BY MS. HODGE**

82

1 MS. HODGE: Probably about that same amount of time.

2           **THE COURT:** Okay. Let's call one more before we break  
3   for lunch.

4       **MS. HODGE:** Okay. Thank you, Your Honor. Mrs. Mejean.

5       **MADAME CLERK:** Ma'am, would you please come forward,  
6       please, ma'am. Place your left hand on the Bible and raise  
7       your right.

8                                                 **Melissa Mejean**, being  
9      duly sworn testified as follows;

10           **MADAME CLERK:** Thank you. You may be seated.

11           **THE COURT:** Ma'am, tell us your full name and spell  
12 your last name, please.

13           **MRS. MEJEAN:**   Melissa Mejean, M-e-j-e-a-n.

14           **THE COURT:** Thank you. Solicitor.

15 Direct Examination by Ms. Hodge:

16 Q. Mrs. Mejean, you're the Defendant's wife?

17 A. Yes.

18 Q. All right. And how long have y'all been married?

19 A. We've been married since 2012.

20 Q. Do you guys have any children together?

21 A. Yes. We have three together.

22 Q. All right. And do you also have children from another  
23 relationship?

24 A. I do.

25 Q. How many children do you have total?



MELISSA MEJEAN - DIRECT EXAMINATION BY MS. HODGE

83

1 A. Four.

2 Q. Are you still married to the Defendant?

3 A. Yes.

4 Q. Are you guys still living together?

5 A. Yes.

6 Q. Where were you living on July 1st, 2012?

7 A. At [REDACTED] Davis Road in Pelzer. It's Greenville County.

8 Q. Greenville County. All right. How long did you guys  
9 live there?

10 A. We moved in in May of 2011. So we had been there a  
11 little over a year.

12 Q. All right. And, obviously, you know the Smiths?

13 A. Right.

14 Q. Did you meet them when you moved in or did you know  
15 them before?

16 A. No, I did not know them beforehand. We had lived there  
17 -- I was pregnant with our last son when we moved in. And,  
18 you know, pregnant, you don't really feel comfortable  
19 walking up and saying hi. So it was probably a week or two  
20 before he was born. Tee had actually came over and  
21 introduced himself and then Regina later that afternoon.

22 Q. And would you say that -- characterize yourselves as  
23 friends then?

24 A. Yes, we were very good friends.

25 Q. Let's see. Talking about the incident we're here

MELISSA MEJEAN - DIRECT EXAMINATION BY MS. HODGE

84

1 about, ---

2 A. Um-hum (affirmative).

3 Q. --- July 1st, 2012, do you remember what you were doing  
4 that day?

5 A. Um-hum (affirmative). That morning my husband had  
6 gotten off work. He worked third shift. Tee had come over,  
7 walked over and asked me to keep an eye on [REDACTED] A.S. for about  
8 an hour, hour and a half. They were making Regina stay over  
9 and asked if it would be okay if I watched -- kept an eye on  
10 her. And I said that was fine, that I was going to go up to  
11 my mother-in-law's to go swimming that day. And he said,  
12 well, just let Regina know what y'all are going to do.

13 So when Regina got home we talked about it. And she  
14 said, well, I want to go. And so we all got ready. I  
15 called my mother-in-law to make sure it was okay, and we  
16 went up there. We were swimming for a while.

17 Eric decided that he didn't want to be there. He  
18 didn't really want to go to begin with. And he was going to  
19 leave. He was going to one of his buddy's house. And he  
20 left me there and said he'd be back later. A couple of  
21 hours later he still wasn't back. I tried calling him a  
22 couple of times. It took me a couple of times to get him on  
23 the phone. And then he said he wasn't coming back to pick  
24 me up.

25 So when I got off the phone with him, his buddy's

MELISSA MEJEAN - DIRECT EXAMINATION BY MS. HODGE

85

1 sister had called and asked if we were still getting  
2 together to go see the fireworks at the church right above  
3 where his buddy's house was. And I told her that I didn't  
4 know. And she said, well, come on over and we'll go up and  
5 we'll take the kids.

6 So Regina said that she would take me over there and  
7 drop me off, which she did. And from there I kind of, you  
8 know, talked to his buddy's sister for a while and then we  
9 were going to take the kids up to see the fireworks at the  
10 church.

11 And we went that direction. Regina left. Of course,  
12 she dropped me off and she left and went back home. We went  
13 up to the church. And as we were approaching the highway  
14 all of the cars were leaving the church parking lot. And I  
15 guess we had the time wrong or something, but we had missed  
16 it.

17 So Eric started telling -- I was driving. And Eric  
18 started telling me to go back -- take him back to Marcus'.  
19 And then he said, you know, that he didn't have no more  
20 cigarettes. And I said, well, I left mine in Regina's car  
21 'cause she had texted me and said that I had left mine in  
22 the car.

23 And I said, you know, there's a gas station like right  
24 there. I said, do you want me to stop in there and get you  
25 some? Do you want me to take you to the house? You know, I

MELISSA MEJEAN - DIRECT EXAMINATION BY MS. HODGE

86

1 can go get mine from Regina's car. He's like, no, just take  
2 me back to Marcus'.

3 So then we went back to his buddy's house. We were  
4 there for maybe, I don't know, a couple more hours. And I  
5 could see he wasn't ready to leave, and me and the kids  
6 were. We were tired.

7 So I told him that we were going to leave. And he said  
8 that he didn't want to leave. And I said, well, then, I'm  
9 just -- I'm leaving because I'm ready to go. So I left him  
10 there. I left him at his friend's house.

11 And I went back to our house. And my little ones were,  
12 of course, asleep in the backseat because it's getting late.  
13 And my cousin had called me and asked me what we were doing,  
14 if they were -- if we were still out. And I told her that I  
15 had left Eric at his buddy's house, that I had just pulled  
16 into our yard. And she said, well, we still have fireworks.  
17 Why don't you come over and we'll shoot fireworks together.

18 My oldest one, [REDACTED] C.M. [REDACTED], well, our oldest together,  
19 he's more of a night owl. He was still awake. And when he  
20 heard that, of course, he wanted to go. So I told her that,  
21 you know, we would be over there in a little bit. I walked  
22 over to Regina's yard and I opened her car door and got my  
23 cigarettes that she had left in the front seat, decided to  
24 go in the house. And I was in the house.

25 Eric and I had been arguing off and on at his buddy's

MELISSA MEJEAN - DIRECT EXAMINATION BY MS. HODGE

87

1 house. I decided that it was probably best for me just to  
2 let him cool off. So I grabbed some clothes for me and some  
3 for the kids and called my cousin back and asked her if we  
4 could just stay the night. And she said that was fine. So  
5 we then left and went to her house.

6 Q. And while you -- what time do you think you're talking  
7 about?

8 A. It was probably 10:30-ish, maybe a little later. It  
9 was late. It was dark.

10 Q. Okay. And had the Defendant been drinking or your  
11 husband been drinking ---

12 A. Yes.

13 Q. --- during the day? Okay.

14 A. Yes.

15 Q. And this Marcus is the friend, is that ---

16 A. Yes.

17 Q. --- right? The friend whose house is near the church?

18 A. Um-hum (affirmative).

19 Q. Okay.

20 A. Yes.

21 Q. And how far is that from your house?

22 A. It's probably about two and a half, three miles. It's  
23 not very far.

24 Q. And did you guys only have one car at this time?

25 A. Yes.

MELISSA MEJEAN - DIRECT EXAMINATION BY MS. HODGE

88

1 Q. All right. So he was without a vehicle and you had the  
2 car?

3 A. Yes.

4 Q. Then you went to your cousin's house?

5 A. Yes.

6 Q. Okay. Did you call him and tell him you were going to  
7 your ---

8 A. No.

9 Q. --- cousins? When you get to your cousin's do you get  
10 a phone call?

11 A. Yes. I got to my cousin's house and her husband came  
12 outside and helped me unload the kids who were sleeping. We  
13 started talking. And, of course, she could see that, you  
14 know, there was something wrong. And I told her that we  
15 were arguing. And so we were talking for a few minutes.

16 And then the house phone at the house called. And I  
17 couldn't really make out who it was or what it was. It just  
18 sounded like a bunch of muffled yelling and then it just  
19 went dead. And then I tried to call the house phone back,  
20 but like the house phone had been turned off. So I was  
21 surprised to see the number show up on my caller ID that it  
22 actually even worked, period.

23 So when I tried to call it back, for some reason it  
24 wouldn't go through. And then I'm like, well, you know, I  
25 figured, well, somebody took him home. And I don't know how

MELISSA MEJEAN - DIRECT EXAMINATION BY MS. HODGE

89

1 long it was, probably ten, fifteen, maybe twenty minutes,  
2 I'm not sure exactly how long it was, Regina called me. And  
3 she was upset and crying and asking me if I was okay. And I  
4 told her, yeah, why wouldn't I be okay? And she said  
5 somebody had shot at her house.

6 And I asked if she was okay. And she said, yes. And I  
7 said, have you called the police yet? And she said, I was  
8 calling to check to make sure you were okay because I don't  
9 know where they are. And I said, well, Regina, call the  
10 police. So she said, okay, I'll call you back in a minute.

11 So probably a couple of minutes later then I get  
12 another phone call from the house. And that time it was  
13 really loud, just yelling. Not even words or made any  
14 sense, just yelling. And then it went dead again.

15 Then she called me again. We were back and forth. She  
16 was calling me telling me, you know, the police were on  
17 their way. And then it was probably thirty minutes after  
18 all that, maybe, maybe a little longer, the police officer  
19 who was at the house called me and asked me if I could come  
20 back to the house and if I knew where my husband was.

21 And I told him, no, I did not know where he was, that I  
22 had left him at his friend's house and that I was at my  
23 cousin's house, but that I could come back to the house.  
24 And he said that he needed me to come back to the house. So  
25 my cousin told me that she would look after my little ones.

MELISSA MEJEAN - DIRECT EXAMINATION BY MS. HODGE

90

1 And her husband said that he would drive me over. And he  
2 drove me back to the house that night.

3 Q. Okay. And when you get to the house what do you find?  
4 What's there?

5 A. A lot of police. They -- there was chaos. A couple of  
6 police officers walked up to the car and asked who I was.  
7 And whenever I told them who I was, then one of them came up  
8 to me and started telling me, you know, we need your  
9 permission to go into your house, you know, do you know  
10 where your husband is, have you seen him, you know, just  
11 random, you know, questions. And then they went into the  
12 house.

13 And then they came back -- they asked, you know, Regina  
14 and Tee if I could go into their house and sit for a while  
15 while they were in my house. And then they started looking  
16 for Eric. And so I went into Tee and Regina's house with  
17 them for a little bit.

18 Then they came back and got me. And then they took me  
19 back through my house just, you know, making sure -- the  
20 house was trashed. It was just demolished. They were  
21 asking me, you know, if that's the way it looked when I  
22 left. And it had not.

23 You know, I had spent that morning cleaning, getting  
24 everything straightened up. And then A.S. had came over.  
25 And when we left everything was neat. It wasn't, I mean, it



MELISSA MEJEAN - DIRECT EXAMINATION BY MS. HODGE

91

1 was trashed. And ---

2 Q. Did they ---

3 A. --- we went through all of that.

4 Q. Did they ask you anything about any guns or anything  
5 that they ---

6 A. They asked me if my husband had guns.

7 Q. Okay.

8 A. And I told them that he did have guns. And they asked  
9 where they would be kept. And I told him that if he had any  
10 that they would be in the back of the closet, that he had  
11 been leaving them -- they had been kept at his friend  
12 Marcus' house. His gun cabinet was at Marcus' house. And  
13 he had kept them there. I don't remember exactly how long  
14 it had been since he had decided to bring them back to the  
15 house, but I told them and showed them where they would be  
16 if he had any in the house.

17 Q. Okay. And there was one missing?

18 A. Correct.

19 Q. One was found and one was not?

20 A. Correct.

21 Q. Okay. And did they find ammunition ---

22 A. They did.

23 Q. --- for the guns ---

24 A. They did.

25 Q. --- inside your house? And did you try or attempt to

MELISSA MEJEAN - DIRECT EXAMINATION BY MS. HODGE

92

1     contact your husband on this night to say come home?

2     A.    I did.  I tried several times.  The police even said,  
3     you know, at first one officer was telling me, try calling  
4     his cell phone.  I did.  It just kept going straight to  
5     voicemail.

6           And then one officer actually said that he didn't want  
7     me outside talking.  And that's who asked me if I'd stay at  
8     Tee and Regina's house.  They said that if Eric were in the  
9     area, my voice would make him upset 'cause I assume that  
10    they thought he was upset with me, and that's what -- so  
11    they made -- no, they were the ones who asked if I could go  
12    stay in Tee and Regina's house while we talked 'cause they  
13    didn't want my voice traveling.

14   Q.    Okay.  All right.  And did you spend the night -- once  
15   this all kind of got ---

16   A.    I did not stay ---

17   Q.    --- the investigation -- you did not stay there?

18   A.    No.

19   Q.    Okay.

20   A.    The police told me not to.  I did not.

21   Q.    All right.  Okay.  Did you go back to your cousin's ---

22   A.    I did.

23   Q.    --- where your children were ---

24   A.    I did.

25   Q.    All right.  And then did you come back to your house

**MELISSA MEJEAN - CROSS EXAMINATION BY MR. SULLIVAN**

93

1 the next day?

2 A. I did. After the police came to -- my grandparents  
3 live right beside where my cousin's house is. We were all  
4 outside at my grandparents' house the next afternoon. And  
5 the police officer pulled in. I had told him the address  
6 where I was going to be staying at that night. And he  
7 pulled into the yard there and told me that they had just  
8 picked him up. And after that I then went home to get me  
9 and the kids some more things that we needed.

10 Q. Okay. So that -- they had arrested him ---

11 A. Right.

12 Q. --- from the night before's incident?

13 A. Right.

14 Q. Okay. I think that's all the questions I have. Thank  
15 you.

16 **Cross Examination by Mr. Sulllivan:**

17 Q. Just a few, Melissa. I'm not trying to trick you or  
18 anything. I'm just trying to get stuff -- so the jury --  
19 you've told this story to me before, haven't you?

20 A. Yes.

21 Q. And you've told it to Ms. Hodge?

22 A. Yes.

23 Q. It's normal for people to go over testimony beforehand?

24 A. Right.

25 Q. Okay. This happened in 2012. So you kind of refreshed

MELISSA MEJEAN - CROSS EXAMINATION BY MR. SULLIVAN

94

1 your memory?

2 A. Right.

3 Q. Okay. Now was Eric a hunter?

4 A. Yes.

5 Q. Did he have three guns?

6 A. Yes.

7 Q. He had what's called a black powder gun?

8 A. Um-hum (affirmative).

9 Q. And a shotgun?

10 A. Um-hum (affirmative).

11 Q. And then a rifle?

12 A. I'm assuming that's what they are. I'm not very

13 familiar with what is what. I just know that's what they  
14 are.

15 Q. And the police left. One gun was missing?

16 A. Right.

17 Q. The black powder gun was there?

18 A. Right.

19 Q. And they took a rifle or took a gun?

20 A. They took a gun. I don't know what gun they took, but  
21 they took a gun. And I do know that the guns that were at  
22 the house, there was one missing.

23 Q. Now, whose car were you in? Did you have y'all's car?

24 A. Um-hum (affirmative).

25 Q. Eric did not have -- you don't know how he got back to

MELISSA MEJEAN - CROSS EXAMINATION BY MR. SULLIVAN

95

1 your house?

2 A. I do not know how he got back.

3 Q. And you don't know how he got -- when he left -- he  
4 wasn't there when you got there?

5 A. No. I left him at his friend's house.

6 Q. Okay. Now when you went to your house with the police,  
7 ---

8 A. Um-hum (affirmative).

9 Q. --- and they ask you to go in, was there a gunshot to  
10 the back door?

11 A. Yes, there was gunshots to the back door or a gunshot  
12 to the back door.

13 Q. So your neighbors' house had been shot?

14 A. Yes.

15 Q. And your house had been shot?

16 A. Yes.

17 Q. And nobody was in your house ---

18 A. No.

19 Q. --- when there was a shot unless it'd been Eric?

20 A. Yes.

21 Q. Now you said you received another call -- Eric had  
22 called you or ---

23 A. Somebody from the house ---

24 Q. --- somebody from the house?

25 A. --- called me.

MELISSA MEJEAN - CROSS EXAMINATION BY MR. SULLIVAN

96

1 Q. Then you said there was another call -- who was that  
2 from, you think? You mentioned there was another call, but  
3 you couldn't understand it. It was ---

4 A. They were both from the house. I had two calls, ---

5 Q. Okay.

6 A. --- one before Regina and one right after Regina  
7 called. They were both from our house number. I did not  
8 know -- I could not recognize who it was calling me, it just  
9 sounded the same, like loud, muffled yelling.

10 Q. But you couldn't call back in to see ---

11 A. No.

12 Q. And then the last question, you was not there when any  
13 of this happened?

14 A. No, I was not.

15 Q. So you don't know who did any shooting, where?

16 A. No.

17 **MR. SULLIVAN:** I have nothing further, Your Honor.

18 **THE COURT:** Thank you. Anything, solicitor?

19 **MS. HODGE:** No, sir.

20 **THE COURT:** Thank you. Ma'am, you may step down.

21 Please be careful. I think now is a good time to take a  
22 break. Madame Forelady, ladies and gentlemen of the jury,  
23 it's about twenty-five after twelve. We're going to stop  
24 now for lunch, take a break here, eat some lunch. I'm going  
25 to ask you to be back in your jury area, wherever they want

MELISSA MEJEAN - CROSS EXAMINATION BY MR. SULLIVAN

97

1 you to assemble, but I'm going to ask you to be back and  
2 ready to go at about 1:45, okay, 1:45. And we'll resume  
3 this trial at that point in time.

4 So once again, I'll tell you two things, number one,  
5 you are not free to discuss this case with anyone, not even  
6 with each other and certainly no one else. And I tell  
7 people often, do not even think about or discuss this case  
8 even in your own mind because this is work and you're going  
9 to lunch. So you're going to leave work behind, go enjoy  
10 your lunch and don't be thinking about work.

11 But if you will reassemble, that's the second thing is,  
12 I'll remind you, please, it takes all thirteen of you to be  
13 here. So if one person is tardy, we must wait on that one  
14 person. So please, please, in all fairness to your fellow  
15 brothers and sisters on the jury, please be timely. So with  
16 that, Madame Forelady, if you'll take your jury out and be  
17 reassembled and ready to go at 1:45.

18 (Whereupon the jury exited the courtroom at 12:25 pm)

19 **THE COURT:** Sir, I remind you that I'm going to allow  
20 you as a courtesy, especially to your lawyer, for you to  
21 remain on -- remain at large, okay? But at 1:45 we will  
22 resume whether that chair's empty or not, okay?

23 **MR. MEJEAN:** Yes, sir.

24 **THE COURT:** Please be back at 1:45 or whatever time Mr.  
25 Sullivan wants you to be back, you be back. So he may want

1 to meet with you before then. All right. Anything before  
2 we break?

3 **MR. SULLIVAN:** Judge, I told Eric if he and Melissa --  
4 let the Smiths clear out.

5 **THE COURT:** I'm sorry?

6 **MR. SULLIVAN:** Let the Smiths clear out.

7 **THE COURT:** Yes.

8 **MR. SULLIVAN:** Let them leave first.

9 **THE COURT:** Yes.

10 **MR. SULLIVAN:** Just so any contact, I mean, I don't  
11 think ---.

12 **THE COURT:** Absolutely.

13 **MR. SULLIVAN:** --- anything would happen, but there's  
14 no use throwing fire ---

15 **THE COURT:** We'll allow Mr. and Mrs. Smith to leave at  
16 this time. And we'll wait about two minutes. And wherever  
17 Mr. Sullivan wants you to meet him, sir, you meet Mr.  
18 Sullivan wherever he asks you to meet him, okay?

19 **MR. MEJEAN:** Yes, sir.

20 (Pause)

21 **THE COURT:** Okay. We'll be in recess. And, Mr.  
22 Sullivan, if you'll just keep him there for about two  
23 minutes or so.

24 **MR. SULLIVAN:** I will, Your Honor.

25 **THE COURT:** Okay. All right. We'll see everybody back



**ADAM DAVIS - DIRECT EXAMINATION BY MS. HODGE**

99

1 at 1:45 promptly. And I'll be back before then if anybody  
2 needs me.

3 (Whereupon court was in recess at 12:27 pm)

4 (Whereupon court reconvened at 1:56 pm)

5 **THE COURT:** Thank you. Please be seated. Anything  
6 from the State?

7 **MS. HODGE:** No, sir.

8 **THE COURT:** Anything from Defense?

9 **MR. SULLIVAN:** Nothing, Your Honor.

10 **THE COURT:** Okay. Ready for our jury then? We'll have  
11 our jury.

12 (Whereupon the jury entered the courtroom at 1:58 pm)

13 **THE COURT:** Madame Forelady, any matters for the jury?

14 **MADAME FORELADY:** No matters ---

15 **THE COURT:** Ready to go?

16 **MADAME FORELADY:** We're ready.

17 **THE COURT:** All right. Very good. Solicitor.

18 **MS. HODGE:** Thank you, Your Honor. The State calls  
19 Officer Adam Davis.

20 **THE COURT:** Officer Davis, come up, please.

21 **MADAME CLERK:** Sir, will you please come forward and  
22 place your left hand on the Bible and raise your right.

23 **Adam Davis,** being duly  
24 sworn testified as follows;

25 **MADAME CLERK:** Thank you. You may be seated.

**ADAM DAVIS - DIRECT EXAMINATION BY MS. HODGE**

100

1           **THE COURT:** Thank you. Officer, if you will, tell us  
2 your full name and spell your last name for my court  
3 reporter, please.

4           **OFFICER DAVIS:** Yes, sir. It's Adam Patrick Davis.  
5 That's D-a-v-i-s.

6           **THE COURT:** Thank you. Solicitor.

7           **MS. HODGE:** Thank you, Your Honor.

8           **Direct Examination by Ms. Hodge:**

9           Q. Officer Davis, where do you work?

10          A. I work for the Greenville County Forensics Division as  
11 a forensic investigator.

12          Q. And do you work with the Greenville Sheriff's Office  
13 and Greenville City Police?

14          A. We're -- I work for the Department of Public Safety.  
15 We run the forensics for the Sheriff's Department,  
16 Greenville Police Department and any other municipalities  
17 within Greenville County.

18          Q. And what do forensic officers do?

19          A. We respond to crime scenes and process those crime  
20 scenes for evidence, latent prints, digital photography.

21          Q. And is every crime scene a little different?

22          A. Yes, ma'am.

23          Q. All right. So you're not going to do that same thing  
24 on every scene, possibly?

25          A. Right. Yes, ma'am.

ADAM DAVIS - DIRECT EXAMINATION BY MS. HODGE

101

1 Q. You come to a scene and evaluate what you need to do?

2 A. Correct.

3 Q. Okay. And what type of training or education do you  
4 have for your job?

5 A. I have a Bachelor of Arts from Furman University in  
6 Political Science. And then I've completed the forensic on-  
7 the-job training. And I've taken classes in forensic death  
8 investigation, forensic entomology, shooting reconstruction  
9 and bloodstain pattern analysis.

10 Q. All right. And were you working as a forensic officer  
11 July 1st, July 2nd, early morning hours, 2012?

12 A. Yes, ma'am, I was.

13 Q. Were you called to process a scene at [REDACTED] Davis Road in  
14 Greenville?

15 A. Yes, ma'am.

16 Q. Okay. And is that address in Greenville County?

17 A. It is. It's in Pelzer, but it's in Greenville County.

18 Q. All right. What type of call were you responding to?

19 A. I was given that as a weapons discharge or shooting  
20 into a dwelling is what I responded for.

21 Q. Okay. Approximately what time did you get on scene?

22 A. Around 2:09, 2:10.

23 Q. In the morning?

24 A. Yes, ma'am.

25 Q. Okay. And what's the first thing that you did on

**ADAM DAVIS - DIRECT EXAMINATION BY MS. HODGE**

102

1 scene?

2 A. When I arrived I made contact with Deputy Wheatley. He  
3 gave me some basic background information. And from there I  
4 did a walk-through of the crime scene. I noticed that there  
5 were three shell casings in the front yard and that there  
6 were three corresponding projectile impact points on the  
7 front wall of the victims' residence, with the third shot  
8 being visible to the left with a round circular hole in the  
9 middle and a round circular hole towards the roof by the  
10 victims' front door.

11 Q. Okay. Is part of your processing observing first and  
12 then ---

13 A. Yeah, I observe -- once I get background information I  
14 do a walk-through and I observe, I see what I'm, you know,  
15 what I'm looking at. And once I did that, then I went  
16 inside the victims' residence and noted that the birdshot  
17 penetrated the front wall and into the victims' bedroom  
18 above their bed. The middle shot, as far as geographic  
19 location on her trailer, was passed through a kitchen  
20 cabinet, through a kitchen table and impacted a chair where  
21 part of a fragment was located on a kitchen chair.

22 Q. And when you say fragment, part of the fragment ---

23 A. Slug. Part of a slug fragment.

24 Q. Okay.

25 A. And then part of a slug was located in the living room

**ADAM DAVIS - DIRECT EXAMINATION BY MS. HODGE**

103

1 floor. And then the third shot, the one that went through  
2 the living room wall by the front door, appeared to have  
3 exited through the roof. But another small metallic  
4 fragment was located behind the television stand in the  
5 living room.

6 Q. All right. Did you then document this with  
7 photographs?

8 A. Yes, ma'am. The next step is I go through and I take  
9 digital photography of all of this.

10 Q. I noticed you said that part of your job as an officer  
11 would be maybe processing things for fingerprints. Is this  
12 the type of scene or type of crime you would have done any  
13 fingerprint processing?

14 A. No, ma'am. There wouldn't be anything due to the  
15 weather. And the heat, when a round is discharged it kind  
16 of erodes away any fingerprints that would have been present  
17 on those shell casings.

18 Q. Okay. Let me show you some photos. We'll kind of walk  
19 through this.

20 A. Yes, ma'am.

21 Q. As a group let's start with 8, 9, 10, 11, 12, 13, 14,  
22 15 and 16. If you'll just take a look at those.

23 (Pause)

24 A. Yes, ma'am.

25 Q. And as a group, what are those photographs of?

**ADAM DAVIS - DIRECT EXAMINATION BY MS. HODGE**

104

1 A. These are photographs of the exterior of the front wall  
2 of the victims' residence and the impact points as well as  
3 the shell casings in the front yard.

4 Q. All right. Did you take those photographs?

5 A. Yes, ma'am, I did.

6 Q. All right. And are they true and accurate depictions  
7 of how the house and the area looked that night?

8 A. Yes, ma'am.

9 Q. All right.

10 **MS. HODGE:** At this time we'd move to admit number 8  
11 through 16.

12 **THE COURT:** Number 8 through 16 is being offered. Any  
13 objections, Mr. Sullivan?

14 **MR. SULLIVAN:** No objections, Your Honor.

15 **THE COURT:** They're admitted without objection.

16 **MS. HODGE:** Thank you.

17 (Whereupon State's exhibits 8 through 16 were admitted  
18 into evidence)

19 Q. Okay. If you don't mind, if you can see them from  
20 where you're sitting, if you'll use that laser pointer and  
21 I'll just back up after I put each photograph down. I'm  
22 putting up number 8, State's 8. So if you'll just kind of  
23 tell us the significance of each photo as we put them up.

24 A. Yes, ma'am. This is -- what we're looking at here is  
25 this pattern right here. That's a birdshot pattern. It's a

ADAM DAVIS - DIRECT EXAMINATION BY MS. HODGE

105

1 high shot shotgun pattern. This is the victims' bedroom  
2 window. And this is relatively high, if you can see on the  
3 -- next to the window going on the exterior wall.

4 Q. Okay. And I'm just putting up number 9. What is that?

5 A. Yes, ma'am. That's a close-up of the same shot we were  
6 just looking at.

7 Q. Okay. Moving on to State's number 10. What is this?

8 A. What we're looking at here is the shot that would be  
9 going through the kitchen. It's a circular hole. And this  
10 is -- as you can see, it's a very distinct -- we know it's a  
11 shotgun slug because it's not multiple shots. Even if it  
12 was a buckshot, you would have four pellets where that is  
13 just one shot.

14 Q. Okay. Number -- State's number 11.

15 A. Yes, ma'am. That is a close-up of that.

16 Q. Is that -- do you normally put measurements up beside  
17 things?

18 A. Yeah, just as a general scale. The shotgun pattern,  
19 the birdshot was so wide that a scale wasn't practical, but  
20 a single shot is usually scaled if you can scale it.

21 Q. All right. State's number 12.

22 A. And this is the shot -- to the right right here would  
23 be the front door. You'll see the front porch light. And  
24 this is the shot in the living room that is that same  
25 circular pattern.

**ADAM DAVIS - DIRECT EXAMINATION BY MS. HODGE**

106

1 Q. Could you reach up there and put the scale on it?

2 A. No, ma'am, I could not.

3 Q. A little high?

4 A. Yes, ma'am.

5 Q. State's number 13.

6 A. You'll see this is 1, 2 and 3. One's a shotgun shell  
7 casing here, one here and one here. And you can't quite see  
8 it in the picture, but the victims' front door would be  
9 about right here.

10 Q. All right. So describe -- are these going as you're --  
11 if the trailer would be the length of the back of the  
12 courtroom, are they going linear?

13 A. This is a line coming pretty much off of the residence.  
14 It looks like he's moving forward towards or backwards, ---

15 Q. Okay.

16 A. --- whoever it may be. There's no right/left  
17 distinction that I could make from that.

18 Q. Okay. So it's either going forward in basically the  
19 same spot ---

20 A. Yes, ma'am.

21 Q. --- making the three different -- okay. State's 14?

22 A. That's a close-up of item APD1, which is a spent  
23 Winchester Xpert steel shot 12 gauge shell.

24 Q. All right. And is that written somewhere on the shell  
25 so that you know?



**ADAM DAVIS - DIRECT EXAMINATION BY MS. HODGE**

107

1 A. Yes, ma'am. It's either on the side in the red or it  
2 will be on the shell casing, this silver part right here.

3 Q. Okay. And number 15, State's 15.

4 A. Yes, ma'am. That's a close-up of item APD2, which is a  
5 screen shotgun shell right here. And that is a spent  
6 Remington Managed-Recoil 12 gauge shell.

7 Q. So different ammunition?

8 A. Yes, ma'am.

9 Q. Okay. And State's number 16.

10 A. This is item APD3. It's also red in color shotgun  
11 shell. It's a spent Winchester Super-X 12 gauge.

12 Q. Just so that -- are there three separate types?

13 A. There are three -- they're from -- two of them are from  
14 the same manufacturer, but they're different loads. And the  
15 middle one is from a different manufacturer. But they all  
16 fit a 12 gauge shotgun.

17 Q. All right. I'm not familiar with shotguns. Do you put  
18 one shell at a time and shoot or how does that work?

19 A. It all depends on the weapon used. You could have a  
20 break-up and single shot or you could have a pump action  
21 shotgun. And it could have five or six in the tube and then  
22 one in the chamber or it could be a bird gun where you have  
23 two side by side or one above the other, over and under. So  
24 it all depends on the weapon.

25 Q. All right. Do we have a weapon that corresponds with

**ADAM DAVIS - DIRECT EXAMINATION BY MS. HODGE**

108

1     these shotgun shells collected that night that -- did you  
2     collect or find ---

3     A.    No, ma'am, I ---

4     Q.    --- one on-scene?

5     A.    --- did not.

6     Q.    All right. Let's move to the second grouping here,  
7     State's number 17 through 32. If you would look at those,  
8     please.

9     A.    Yes, ma'am.

10    Q.    Are you familiar with these photos?

11    A.    Yes, ma'am, I am.

12    Q.    All right. And what are these just as a whole, number  
13    17 through 32?

14    A.    They're interior photos and photos of the damage that  
15    each projectile made in the victims' residence.

16    Q.    All right. And are these true and accurate depictions  
17    of the way the inside of the residence looked on this night?

18    A.    Yes, ma'am, they are.

19    Q.    All right.

20           **MS. HODGE:** We would move to admit State's 17 through  
21    32.

22           **MR. SULLIVAN:** No objection to them.

23           **THE COURT:** They're admitted without objection.

24           **MS. HODGE:** Thank you, Your Honor.

25           (Whereupon State's exhibit 17 - 32 were admitted into

ADAM DAVIS - DIRECT EXAMINATION BY MS. HODGE

109

1 evidence)

2 Q. So let's just walk through these ---

3 A. Yes, ma'am.

4 Q. --- in similar fashion. State's 17.

5 A. This is looking across the living room is what we're  
6 looking at here. It's the -- this damage right here on the  
7 living room wall. As you can see that when it came through  
8 the wall, you'll see the circular hole, but you'll also see  
9 this splintering where the wood kind of was pushed out.

10 Q. All right. And State's 18.

11 A. Just a close-up of the same thing.

12 Q. Okay. State's 19, what is this?

13 A. That shot was high on the living room wall and it  
14 continued into the ceiling. And you can see as it leads in,  
15 it's got this impact point. And then it most likely exited  
16 out the ceiling, but there was no way to get on top of the  
17 roof to make sure. So that's an impact point on the  
18 ceiling.

19 Q. All right. State's number 20.

20 A. This was the living room entertainment center. And  
21 behind this we located a projectile fragment.

22 Q. All right. State's 21.

23 A. Yes, ma'am. And this is -- this is what we're talking  
24 about right here. It's a piece of a metal slug or a piece  
25 of a metal fragment.

**ADAM DAVIS - DIRECT EXAMINATION BY MS. HODGE**

110

1 Q. All right. Do slugs -- do they stay intact or ...

2 A. They can, but most of the time if they hit something  
3 hard like a reinforced wall or metal or anything, they can  
4 fragment. They can shave off like this did.

5 Q. And let's go to State's number 22.

6 A. Right here is what we're looking at. This is a part of  
7 a shotgun slug that's in the living room floor.

8 Q. State's number 23.

9 A. This is the -- what I would refer to as the  
10 kitchen/dining room floor. You can see all this damage to  
11 the table, the shavings of these woods that would have came  
12 from the frame underneath the table.

13 Q. 24.

14 A. This is the kitchen cabinets. And this is where the --  
15 this would be the front wall of the residence. And this is  
16 when it's coming through the kitchen cabinets right here is  
17 what we're looking at.

18 Q. And 25.

19 A. Yes, ma'am. And that's just a close-up of that on the  
20 cabinet.

21 Q. Okay. 26.

22 A. That projectile continues to go. And as it goes  
23 through it bores a hole in this table frame.

24 Q. Are you just taking detailed photographs ---

25 A. Yeah, I'm ---

ADAM DAVIS - DIRECT EXAMINATION BY MS. HODGE

111

1 Q. --- of the scene ---

2 A. I'm just walking that shot across trying to track where  
3 it went.

4 Q. Okay. State's 27.

5 A. This is me backing out just to get more photos of the  
6 damage that it caused from the table.

7 Q. Okay. Then down at the doorway, is that the tennis  
8 shoe where the ---

9 A. Yes, ma'am. Right here's where that ---

10 Q. --- fragment was found?

11 A. --- projectile -- yes, ma'am.

12 Q. Okay. Before going towards that doorway, that's the  
13 living room?

14 A. Yes, ma'am, it is.

15 Q. If we turn around and come back towards us is that  
16 going to be a bedroom or what would be ---

17 A. That would probably be a hallway leading to a bedroom.

18 Q. Okay. I think we're still following this one bullet,  
19 State's 28.

20 A. Yeah. And this is more of it -- looks like to be a  
21 chair, can't quite tell. But you can tell that it's  
22 impacted this wood and that it's fragmented.

23 Q. And then finally State's 29 in regard to that.

24 A. What we're looking at here is this little fragment  
25 that's actually in the back of this chair rung.

**ADAM DAVIS - DIRECT EXAMINATION BY MS. HODGE**

112

1 Q. But was there an actual metal fragment in the back of  
2 the chair or ...

3 A. Yes, ma'am. It's, I think, -- yes, ma'am. That's item  
4 APD6 we're going to end up collecting from the back of a  
5 chair.

6 Q. All right. Okay. And then let's move to State's 31.

7 A. This is in the victims' bedroom. And what we're  
8 looking at here is this impact on the bedroom wall where you  
9 can see that a shotgun -- birdshots coming through the wall.

10 Q. All right. After you documented with photographs did  
11 you start to collect items at that residence first or did  
12 you move to ---

13 A. No, ---

14 Q. --- a second location?

15 A. --- I collected everything before I moved to that  
16 location, ma'am.

17 Q. Okay. So tell us what you collected.

18 A. Okay.

19 Q. Let me -- I'm sorry, I didn't mean to interrupt you.  
20 Let me do it like this.

21 A. Do it like this?

22 Q. Let's do it like this, a little box of stuff for you.

23 A. Okay.

24 Q. First of all, tell us what -- what is this box and  
25 what's on this box?

**ADAM DAVIS - DIRECT EXAMINATION BY MS. HODGE**

113

1 A. This box -- when I put my evidence in property and  
2 evidence it comes in single individualized items. And what  
3 property and evidence does is to tie it to each case number  
4 they give you a nice little box to make it all handy. So  
5 what's inside is a culmination of all my evidence.

6 Q. Let's see. You want to pull those out and then just  
7 walk us through what you've collected? Are those items that  
8 you take to property and evidence straight from the crime  
9 scene?

10 A. It could be, but most often they go back to my evidence  
11 locker at the Crime Scene Unit Office. And they're secured  
12 in my possession until they're sealed and taken to property  
13 and evidence.

14 Q. What is property and evidence for people that may not  
15 watch CSI or anything like that?

16 A. Yes, ma'am. Property and evidence is ran by the  
17 forensics division. It monitors the evidence from both the  
18 Greenville County Sheriff's Department and the Greenville  
19 Police Department. It warehouses all evidence.

20 Q. And there are people that take the evidence in, log it  
21 in, ---

22 A. Yes, ma'am. It's ---

23 Q. --- secure environment?

24 A. --- secure. I use bar codes, but most officers use the  
25 actual handwritten sheet. And they have to be scanned when

**ADAM DAVIS - DIRECT EXAMINATION BY MS. HODGE**

114

1 I turn them in, and they have to be signed for when an  
2 officer puts them there.

3 Q. Okay. And they're sealed?

4 A. Yes, ma'am, they surely are.

5 Q. Okay.

6 A. The first residence I collected six key items, the  
7 three shell casings from the front yard. Do you want these  
8 open, ma'am?

9 Q. Yes, please.

10 A. So this is item APD1. It's labeled a spent Winchester  
11 Xpert steel shot 12 gauge shell. And now you can see that  
12 it has writing on it.

13 Q. All right. I'll let you keep going. Move the box a  
14 little bit, though. Do you have the ones that you need  
15 right now?

16 A. Yes, ma'am, I do.

17 Q. Okay.

18 A. This is item APD2. It's a spent Remington Managed-  
19 Recoil 12 gauge shell. Item APD3, it's a spent Winchester  
20 Super-X 12 gauge shell. This is item APD4. And it's a  
21 piece of a metal fragment that was collected from behind the  
22 television stand in the living room.

23 Q. If you had found a shotgun on-scene would you have  
24 attempted to do some analysis between these items or request  
25 some analysis?



**ADAM DAVIS - DIRECT EXAMINATION BY MS. HODGE**

115

1 A. I wouldn't have. The deputy or investigative officer  
2 with the Sheriff's Department puts in a request for a  
3 firearms examiner to do the comparison. I put it in  
4 property and evidence, and it's up to the case agent because  
5 I don't know his whole facts, what he needs for him to put  
6 that request in.

7 Q. But it would require having some type of firearm to  
8 attempt to match up?

9 A. Correct.

10 Q. Okay.

11 A. This is APD5. This is a metal slug.

12 Q. And where was that one?

13 A. This was collected from the living room floor. And  
14 this is APD6. It's a piece of a metal fragment that was  
15 collected from a kitchen chair that we saw in the photos.

16 Q. And are items -- well, let's see.

17 A. Do you want to do this one?

18 Q. We'll get to that one in one second.

19 A. Yes, ma'am.

20 Q. All right. Probably need to get numbers on these as  
21 well. So if you'll hang on with me one second ---

22 A. Yes, ma'am.

23 Q. --- and let the court reporter get some numbers.

24 (Whereupon State's exhibits 54 - 60 were marked for  
25 identification)

**ADAM DAVIS - DIRECT EXAMINATION BY MS. HODGE**

116

1 Q. What you have in front of you, officer, is State's  
2 number 54, 55, 56, the three shell casings collected from  
3 the front yard, is that correct?

4 A. Yes, ma'am.

5 Q. Are these in substantially the same condition as when  
6 you collected them?

7 A. Yes, ma'am, they are.

8 Q. All right.

9 MS. HODGE: At this time we would move to admit State's  
10 54, 55 and 56.

11 THE COURT: Any objection?

12 MR. SULLIVAN: Without objection, Your Honor.

13 THE COURT: They're admitted without objection.

14 MS. HODGE: Thank you, Your Honor.

15 (Whereupon State's exhibits 54, 55 and 56 were admitted  
16 into evidence)

17 Q. I'm then moving to State's 57, 58, 59, the three metal  
18 fragments that you located in the residence. Are they in  
19 substantially the same condition as when you collected them?

20 A. Yes, ma'am, they are.

21 Q. All right.

22 MS. HODGE: We'd move to admit 57, 58 and 59.

23 THE COURT: Any objection?

24 MR. SULLIVAN: Without objection, Your Honor.

25 THE COURT: Without objection they are admitted.

**ADAM DAVIS - DIRECT EXAMINATION BY MS. HODGE**

117

1           **MS. HODGE:** Thank you, Your Honor.

2           (Whereupon State's exhibits 57, 58 and 59 were admitted  
3 into evidence)

4       Q.   And, officer, I believe you have one other item up  
5 there that did not come from inside the residence. Can you  
6 tell us what you've got with you up there as your number 7?

7       A.   Yes, ma'am. As I was processing the scene, Deputy  
8 Hager approached me and said that he had found a shotgun  
9 shell when he stepped out of his car. And due to the rain  
10 and so many people being there, he picked it up and put it  
11 on the trunk of his vehicle. So I took photos of that and  
12 collected it as well.

13      Q.   Now, how many police officers were out there,  
14 approximately?

15      A.   I know at least -- Ross Wheatley and Deputy Hager were  
16 there and that members of the SWAT Team had been called,  
17 too. So ---

18      Q.   Okay.

19      A.   --- five or six at least.

20      Q.   All right. And why were members of the SWAT Team  
21 called?

22      A.   As a safety issue as it was unknown who the shooter was  
23 or where he was at this point. So as a safety for the  
24 officers there with the wood lines behind, they decided to  
25 call the SWAT Team and make sure that the area was safe.

**ADAM DAVIS - DIRECT EXAMINATION BY MS. HODGE**

118

1 Q. And Deputy Hager was one of the deputies out there that  
2 night?

3 A. Yes, ma'am.

4 Q. Okay. And he located this other shotgun shell that you  
5 collected?

6 A. Correct.

7 Q. All right. Which is this bag?

8 A. Yes, ma'am.

9 Q. Okay. If you don't mind opening that up and take a  
10 look at it and tell me if it's in substantially the same  
11 condition as when you collected it.

12 A. Yes, ma'am. It's APD7, spent Federal Sabot 12 gauge  
13 slug. And it appears to be in the same condition.

14 Q. Okay.

15 **MS. HODGE:** At this time we'd move to admit number 60.

16 **THE COURT:** Any objection?

17 **MR. SULLIVAN:** No objection, Your Honor.

18 **THE COURT:** Without objection, it's admitted.

19 **MS. HODGE:** Thank you.

20 (Whereupon State's exhibit 60 was admitted into  
21 evidence)

22 Q. Can you tell how long a shell casing's been out or  
23 spent or in the yard or ...

24 A. No, ma'am. I mean, obviously, if it's just been done  
25 you can smell a little bit of powder still on it. But with

ADAM DAVIS - DIRECT EXAMINATION BY MS. HODGE

119

1 the rain and all that, there's no way to say with these  
2 shell casings.

3 Q. Okay. So could you tell if some had been there a day  
4 or two or a month or two versus some that were fresh that  
5 night from ---

6 A. Possibly if they had started to get like dirt around  
7 them, they're not on top of the grass, they've started to  
8 actually sink into the ground with the rain, but these were  
9 fresh on top.

10 Q. Okay. All right. So what was the next step for you?

11 A. After this I made contact with Ross Wheatley again who  
12 stated that the SWAT Team had finished clearing the area and  
13 that he'd made contact with the victim's [sic] wife and that  
14 she'd signed a consent to search form for the residence.

15 Q. Okay. And then did you go in and process the  
16 Defendant's residence?

17 A. Well, I started by walking the yard and found several  
18 spent shell casings in the driveway going to the rear yard  
19 towards the storage shed.

20 Q. Okay. And you photographed that area as well?

21 A. Yes, ma'am, I did.

22 Q. All right. Let me show you State's 33, 34 and 35.  
23 Look and those and let me know what those are.

24 A. This is looking at the ---

25 Q. Just kind of a general ---

**ADAM DAVIS - DIRECT EXAMINATION BY MS. HODGE**

120

1 A. Okay. This is the corner of the residence in the rear  
2 yard of the residence at [REDACTED] Davis Road.

3 Q. All right. And are those pictures true and accurate  
4 depictions of how this Defendant's residence and yard or  
5 yard of his residence looked?

6 A. Yes, ma'am.

7 Q. All right. And then I'm going to show you State's 50  
8 and 51. What are those?

9 A. These are in the rear yard. It's a storage shed. And  
10 it's the contents, the interior of that storage shed.

11 Q. Okay. And are those true and accurate depictions of  
12 how the storage shed looked that night?

13 A. Yes, ma'am.

14 **MS. HODGE:** We'd move to admit State's number 33, 34,  
15 35 and then we jump to numbers 50 and 51.

16 **THE COURT:** Any objection?

17 **MR. SULLIVAN:** No objections.

18 **THE COURT:** Without objection, they're admitted.

19 **MS. HODGE:** Thank you.

20 (Whereupon State's exhibits 33 - 35 and 50 and 51 were  
21 admitted into evidence)

22 Q. Let's go ahead and just walk through these and I'll put  
23 them all up one at a time.

24 A. Okay.

25 Q. State's 36, 37, 38, 39, 40, 41, 42, if you'll tell me

**ADAM DAVIS - DIRECT EXAMINATION BY MS. HODGE**

121

1     what in general those are.

2     A.    These are photos of shotgun shells in the rear yard.

3     Q.    Okay.

4     A.    And then close-ups of those shotgun shells.  And then a  
5     lodged shotgun round in a storage shed door.

6     Q.    Okay.  Are those true and accurate depictions of the  
7     outside of the residence of the Defendant and then the shed?

8     A.    Yes, ma'am, they are.

9     Q.    All right.

10       **MS. HODGE:**  We'd like to move to admit 36 through 42.

11       **THE COURT:**  Any objection?

12       **MR. SULLIVAN:**  No objections, Your Honor.

13       **THE COURT:**  They're admitted without objection.

14       **MS. HODGE:**  Thank you, Your Honor.

15       (Whereupon State's exhibits 36 - 42 were admitted into  
16     evidence)

17     Q.    All right.  Officer Adams, if you'll be so kind to just  
18     walk us through these as you have the others.  State's  
19     number 33, what are we looking at here?

20     A.    This is the driveway between the two residents.  This  
21     is the corner of the residence at [REDACTED].

22     Q.    Which would be the Mejean residence, ---

23     A.    Yes, ma'am.

24     Q.    --- not the victims' residence, actually?  And then  
25     State's number 34.

**ADAM DAVIS - DIRECT EXAMINATION BY MS. HODGE**

122

1 A. We can see several shell casings on the driveway  
2 leading into the backyard.

3 Q. And what's in the backyard?

4 A. There's shell casings and the storage shed.

5 Q. All right. State's number 35.

6 A. There's two more shell casings right here in front of  
7 the storage shed right here.

8 Q. Was it still raining while you were processing the  
9 scene?

10 A. Yes, ma'am. It was thundering, lightning and pouring  
11 rain the whole time.

12 Q. Okay. But in State's number 36, is that rain we're  
13 seeing there, too?

14 A. Yes, ma'am. The quality's not great, ---

15 Q. Okay.

16 A. --- but we can -- you can see the evidence placards  
17 giving a general idea of where the shell casings are.

18 Q. Okay. And that's the shed kind of back in the middle?

19 A. Yes, ma'am, right here.

20 Q. All right. And then State's 37.

21 A. You can see three additional shell casings in front of  
22 the storage shed.

23 Q. All right. Let's get to State's number 50.

24 A. This is just a better picture of the storage shed.

25 Q. State's number 51.



ADAM DAVIS - DIRECT EXAMINATION BY MS. HODGE

123

1 A. This is just the interior of the storage shed looking  
2 from the door.

3 Q. Okay. And do you go through the entire thing and look  
4 for any essential evidence?

5 A. I did, yes, ma'am.

6 Q. And I'm going to show you State's number 42.

7 A. One unspent shotgun shell is located right here.

8 Q. Okay. And what brand is this? Am I saying it  
9 correctly?

10 A. That is a Winchester Xpert steel shot 12 gauge shell.

11 Q. All right. And were any of those same types of  
12 ammunition or shells found at the victims' residence and the  
13 victims' yard?

14 A. Yes, ma'am. That's the same shell casing as item APD1.

15 Q. Okay. Which was the first shell casing in the victims'  
16 yard you collected?

17 A. Yes, ma'am.

18 Q. Was there anything else in the storage shed that you  
19 collected?

20 A. No, ma'am.

21 Q. All right. Is it number 8, is that what you stated,  
22 AP8?

23 A. That's starting the shell casings in the yard.

24 Q. In the yard? Okay. It must be up there.

25 A. Yes, ma'am.

**ADAM DAVIS - DIRECT EXAMINATION BY MS. HODGE**

124

1 (Whereupon State's exhibits 61 - 63 were marked for  
2 identification)

3 Q. I'll have you open State's number 61.

4 A. This is item APD8. It's a spent Winchester Super-X 12  
5 gauge shell.

6 Q. And were any of those types of shell casings found in  
7 the victims' yard?

8 A. Yes, ma'am. That's the same as APD3.

9 Q. All right. Is it in substantially the same condition  
10 as when you collected it?

11 A. Yes, ma'am.

12 **MS. HODGE:** We'd move to admit State's 61.

13 **MR. SULLIVAN:** No objections.

14 **THE COURT:** Without objection, it's admitted.

15 (Whereupon State's exhibit 61 was admitted into  
16 evidence)

17 A. This is APD9. It's a spent Winchester Xpert steel shot  
18 12 gauge shell.

19 Q. All right. It's your APD9, but State's exhibit number  
20 62?

21 A. Yes, ma'am.

22 Q. All right. And was this type of shell casing found at  
23 the victims' residence or is this a different ...

24 A. Yes, ma'am. That's the same as item APD1.

25 Q. And is it in substantially the same condition as when

**ADAM DAVIS - DIRECT EXAMINATION BY MS. HODGE**

125

1 you collected it?

2 A. Yes, ma'am.

3 MS. HODGE: Move to admit State's number 62. You want  
4 to see it?

5 MR. SULLIVAN: It's not been shot?

6 MS. HODGE: They have ---

7 MR. SULLIVAN: Oh, this one has.

8 MS. HODGE: --- been. Yes. Do you have any objection?

9 MR. SULLIVAN: No.

10 MS. HODGE: Then we would move to admit.

11 THE COURT: Without objection.

12 MS. HODGE: Thank you.

13 (Whereupon State's exhibit 62 was admitted into  
14 evidence)

15 Q. All right. And State's number 63, what is that?

16 A. That is a spent Winchester Xpert steel shot 12 gauge  
17 shell.

18 Q. And, again, is this similar to the one you found in the  
19 victims' yard?

20 A. Yes, ma'am. It's the same as item APD1.

21 Q. Okay. Substantially the same condition as when you  
22 collected it?

23 A. Yes, ma'am.

24 MS. HODGE: We'd move to admit State's 63.

25 MR. SULLIVAN: No objection, Your Honor.

**ADAM DAVIS - DIRECT EXAMINATION BY MS. HODGE**

126

1           **THE COURT:** Without objection, it's admitted.

2           (Whereupon State's exhibit 63 was admitted into  
3 evidence)

4           (Whereupon State's exhibit 64 was marked for  
5 identification)

6 Q. All right. State's number 64, what is this?

7 A. That's a spent Winchester Super-X 12 gauge shell. And  
8 that is the same as item APD3.

9 Q. You anticipated my question, ---

10 A. Yes, ma'am.

11 Q. --- didn't you?

12           **MS. HODGE:** Can y'all hear him? I know I'm up close  
13 and we're ...

14           **THE JURY:** (Affirmative nods)

15           **MS. HODGE:** Okay. We would move to admit State's  
16 number 64 into evidence.

17           **MR. SULLIVAN:** No objection.

18           **THE COURT:** Without objection, it's admitted.

19           (Whereupon State's exhibit 64 was admitted into  
20 evidence)

21           (Whereupon State's exhibit 65 was marked for  
22 identification)

23 Q. And State's number 65, what is that?

24 A. That is a spent Winchester Super-X 12 gauge shell. And  
25 that is the same as item APD3.

**ADAM DAVIS - DIRECT EXAMINATION BY MS. HODGE**

127

1 Q. Thank you. Is it in the same condition as when you  
2 collected it?

3 A. Yes, ma'am, it is.

4 Q. I feel like a robot.

5 MS. HODGE: Mr. Sullivan, ---

6 MR. SULLIVAN: No objection.

7 MS. HODGE: --- we move to admit.

8 MR. SULLIVAN: No objection.

9 THE COURT: No objection. It's admitted without  
10 objection.

11 MS. HODGE: Thank you, Your Honor.

12 (Whereupon State's exhibit 65 was admitted into  
13 evidence without objection)

14 (Whereupon State's exhibit 66 was marked for  
15 identification)

16 Q. Go ahead and look at State's number 66.

17 A. This is the unspent Winchester Xpert steel shot 12  
18 gauge shell. And that's the same as item APD4.

19 Q. And this is in the same condition as when you collected  
20 it?

21 A. Yes, ma'am.

22 MS. HODGE: We'd move to admit State's number 66.

23 MR. SULLIVAN: No objection, Judge.

24 THE COURT: It's admitted without objection.

25 (Whereupon State's exhibit 66 was admitted into

**ADAM DAVIS - DIRECT EXAMINATION BY MS. HODGE**

128

1 evidence)

2 MS. HODGE: It's not spent.

3 MR. SULLIVAN: Right.

4 MS. HODGE: Okay.

5 MR. SULLIVAN: That's not spent.

6 MS. HODGE: Correct.

7 MR. SULLIVAN: Okay.

8 Q. All right. Let's move on to the next area that you  
9 observed and processed. What are we looking at now?

10 A. Next we went inside the residence at [REDACTED] and focused on  
11 the bedroom. Inside the bedroom two empty Winchester 12  
12 gauge boxes, several rifle cartridges were located in the  
13 bedroom.

14 Q. Okay. I'm going to show you photographs, which are  
15 State's 52, 53, 43, 44, 45, 46, 47, 48 and 49.

16 A. Okay.

17 Q. State's number 52 and 53, what are those pictures of?

18 A. Appears to be the rear door of the residence at [REDACTED].

19 Q. Okay. Did you take these pictures?

20 A. I did.

21 Q. Are they true and accurate depictions of the residence  
22 at [REDACTED] Davis Street?

23 A. Yes, ma'am.

24 MS. HODGE: I'd move to admit State's 52 and 53.

25 MR. SULLIVAN: No objections.

ADAM DAVIS - DIRECT EXAMINATION BY MS. HODGE

129

1           **MS. HODGE:** Okay.

2           **THE COURT:** Without objection, they're admitted.

3           (Whereupon State's exhibits 52 and 53 were admitted  
4 into evidence)

5           Q. All right. And then let's go to 43 through 49 as a  
6 group. What are those?

7           A. These are interior photos of the same residence at [REDACTED].  
8 And they're focusing predominantly on the bedroom where some  
9 shell casing or some cartridges and boxes of shell casings  
10 or empty boxes of shell casings were located.

11          Q. All right. And you come in and photograph it. You  
12 don't do any of the searching, is that correct?

13          A. Sometimes I do. Most of the time -- I was still  
14 working on the other where the other deputies were looking  
15 at the shed. So they had already located most of these  
16 items before I came.

17          Q. Okay. And are numbers 43 through 49 true and accurate  
18 depictions of the Defendant's residence on this night?

19          A. Yes, ma'am, they are.

20          Q. All right.

21           **MS. HODGE:** We'd move to admit 43 through 49.

22           **MR. SULLIVAN:** No objection, Your Honor.

23           **THE COURT:** They're admitted without objection.

24           **MS. HODGE:** Thank you, Your Honor.

25           (Whereupon State's exhibits 43 - 49 were admitted into

**ADAM DAVIS - DIRECT EXAMINATION BY MS. HODGE**

130

1 evidence)

2 Q. Okay. If you'll walk us through this, State's number  
3 52.

4 A. What we're looking at here is the rear door of the  
5 residence.

6 Q. All right. And approximately how far away is the shed  
7 if you're looking at this?

8 A. Including the porch distance, ten, twelve feet,  
9 something like that. It's not far.

10 Q. Okay. Is that door a glass door, or is it open, or a  
11 storm door, or do you know?

12 A. It's tough for me to tell. I know it looked black, but  
13 I don't know if it's a garbage bag or what is it that's over  
14 the actual door.

15 Q. All right. And then State's number 53, is that just  
16 the house number there or ...

17 A. An uncertain item. I don't know if that's a -- where  
18 do you see a house number?

19 Q. Okay. The little shiny spot here.

20 A. That might be a light. That might be -- that could be  
21 the house number. I don't -- I'm uncertain.

22 Q. Is this still this Defendant's residence, though?

23 A. Yes, ma'am.

24 Q. Okay. Do you just go around the outside ---

25 A. I do.



**ADAM DAVIS - DIRECT EXAMINATION BY MS. HODGE**

131

1 Q. --- sometimes and just orient ---

2 A. Yes, ma'am.

3 Q. Okay. State's 43.

4 A. This is entering the residence. You can see -- this  
5 was just to show that there wasn't any damage I could see to  
6 this door and that the residence was in disarray, like even  
7 the bedrooms.

8 Q. And you are looking for damage to the door for any  
9 particular reason?

10 A. Just protocol.

11 Q. And you did not notice anything?

12 A. I did not find anything, no, ma'am.

13 Q. All right. State's number 44.

14 A. This is going into the bedroom. And this is just more  
15 trying to let you see that there's a lot going on here. As  
16 we go through the photos, you'll see some of the items  
17 replaced on the bed just so you could actually pick them up  
18 with a camera. It doesn't bleed into the rest of the room.

19 Q. Okay. State's number 45.

20 A. When I came in, as you can tell that this has already  
21 been pulled out and that there's an empty shotgun bag on the  
22 bed.

23 Q. So there's nothing ---

24 A. Or not a shotgun bag, but a gun bag.

25 Q. A gun bag. You're not sure which?

**ADAM DAVIS - DIRECT EXAMINATION BY MS. HODGE**

132

1 A. Yes, ma'am.

2 Q. A shotgun could fit in that bag?

3 A. Yes, ma'am, it could.

4 Q. Okay. All right. State's number -- okay. And what is  
5 -- is there any significance of the pink bag on there? Does  
6 that have any significance?

7 A. Not that I'm aware of. No, ma'am.

8 Q. All right. And the drawer, is that something that was  
9 -- do you know if law enforcement did that?

10 A. I have no idea. They had already done their search at  
11 this point.

12 Q. Okay. All right. State's number 46.

13 A. This is just focusing more on the damage -- the damage  
14 right here and that there is more stuff in disarray in the  
15 room.

16 Q. Okay. And we're getting to 47.

17 A. It's hard to see, but this is -- you can see one of the  
18 shotgun boxes right here that would have had shotgun shells.  
19 And they're placed on the bed here before too long to -- so  
20 you can get a better look at it.

21 Q. All right. And I think number 48 might be a close-up?

22 A. Yes, ma'am.

23 Q. Okay.

24 A. That's the rifle slugs box.

25 Q. The rifle slugs. All right. And then we have 49.

ADAM DAVIS - DIRECT EXAMINATION BY MS. HODGE

133

1 A. Yeah. All of these were found in the same bedroom, but  
2 due to the tight constraints and so much stuff being -- they  
3 were placed on the bed for photography purposes.

4 Q. Any of those boxes of ammunition match the same type of  
5 ammunition or shell casings found in the victims' yard?

6 A. These two boxes would be shotgun shells. Without  
7 looking at the side of the box I would be uncertain to say  
8 that they're the exact ones used. But these three right  
9 here would be rifle cartridges.

10 Q. All right. And did you end up collecting those items?

11 A. Yes, ma'am, I did.

12 Q. All right.

13 (Whereupon State's exhibits 67 - 70 were marked for  
14 identification)

15 Q. It's going to be State's number 67. What is that?

16 A. This is an empty box of Winchester Magnum buckshot 12  
17 gauge three inch.

18 Q. And do those match the type of any of the spent casings  
19 in the victims' yard?

20 A. They're Super-X, which are the same as several of the  
21 spent shell casings, but without -- these say three inch  
22 Magnums. And I'm not sure without measuring those if those  
23 are two and three quarters or three inch.

24 Q. Okay. Are they -- is that in substantially the same  
25 condition as when you collected it?

**ADAM DAVIS - DIRECT EXAMINATION BY MS. HODGE**

134

1 A. Yes, ma'am.

2 Q. All right.

3 **MS. HODGE:** We'd move to admit State's 67.

4 **MR. SULLIVAN:** No objection, Judge.

5 **THE COURT:** Without objection, they're admitted.

6 **MS. HODGE:** Thank you.

7 (Whereupon State's exhibit 67 was admitted into  
8 evidence)

9 Q. State's number 68.

10 A. This is a Winchester Super-X 270 box containing eight  
11 Winchester 270 cartridges, one R-P 270 cartridge and one  
12 Winchester shell casing.

13 Q. Okay. And what do these go into?

14 A. These are 270 rounds. These are rifle rounds.

15 Q. All right. Was there a rifle located at the residence?

16 A. No, ma'am. We didn't find a rifle. We found a  
17 muzzleloader. I think Ross Wheatley did, but we didn't find  
18 a rifle.

19 Q. Okay. Ammunition for the rifle, but no rifle?

20 A. Yes, ma'am.

21 Q. All right. And is that substantially in the same  
22 condition as when you collected it?

23 A. Yes, ma'am.

24 Q. All right.

25 **MS. HODGE:** We'd move to admit 68.

ADAM DAVIS - DIRECT EXAMINATION BY MS. HODGE

135

1           **THE COURT:** Any objection?

2           **MR. SULLIVAN:** No objection, Your Honor.

3           **THE COURT:** Without objection, it's admitted.

4           (Whereupon State's exhibit 68 was admitted into  
5 evidence)

6           Q. And then 69 here.

7           A. This is an empty box of Winchester rifle slugs, hollow  
8 point 12 gauge, two and three quarter loads.

9           Q. So you were saying, I think, earlier that some of those  
10 could -- you did not measure those shell casings, but they  
11 could be ---

12          A. Two and three quarter ---

13          Q. Two and three quarter, which corresponds with this box?

14          A. Yes, ma'am.

15          Q. Or they could be three, which corresponds with the  
16 other box?

17          A. Yes, ma'am.

18          Q. Okay. All right. Empty?

19          A. Yes, ma'am.

20          Q. Is this in substantially the same condition as when you  
21 collected it?

22          A. Yes, ma'am, it is.

23          Q. All right.

24                 **MS. HODGE:** We'd move to admit State's number 69.

25                 **MR. SULLIVAN:** No objection.

**ADAM DAVIS - DIRECT EXAMINATION BY MS. HODGE**

136

1 (Whereupon State's exhibit 69 was admitted into  
2 evidence)

3 Q. And last, but not least, let's see if I can do it  
4 without asking any questions.

5 **THE COURT:** That's admitted without objection, if I  
6 didn't say so.

7 A. This is a box of twenty Remington rifle cartridges.  
8 And they are in the same condition.

9 Q. Thank you.

10 **MS. HODGE:** We'd move to admit State's number 70.

11 **THE COURT:** Any objection to number 70?

12 **MR. SULLIVAN:** No objection, Judge.

13 **THE COURT:** Without objection, it's admitted.

14 **MS. HODGE:** Thank you, Your Honor.

15 (Whereupon State's exhibit 70 was admitted into  
16 evidence)

17 Q. Okay. What, if anything, did you do after collecting  
18 those items?

19 A. That's the last thing I did on the scene. I went back  
20 to the Crime Scene Unit Office and I imported the photos  
21 into our photo digital database. And the evidence was  
22 secured in my evidence locker. On July 6th of 2012 all the  
23 evidence items were placed into the property and evidence.  
24 We have a secure locker, number 21.

25 Q. Okay. And I think I may have asked you this before,

**ADAM DAVIS - CROSS EXAMINATION BY MR. SULLIVAN**

137

1 but just to be clear, you did not attempt to process any of  
2 those shell casings for fingerprints, is that correct?

3 A. That's correct.

4 Q. All right. And why would you not have done that?

5 A. Due to the weather and the heat from the gun, the  
6 latent prints -- latent prints are the oil in your skin.  
7 And when it's fired it bakes the oil off on the weapon or on  
8 the shell casing.

9 Q. All right. So once it's fired, whatever print might  
10 have been on there, more likely than not it's going to be  
11 gone?

12 A. Yes, ma'am.

13 Q. Okay. Prints are pretty delicate?

14 A. Yes, ma'am, they are extremely delicate.

15 Q. All right. Okay. Did you have any other involvement  
16 in this case after you did those things?

17 A. No, ma'am, I did not.

18 Q. Thank you. Answer any of Defense questions, please.

19 A. Yes, ma'am.

20 **MS. HODGE:** Tim, do you want to use this at all for  
21 anything?

22 **MR. SULLIVAN:** No.

23 **MS. HODGE:** Okay.

24 **Cross Examination by Mr. Sullivan:**

25 Q. Officer Davis, you collected -- I have a copy of the

ADAM DAVIS - CROSS EXAMINATION BY MR. SULLIVAN

138

1 report if you'd like to see -- this is a true copy of ---

2 A. No, I believe you.

3 Q. So I can refer to it?

4 A. Yes, sir.

5 Q. Okay. This was furnished to me by Ms. Hodge.

6 A. Okay.

7 Q. So you found a total in the yard area of ten spent  
8 shells. I believe there were three in the yard, one on the  
9 trunk and six around the back by the shed. You can check  
10 ---

11 A. I think there's five in the backyard. I think it's --  
12 I wrote six, but it's actually five that was collected.

13 Q. So you did write six here?

14 A. Yes, sir.

15 Q. I've got six, but that's fine. You found a lot of  
16 shotgun shells?

17 A. Yes, sir.

18 Q. And then you kind of document the ones by the house.  
19 The others were kind of just scattered out?

20 A. Yes, sir.

21 Q. And from the weather you couldn't tell -- all of them  
22 could have been fired the same evening, some before, but not  
23 long before, correct?

24 A. Correct, I couldn't tell when.

25 Q. Now you took some pictures of the shed.



ADAM DAVIS - CROSS EXAMINATION BY MR. SULLIVAN

139

1 A. Yes, sir.

2 Q. Did you notice that on the door of the shed there was  
3 shotgun damage?

4 A. I did not see that. I'd heard you refer to it earlier.  
5 I saw the paint on it, but I didn't see the actual damage to  
6 the door.

7 Q. Could that be because it was dark and all or did you  
8 look at it real close?

9 A. I looked at it, but it could be because of the paint,  
10 the dark, the rain. It could be a factor or ---

11 Q. So you said it could or couldn't have injury to it?

12 A. Yes, sir.

13 Q. How about the back door of the actual house, did you  
14 notice any damage to it?

15 A. Which residence, sir?

16 Q. The one that Mr. Mejean lives in, Eric lives in.

17 A. No, sir, I did not.

18 Q. This is the one -- the back door that looked like it  
19 had a screen on it and everything, the back door? You  
20 noticed some damage on it? You went in that door ---

21 A. I remember the screen door not being in the best of  
22 condition, but I don't remember any particular damage.

23 Q. Now on the shell in the Smiths' residence, both of them  
24 are high up?

25 A. Yes, sir.

**ADAM DAVIS - CROSS EXAMINATION BY MR. SULLIVAN**

140

1 Q. And then the fragments -- how fast would those  
2 fragments fall?

3 A. I have no way -- no way to know that, sir.

4 Q. Now the bag on the -- the bag on the bed, was that an  
5 empty -- was it empty? The bag for the ---

6 A. The red -- the pink bag? Oh, no, the gun bag? It was  
7 open, it was unzipped. So it was open or empty, sir.

8 Q. Do you know how many other guns were found in the  
9 residence? You collected a powder gun, correct?

10 A. Correct. I didn't collect that, Ross Wheatley did.  
11 It's my understanding that was the only weapon located.

12 Q. It wasn't -- it wasn't the type weapon that would cause  
13 this problem, it was a hunting weapon mainly?

14 A. Yes, sir.

15 Q. Now you said that on the shells themselves you could  
16 not do fingerprints because of the heat and the weather?

17 A. Yes, sir.

18 Q. But a good fingerprint would try to either tie somebody  
19 to something or eliminate them, correct?

20 A. Yes, sir.

21 Q. Okay. Now, is there any reason -- nothing was tested  
22 for fingerprints, correct?

23 A. Correct.

24 Q. Is there any reason that a fingerprint could not be  
25 found off of these pristine boxes, we have several boxes,

ADAM DAVIS - CROSS EXAMINATION BY MR. SULLIVAN

141

1     who handled these boxes?

2     A.    I did and possibly one of the officers inside.

3     Q.    Who else?

4     A.    Well, you have now and I don't know who ---

5     Q.    Well, Mr. Mejean probably.  It was ---

6     A.    Right.

7     Q.    --- in his house.

8     A.    Yes, sir.

9     Q.    Anybody else -- you can't eliminate another person?

10    A.    Correct.

11    Q.    There's no reason those couldn't have been tested?

12    A.    Correct.

13    Q.    Now in the utility shed you found just one shell, but  
14    no boxes, just in a drawer in the shed, correct?

15    A.    Correct.

16    Q.    So the rest of the cartridges were found in the bedroom  
17    or in the closet?

18    A.    Correct, sir.

19    Q.    And some of those were hunting rifles that would not  
20    make this kind of pattern, correct?

21    A.    That is correct, sir.

22    Q.    These were long rifle shells like deer hunting?

23    A.    Yes, sir.

24    Q.    Okay.  Now, Mr. Mejean was captured early the next  
25    morning after this happened, correct, or do you know?

**ADAM DAVIS - CROSS EXAMINATION BY MR. SULLIVAN**

142

1 A. I have no idea, sir.

2 Q. Did you know if any GSR or gunshot residue tests were  
3 run on Mr. Mejean or any of his clothing?

4 A. It's not -- it's my understanding it wasn't. Gunshot  
5 residue lasts six hours. So I'm unsure of what time he was  
6 ascertained and how long that was after the shooting.

7 Q. Let me get something out. You say that if you don't  
8 wash or do anything the gunshot residue is gone in six  
9 hours?

10 A. Yes, sir.

11 Q. So if I just walk around my house?

12 A. Yeah. As your skin sweats and naturally touching  
13 stuff, it erodes away.

14 Q. How about on my sleeves?

15 A. Uncertain of how long it would stay on the clothes,  
16 sir.

17 Q. It could have been there if it had been tested?

18 A. Yes, sir.

19 **MR. SULLIVAN:** Nothing further, Your Honor.

20 **THE COURT:** Anything further?

21 **MS. HODGE:** Nothing from us.

22 **THE COURT:** Sir, you may step down. Please be careful.

23 A. Thank you.

24 **MS. HODGE:** Your Honor, the State would rest.

25 **THE COURT:** State rests. Madame Forelady and members

1 of the jury, the State has now rested its case, which means  
2 that it does not intend to call anymore witnesses in what's  
3 called its case in chief at this point. That necessarily  
4 brings us to a point where I have to take up some matters  
5 outside of your presence called matters of law at this point  
6 in time.

7 So, Madame Forelady and ladies and gentlemen, please do  
8 not begin deliberating, not even within your own mind. This  
9 case may or may not be over. We don't know what's going to  
10 happen next. And we'll find out in just a few minutes, but  
11 it's certainly not proper for you to begin deliberating or  
12 discussing with each other or even thinking about it to that  
13 end.

14 So with that, anticipate about -- we're just going to  
15 do it right now. We're going -- we usually take a fifteen  
16 minute break in the afternoon. We're going to do it right  
17 now. So you'll have at least a good fifteen minute break to  
18 use facilities, get a drink of water, whatever you might  
19 need to do. And we'll expect to have you back in shortly,  
20 okay? Madame Forelady, if you'd take the jury.

21 (Whereupon the jury exited the courtroom at 2:57 pm)

22 **THE COURT:** All right. The State has now rested.  
23 Anything from the Defense?

24 **MR. SULLIVAN:** Yes, sir. On the attempted murder  
25 charges, I move for a directed verdict because it requires a

1 specific intent to kill somebody. And the expert testified  
2 and these pictures showed that the gunshots were high into  
3 the trailer. If somebody were trying to intend to kill  
4 somebody it would have been more along the line of where  
5 people would be. I think the evidence shows that there was  
6 no intent -- disregard of life, no intent by that evidence  
7 to submit to a jury.

8 **THE COURT:** Solicitor.

9 **MS. HODGE:** Your Honor, I believe the State's  
10 introduced evidence of specific intent to kill by the very  
11 use of a deadly weapon implying that there was intent to  
12 kill. Why would someone fire shotgun slugs into the home of  
13 another person if they didn't intend to kill that person?

14 Just because they might be a bad shot and not get it in  
15 a straight line doesn't mean that their intention is any  
16 different, it's just their execution was poor. And we  
17 believe that the circumstantial evidence points to specific  
18 intent to kill.

19 **THE COURT:** All right. Well, the Defense motion is  
20 denied at this point, Mr. Sullivan, in that the Court is not  
21 weighing the evidence, it's merely concerned with what's  
22 called a scintilla of the evidence. And looking at that in  
23 the light most favorable to the non-moving party, which is  
24 the State, that motion is denied. Any other matters?

25 **MR. SULLIVAN:** Yes, sir. Judge, I guess if that one is

1 denied, then I'll make the one for the assault and battery  
2 with intent to kill, but I think you've pretty much answered  
3 that. But I would make that motion that nobody's put him at  
4 the scene shooting the gun. It's speculation as to who  
5 fired these shots. So I guess that incorporated both of  
6 them, but specifically as to the assault and battery with  
7 intent to kill, the lesser included. So I would make that  
8 motion, and then I'll wait til you rule and then note the  
9 objection.

10 **THE COURT:** Okay. To the extent that that is a motion  
11 on assault and battery with intent to kill, that's not  
12 before the Court at this point. But assuming that it is,  
13 because we haven't had a charge conference yet at this  
14 point, that is also denied for the same reason.

15 **MR. SULLIVAN:** Just note my objection to the denial of  
16 those two motions, Your Honor.

17 **THE COURT:** Yes, sir.

18 **MR. SULLIVAN:** That's all I have at this time.

19 **THE COURT:** Okay. Now, Mr. Sullivan, does your client  
20 intend to testify?

21 **MR. SULLIVAN:** Yes, sir. I've talked to him at length  
22 in our pretrial conference, I've talked to him today, and he  
23 indicates to me he wishes to take the stand. Eric, would  
24 you stand up.

25 **THE COURT:** Yes, sir, please stand.

1           **MR. SULLIVAN:** I think he's still sworn from the  
2 earlier ---

3           **THE COURT:** Sir, you are -- yes, sir, you were  
4 previously sworn.

5           **MR. MEJEAN:** Yes, sir.

6           **THE COURT:** Now, you -- I know your lawyer has gone  
7 over this with you. I'm going to ask you a couple of  
8 questions. It's my understanding you desire to testify.

9           **MR. MEJEAN:** Yes, sir.

10          **THE COURT:** Okay. And so I'm not going to read the  
11 colloquy that I usually read and go over about your rights  
12 under the Constitution. You understand that you have a  
13 right to testify, but I do want to make sure that that's a  
14 decision that's knowingly and freely, intelligently made by  
15 you. So once again, this decision that you're making to  
16 testify, and you certainly have a right to do so, do you --  
17 are you under the influence of any alcohol, drugs or any  
18 substance that affects your reasoning and thinking ability?

19          **MR. MEJEAN:** No, sir.

20          **THE COURT:** And did anyone talk you into or make you  
21 come here this afternoon to testify?

22          **MR. MEJEAN:** No, sir.

23          **THE COURT:** And, sir, do you understand that if you do  
24 testify, as you've indicated to your lawyer that you want to  
25 do, and you certainly have that right, do you understand



1 that you are subject to cross examination by the State under  
2 the same rules that apply to every other witness? Do you  
3 understand that?

4 **MR. MEJEAN:** Yes, sir.

5 **THE COURT:** You understand you cannot plead the 5th  
6 Amendment and hide behind that, or not hide behind it, but  
7 invoke it as a shield, which you're entitled to do? You  
8 understand that?

9 **MR. MEJEAN:** Yes, sir. I have nothing to hide.

10 **THE COURT:** Sir?

11 **MR. MEJEAN:** I have nothing to hide.

12 **THE COURT:** Yes, sir. That's fine. I just wanted to  
13 make sure that you understand fully. And, Mr. Sullivan, I'm  
14 sure, has gone over this with you, but I just want to make  
15 sure ---

16 **MR. MEJEAN:** Yes, sir.

17 **THE COURT:** --- that this is your decision and not  
18 someone else's decision.

19 **MR. MEJEAN:** Right. Yes, sir.

20 **THE COURT:** All right. He intends to testify. Any  
21 other witnesses besides Mr. Mejean?

22 **MR. SULLIVAN:** That would be our only witness, Your  
23 Honor.

24 **THE COURT:** Okay. All right. Well, let's do this.  
25 Let's, in fact, take until about fifteen after, which is

1 another ten minutes or so to refresh ourselves and then  
2 we'll proceed immediately with his testimony. Then I  
3 anticipate the Defense will rest.

4 My law clerk has put together our -- ninety-five  
5 percent of our charge at this point. So I definitely want  
6 to go over that with the lawyers. And I've got some 403  
7 people in the back. You are certainly welcome to join us in  
8 that charge conference before we charge the jury. We intend  
9 to finish this today. All right. Anybody got any request  
10 to charge specifically?

11 **MR. SULLIVAN:** Judge, I have ...

12 **MS. HODGE:** I don't have any.

13 **MR. SULLIVAN:** Judge, I would -- specific intent on the  
14 attempted murder and the lesser included if the evidence  
15 shows that. The assault and battery high and aggravated is  
16 a lesser included. If they decide there's no intent, then  
17 they still could find him -- I think it is lesser included.

18 **THE COURT:** It is a lesser included. It could be --  
19 assault and battery, high and aggravated, is a lesser  
20 included as well as A&B, first, is a lesser included as  
21 well.

22 I don't mind telling you, we're reading case law right  
23 now as to whether or not we get that charge, but what's the  
24 State's position? Maybe I'm doing research I don't need to  
25 do.

1           **MS. HODGE:** Well, Your Honor, no, Mr. Sullivan and I  
2 actually had that conversation that if they don't find  
3 specific intent to kill, then I think they can have the  
4 option of the assault and battery, high and aggravated, or  
5 they could go down to A&B, first. I mean, I do think it  
6 fits, but I would love to know if you find cases otherwise.  
7 It's just I haven't actually had a case where we've gotten  
8 to this point before. So a little new for me, too.

9           **MR. SULLIVAN:** Your Honor, I think their position is,  
10 without arguing both ways, but if you don't have a lesser  
11 included and they have no specific intent, Mr. Mejean walks.

12           **THE COURT:** Sure. I understand that.

13           **MR. SULLIVAN:** It's a catch-22 for me. They may think  
14 somebody needs to do something here. But I think it is a  
15 lesser included to be honest. Kris and I talked about it.

16           **THE COURT:** There's no question to me it's lesser  
17 included because it's in the statute. It says in the  
18 statute that ---

19           **MS. HODGE:** Yes, sir.

20           **THE COURT:** --- the Legislature ---

21           **MR. SULLIVAN:** Right.

22           **THE COURT:** And I was there when we wrote this. So --  
23 but ---

24           **MS. HODGE:** You could tell us what the legislative ---

25           **THE COURT:** I'll submit it ---

1           **MS. HODGE:** --- was.

2           **THE COURT:** --- was sent at 11:54, trust me. But, I  
3 mean, I know it is -- it says in the statute. The  
4 Legislature says -- expresses that it is a lesser included  
5 offense. That's not the issue. The issue is even though it  
6 is a lesser included offense, there has to be some showing  
7 ---

8           **MS. HODGE:** Right.

9           **THE COURT:** --- that he could be guilty of the lesser,  
10 as I understand it. Am I missing something? Am I right?  
11 She's reading a case right now from 2014. Yeah, okay.

12           **MS. HODGE:** The language is so similar between the  
13 ABHAN and the A&B, first, with this, you know, offer or  
14 attempt to injure accomplished by means likely to produce  
15 death and great bodily injury.

16           **THE COURT:** And I don't mind telling you because I  
17 know, you can thank former Representative Chris Crawford,  
18 Dr. Chris Crawford for that language because we asked him to  
19 craft that language, him being a medical doctor. That's  
20 where that came from.

21           **MR. SULLIVAN:** Judge, the only other thing, then we'll  
22 take a break. Mr. Mejean had a prior assault and battery  
23 that they plan to use. He received five years suspended to  
24 three years probation, which he finished. I think that's  
25 the only thing they have, I think, they intend to use.

1           **MS. HODGE:** That's correct. We would intend to impeach  
2 him with his prior assault and battery, high and aggravated,  
3 conviction from 2009.

4           **MR. SULLIVAN:** My position on that, Your Honor, it's  
5 prejudicial, it doesn't really go to the veracity. It goes  
6 into prior kind of -- it's not related. So I don't think it  
7 would be under the prior bad acts, but I don't think it's a  
8 moral type thing where it impeaches his credibility. I  
9 think it's charged, I mean, if you let it in, then it goes  
10 to propensities to violence.

11           **THE COURT:** Okay. He's convicted of assault ...

12           **MS. HODGE:** And battery of a high and aggravated  
13 nature, 2009. It's before the law changed.

14           **MR. SULLIVAN:** Five years suspended to thirty months  
15 probation, which he has completed.

16           **THE COURT:** Okay. I'm going to look at that. I'll  
17 take these with me at the break here. I'll look at that.

18           **MR. SULLIVAN:** Judge, if you allow it, I'm going to  
19 bring it out first thing on direct. I'm not ---

20           **THE COURT:** Sure.

21           **MR. SULLIVAN:** --- going to hide it.

22           **THE COURT:** I understand. If it's allowed, but the  
23 State -- and I know, Ms. Hodge, you know, but no facts about  
24 that. If he admits it, that's the end of it.

25           **MS. HODGE:** That's correct. Yes, sir.

1           **THE COURT:** Okay. All right.

2           **MR. SULLIVAN:** Thank you, Your Honor.

3           **THE COURT:** Let's take a little few minutes break. Let  
4 me read this case.

5           (Whereupon court was in recess at 3:07 pm)

6           (Whereupon court reconvened at 3:37 pm)

7           **THE COURT:** I'm going to address that issue that I took  
8 under advisement first. We've done some quick research on  
9 here. And I will credit this right off the bat for having  
10 gone to the National Judicial College last Fall, which is  
11 where I got this neat little handbook I've got in my hand  
12 here. But I'm going -- I'm going to give you some cites  
13 here and some case law.

14           First of all, let me tell you what -- I'm not going to  
15 allow the State to introduce that for impeachment purposes  
16 under the 403 and 609 and the following cases. And that  
17 will be Gordon versus United States, it is 383 F.2d 936.  
18 That's a 1967 case. Also State v. Howard. There are two  
19 cases, but I'm going to cite this one from the first case.  
20 384 SC 212. That's a 2009. It was remanded back and came  
21 back with some more discussion in a 2011 case.

22           In the Gordon case the District Court allowed a prior  
23 conviction that was timely and it was also a similar crime,  
24 and allowed more than one, I believe, but the court said  
25 that admitting same -- admitting evidence of the same crime

1 should be done sparingly and only goes to credibility and  
2 circumstances relating strongly to disclosure and prior  
3 conviction -- the prior conviction is directly related to  
4 veracity.

5 Our court then under Howard analyzed or used the Colf,  
6 C-o-l-f, factors. That's at 337 SC 622. That's a 1999  
7 case. Those factors include and it's not an extensive or  
8 exhaustive list, but it cited five, the impeachment value of  
9 the prior crime, the point in time and the crime charged,  
10 being the previous charge related to this one, similarity of  
11 the two charges, the importance of the defendant testifying  
12 and the centrality of the issue.

13 And this Court has considered those factors. And this  
14 Court finds that they -- that we've agreed, I mean, it's  
15 stipulated by the Defense and the State that the ABHAN is  
16 going to be on that verdict form. So there is -- that  
17 crime, nobody has to speculate that they're on that jury, if  
18 they're told that he has a prior conviction, it is flat out  
19 on the form, and that is overly prejudicial to the  
20 Defendant.

21 In this case he has indicated he wants to testify,  
22 needs to testify, and that's his decision. And I think also  
23 that the importance of him testifying outweighs him being  
24 impeached with that. So for that reason, Madame Solicitor,  
25 I'm not going to allow you to impeach him with his prior

1 crime.

2 **MS. HODGE:** I respectfully understand your ruling. And  
3 may I just say one thing ---

4 **THE COURT:** Yes, ma'am.

5 **MS. HODGE:** In the past I've obviously had that issue.  
6 I thought that might come up because it was the same crime  
7 charged as prior. And other judges have allowed us to say  
8 he's got a prior criminal conviction so that we can impeach  
9 his credibility for truthfulness that, well, he might lie to  
10 you because he also has committed a crime before, he's not  
11 above lying kind of theory. But I understand what your  
12 ruling is. I didn't know if that was something you could  
13 consider or said no to already.

14 **THE COURT:** Mr. Sullivan.

15 **MR. SULLIVAN:** If it were allowed I would ask him up-  
16 front do you have a prior conviction? Did you plead guilty  
17 to it? Then to speculate, wonder what it was. If I say  
18 assault and battery, high and aggravated, what are they  
19 going to say? Oh, this guy, here he is again. He didn't  
20 learn his lesson from the first time. And to be honest with  
21 you, Judge, it was a domestic argument with Mrs. Mejean.

22 **THE COURT:** I understand. And I -- and, Ms. Hodge, you  
23 can put anything on the record you want, any of you can.  
24 This is the great thing about working with great lawyers  
25 that you both are. You know the law so well. But I'm not



1 going to let you go into it.

2 **MS. HODGE:** Okay.

3 **THE COURT:** And I'm going to hush and let you put on  
4 the record anything you want to if you want to preserve  
5 that, that's ...

6 **MS. HODGE:** No, sir. I'm fine with that. I just  
7 wanted to throw that -- I didn't know if that had already  
8 come into your consideration and you said even if you change  
9 the name, I still would not allow it.

10 **THE COURT:** I think that what that does is -- I agree  
11 with Mr. Sullivan on that. I think that that invites  
12 speculation at that point. It would almost be better if you  
13 just told them outright what it was because you invite  
14 speculation.

15 So I'm going -- it's overly prejudicial to him. It's  
16 absolutely his right to testify. He's elected to testify.  
17 I don't want that right chilled in any way. So I'm not  
18 going to allow the State to do that.

19 **MS. HODGE:** Yes, sir.

20 **MR. SULLIVAN:** And I'd better be careful not to open  
21 some doors.

22 **THE COURT:** Now if the doors get opened, Ms. Hodge is  
23 going to kick it real hard. Okay. We ready for the jury?

24 **MR. SULLIVAN:** You ready, Eric?

25 **MR. MEJEAN:** Yes, sir.

**CHRISTOPHER E. MEJEAN - DIRECT EXAMINATION BY MR. SULLIVAN**

156

1           **THE COURT:** All right. We're ready for the jury.

2           **MR. SULLIVAN:** Judge, I've checked with Ms. Hodge. I'm  
3 just going to say you've been in the courtroom, you've heard  
4 everything about the argument, up to certain -- what  
5 happened when y'all separated and let him tell that. I'm  
6 not going back to the swimming. I mean, they've heard it.

7           **THE COURT:** Yes, sir.

8           **MR. SULLIVAN:** And Ms. Hodge has agreed, let's just get  
9 to what we're going to talk about.

10          **THE COURT:** Okay. Very good. Thank you. Again, it's  
11 great to work with good lawyers. And you both are. Oh, let  
12 me say this. Now, he was never qualified as an expert.

13          **MS. HODGE:** That's correct.

14          **THE COURT:** Okay.

15          (Whereupon the jury entered the courtroom at 3:44 pm)

16          **THE COURT:** Madame Forelady, any matters for the jury?

17          **MADAME FORELADY:** No matters.

18          **THE COURT:** We're ready to go. Okay. Mr. Sullivan.

19          **MR. SULLIVAN:** Judge, we'd call to the stand Mr. Eric  
20 Mejean.

21          **THE COURT:** Sir, come forward and be sworn, please.

22          **MADAME CLERK:** Please place your left hand on the Bible  
23 and raise your right.

24                                           **Christopher Eric Mejean,**  
25 being duly sworn testified as follows;

**CHRISTOPHER E. MEJEAN - DIRECT EXAMINATION BY MR. SULLIVAN**

157

1           **MADAME CLERK:** Thank you. You may be seated.

2           **THE COURT:** Sir, I'm going to ask you to tell us your  
3 full name and spell your last name for my court reporter.

4           **MR. MEJEAN:** My name is Christopher Eric Mejean, M-e-j-  
5 e-a-n.

6           **THE COURT:** Thank you. Mr. Sullivan.

7           **Direct Examination by Mr. Sullivan:**

8           Q. You have been sworn already in this case, haven't you,  
9 Eric?

10          A. Yes, sir.

11          Q. So you're under oath in this testimony, you understand  
12 that?

13          A. Twice now, yes, sir.

14          Q. Give us a little bit about who you are, age, married,  
15 children, stuff like that.

16          A. I'm thirty years old. I have three beautiful kids, two  
17 boys and a girl. I have a loving wife. I'm an outdoorsman.  
18 I will always be an outdoorsman. It's something that I will  
19 always raise my kids up to be. Nothing will ever change  
20 that.

21          Q. Okay. So you're a hunter?

22          A. Yes, sir.

23          Q. How many guns did you have -- let me put it this way.  
24 How many guns did you own at the time this happened?

25          A. I had three.

**CHRISTOPHER E. MEJEAN - DIRECT EXAMINATION BY MR. SULLIVAN**

158

1 Q. What kind of guns were they?

2 A. I had a Mossberg 12 gauge. I had a Mossberg ATR-100

3 270. And I had a CVA 50 caliber muzzleloader.

4 Q. The muzzleloader doesn't have any kind of shells, does  
5 it?

6 A. No, sir.

7 Q. It's a black powder gun?

8 A. Black powder.

9 Q. The 270, that would be the one that fires the long  
10 bullets, correct? The ones that are in the long shells?

11 A. The 270? Yes.

12 Q. And you still have that gun?

13 A. Yes, sir.

14 Q. It wasn't taken that night?

15 A. It was not taken.

16 Q. Okay. And then the shotgun you had that fires this  
17 type shell, you don't know what happened to it?

18 A. I don't know where it's at. No, sir.

19 Q. Now, let's go back to this day. Speak to me so if I  
20 hear you, they can hear you, okay?

21 A. Yes, sir.

22 Q. You've been in the courtroom the whole trial, correct?

23 A. Correct.

24 Q. You've heard Mrs. Smith and then you heard Melissa talk  
25 about going swimming, arguing, stuff like that. So no

**CHRISTOPHER E. MEJEAN - DIRECT EXAMINATION BY MR. SULLIVAN**

159

1 question you'd been drinking and you and your wife had an  
2 argument and she was going to spend the night with her  
3 cousin, is that correct?

4 A. Correct.

5 Q. Okay. After y'all separated, ---

6 A. Um-hum (affirmative).

7 Q. --- you were at your friends drinking, correct?

8 A. Correct.

9 Q. And you went home. From there tell us what happened,  
10 how you got home and this type of thing. Just tell it as it  
11 happened.

12 A. After my wife left I hung out at my buddy, Marcus'  
13 house, hanging out, getting a jump-start on the 4th of July.  
14 I had one of my friends, his name was Chad. Everybody  
15 called him big Chad. I got him to bring me home.

16 When I got dropped off, like you heard before, our  
17 driveway is long. It's a gravel driveway. The guy dropped  
18 me off right at the turn. And then if you kept going up you  
19 would have went to my house and then you went to Mr. and  
20 Mrs. Tee's house. He dropped me off at that turn. I walked  
21 -- I was working my way up to the house. I noticed my front  
22 door was open.

23 Q. Now explain the significance of that to the jury.

24 A. Excuse me?

25 Q. Explain the significance of that door being open.

**CHRISTOPHER E. MEJEAN - DIRECT EXAMINATION BY MR. SULLIVAN**

160

1 A. At the time that front door was already broke from a  
2 prior incident with me and my wife. I locked her out, she  
3 kicked it in. We didn't -- we never fixed the door. The  
4 couches in our living room was a sectional couch. And we  
5 put the couches in front of that door to keep it closed.  
6 When I approached the house, it was open.

7 Q. All right. Prior to that when y'all went in and out of  
8 the house, how did you enter the house?

9 A. When I entered the house?

10 Q. No. Just when the door was broken ---

11 A. The front door was open.

12 Q. The front door was broken, you had the sofa pushed  
13 against it, how did you and Melissa go into the house when  
14 you'd come home?

15 A. We had to use the back door.

16 Q. All right. Go ahead. You saw the door cracked.

17 A. I approached the front door. It was -- it wasn't  
18 completely open. I mean, it was open enough that -- there  
19 was a pipe underneath the front steps. I grabbed that pipe.  
20 I walked in the house.

21 Q. How did you go into the house?

22 A. How?

23 Q. Front or back?

24 A. How did I go in the house?

25 Q. Did you go in the front door or the back door?

**CHRISTOPHER E. MEJEAN - DIRECT EXAMINATION BY MR. SULLIVAN**

161

1 A. I went through the front door of the house.

2 Q. Okay.

3 A. There was a gentleman in there. He was a man that I  
4 knew of by the name of Frog. I knew him because of prior  
5 times I bought marijuana from him. He started messing with  
6 other drugs I didn't want to have anything to do with. I  
7 quit messing with him.

8 This gentleman that I knew -- his first name, I  
9 believe, was Seth, but I always knew him as Frog. Called  
10 him up, hey, Frog, hook me up. He had my shotgun. I didn't  
11 know if it was loaded. I didn't care. All I cared about  
12 was he was in my house and he had my firearm.

13 I went after him. I chased him out the back door, down  
14 the back hallway to our back door. He went out. I met him  
15 at the door, he turned the gun on me. I slammed the back  
16 door to dodge him shooting me. Two shots went into that  
17 back door.

18 A third one, a third shot went off, but it didn't  
19 penetrate the door. I don't know where it went. I don't  
20 know where he was aiming. After that third shot I cracked  
21 the door open, the back door. He was on his way up the  
22 driveway going in between my house and Mr. and Mrs. Smith's.  
23 I ran out the house and I began to continue chasing him.

24 My 12 gauge shotgun has a scope on it. I already knew  
25 it was off-sight. I barely used it. And I knew that if I

**CHRISTOPHER E. MEJEAN - DIRECT EXAMINATION BY MR. SULLIVAN**

162

1 stayed to his right, my shotgun shot to the right. I wasn't  
2 thinking about Mr. and Mrs. Smith's house behind me. I was  
3 dodging him trying to not get shot myself.

4 I chased him through the front yard. In front of all  
5 of our homes where the trailers were there was a pretty  
6 grown up pasture. I jumped the fence, kept going after him.  
7 That's when I -- that's where I remember Tee calling me.

8 Q. Tee being Mr. Smith?

9 A. Mr. Smith. I heard him call me, I stopped. I  
10 shouldn't have. Probably would have had Frog. I stopped.  
11 He asked me did I shoot -- did you shoot my house? I  
12 responded to him, no, I did not shoot his house.

13 He asked me what's going on? At the time my mind is  
14 where Frog was at. I didn't -- I didn't have time to  
15 explain to him. I was on the path trying to recover my  
16 firearm and catch this man in my house.

17 Where's my so and so that I yelled, it wasn't about my  
18 wife. It was about yelling at the man in my house that I  
19 was chasing.

20 Q. This is where you say where is my f-ing bitch?

21 A. Yes, sir.

22 Q. You were talking about the shotgun as opposed to  
23 Melissa?

24 A. Right.

25 Q. At this point you said that to Tee and then what



**CHRISTOPHER E. MEJEAN - DIRECT EXAMINATION BY MR. SULLIVAN**

163

1     happened?

2     A.    That's all he asked me. I didn't wait around for  
3     anymore questions from him. I was through that pasture on  
4     the path that this gentleman -- I was trailing him. It was  
5     dark. It was raining. I didn't have a whole lot of time to  
6     sit around and wait for him to disappear. I was on his  
7     path. I searched for him for hours. I never should have  
8     stopped. I would have had him.

9     Q.    Let me ask you this, Eric. At some point did you call  
10    Melissa from your house?

11    A.    I don't recall. I don't remember calling her. If I  
12    did, I don't know what for. I mean, our car was gone, I  
13    knew she wasn't there, but I don't remember calling her.

14    Q.    Was the house in the same condition when you got home  
15    as when you left? The condition of the home -- you saw the  
16    pictures of the mess. '

17    A.    When I left before I went to my buddy's house?

18    Q.    Um-hum (affirmative).

19    A.    It was not in the condition. The house was clean.

20    Q.    Did you cause the mess?

21    A.    Excuse me?

22    Q.    Did you cause the mess?

23    A.    I probably caused some of it chasing the fellow out the  
24    door. The dining room table or the chairs, yeah, that was  
25    probably my fault.

**CHRISTOPHER E. MEJEAN - DIRECT EXAMINATION BY MR. SULLIVAN**

164

1 Q. Okay. So you, at this point, in the rain, you don't  
2 find him?

3 A. No, sir.

4 Q. Continue from there. What happened after that?

5 A. Like I said, I searched for him for hours. I had no  
6 idea that police had been at my house. I had no  
7 recollection of my wife showing back up. I showed back up  
8 early the next morning. I walked in my house, there wasn't  
9 nobody there. Walked in. I had to lay down for a little  
10 bit, I was tired.

11 When I woke up I still remember my shotgun was missing.  
12 I came and tried to search again in the daylight, still no  
13 recollection that police were looking for me, warrants were  
14 already issued. I still couldn't find it. I came back.

15 I called my wife again that day to find out where she  
16 was at, what was going on. She told me that they were  
17 looking for me. I had no ride. I wasn't going anywhere. I  
18 was like, this is bull. You know, why are they pointing the  
19 finger at me?

20 I waited for an officer -- I don't know what -- he was  
21 just coming to check up on the place, I don't know. He  
22 showed up. I came out of the back, seen him pulling up. I  
23 walked up to him and said, I heard you're looking for me.

24 The officer put me in cuffs, put me in his car, read me  
25 my rights, asked me if there was anything that I needed to

**CHRISTOPHER E. MEJEAN - DIRECT EXAMINATION BY MR. SULLIVAN**

165

1 state. And I told him, yes, I needed to report someone was  
2 in my house. I needed to report I had a firearm now  
3 missing, but no report was made. He put me in the car, took  
4 me downtown.

5 Q. Now during this period of time the police got there  
6 that evening while you were gone there were ten spent shells  
7 found between their yard and the back of your area.

8 A. Yes.

9 Q. Do you recall ten shots?

10 A. Do I recall the number of shots?

11 Q. Yeah.

12 A. Only five or six.

13 Q. Do you recall Tee shooting his pistol in the air?

14 A. I don't recall Tee shooting his pistol.

15 Q. You didn't see him with a pistol?

16 A. I didn't see him with a pistol.

17 Q. When you saw Tee he was not armed?

18 A. Excuse me?

19 Q. Was he armed?

20 A. He was too far away to tell if he was even armed.

21 Q. And to this day you still have the rifle? The rifle  
22 that shoots the long ---

23 A. I still have -- yes, to this day I still have my 270.

24 Q. And the shotgun is still missing at ---

25 A. It is still missing, yes, sir.

**CHRISTOPHER E. MEJEAN - DIRECT EXAMINATION BY MR. SULLIVAN**

166

1 Q. Were you tested for any gunshot residue, you or your  
2 clothes?

3 A. No, sir.

4 Q. Did you not think -- what was in your mind when you  
5 were chasing a man with a shotgun and you have no weapon?  
6 Isn't that rather rash?

7 A. I thought he only had so many shots til I got to him.

8 Q. Did you consider, while you saw him in your house, he  
9 takes off with your gun, calling 911?

10 A. No, sir, I don't. I didn't believe them to be any  
11 help.

12 Q. Were you in the courtroom when Mrs. Smith testified it  
13 was about forty-five minutes from when she called until they  
14 got there?

15 A. I was in the courtroom, yes, sir.

16 Q. So you thought he would get away or you were going to  
17 chase him?

18 A. Yes.

19 Q. With no weapon of your own?

20 A. No. No weapon, no firearm, no, sir.

21 Q. And he's fired a shotgun at you?

22 A. Yes, sir.

23 Q. So on this evening you did not fire a weapon at all?

24 A. No, sir.

25 Q. Answer anything Ms. Hodge might have.

**CHRISTOPHER E. MEJEAN - CROSS EXAMINATION BY MS. HODGE**

167

1           **THE COURT:** Solicitor.

2           **MS. HODGE:** Thank you, Your Honor.

3           **Cross Examination by Ms. Hodge:**

4           Q. All right. Mr. Mejean, you and your wife had been  
5 arguing on this day, correct?

6           A. Correct.

7           Q. Okay. And y'all had argued in the recent past and even  
8 probably in the distant past, is that correct?

9           A. Correct.

10          Q. All right. And around June she had moved out for maybe  
11 a couple of weeks, but ended up coming back, is that right?

12          A. Correct.

13          Q. Okay. So just about a month prior to this?

14          A. Yes.

15          Q. Okay. And then on this day you were hanging out with  
16 your friends. I think you said something about getting your  
17 4th of July going early ---

18          A. Yes.

19          Q. --- or something?

20          A. Yes, ma'am.

21          Q. All right. What were y'all drinking?

22          A. Beer, Red Stag liquor 'cause that's what my buddy's  
23 oldest sister, that's what she likes drinking.

24          Q. She likes that?

25          A. Yes.

**CHRISTOPHER E. MEJEAN - CROSS EXAMINATION BY MS. HODGE**

168

1 Q. And you did not want to leave the party when your wife  
2 was ready to go, is ---

3 A. Correct.

4 Q. --- that correct? All right. And she had y'all's kids  
5 with her?

6 A. Correct.

7 Q. Okay. And she went on home, you assumed, I guessing?

8 A. Yes.

9 Q. Okay.

10 A. That's where I told her to go.

11 Q. All right.

12 A. I told her to go home.

13 Q. To go home?

14 A. Um-hum (affirmative).

15 Q. All right. Was she happy about leaving you there or  
16 ...

17 A. No.

18 Q. Did you think, well, my wife's not really happy about  
19 this, I should go with her?

20 A. I didn't -- I wanted to stay where the party was at.

21 Q. Okay. You just wanted to keep partying?

22 A. Yes, ma'am.

23 Q. Whether she liked it or not?

24 A. Yes, ma'am.

25 Q. Okay. And so you come home some point later, you said

**CHRISTOPHER E. MEJEAN - CROSS EXAMINATION BY MS. HODGE**

169

1 big Chad drops you off?

2 A. Yes.

3 Q. Is that correct? Okay.

4 A. His name was Chad Martin, but we always called him big  
5 Chad because he has a son named Chad as well. So we had big  
6 Chad and little Chad.

7 Q. Okay. So he's the one that ends up bringing you back  
8 home. Do you know what time it was when you got back home?

9 A. I don't -- I don't remember what time it was exactly.

10 Q. Okay. Would eleven-ish be fair?

11 A. It would be fair.

12 Q. Okay. All right. And your testimony is that you get  
13 home and notice that your front door is now cracked, which  
14 should not be?

15 A. Correct.

16 Q. Okay. And then you shimmy through the door and get in?

17 A. The door -- once I came in the front door -- I didn't  
18 have to shimmy. It wasn't full shut, but I just walked in.  
19 There wasn't nothing hindering me from getting in the front  
20 door.

21 Q. So the sofa was not there anymore ---

22 A. It was not there, ---

23 Q. --- is your testimony?

24 A. --- no.

25 Q. Okay. And this Frog person that's in there?

**CHRISTOPHER E. MEJEAN - CROSS EXAMINATION BY MS. HODGE**

170

1 A. Yes, ma'am.

2 Q. Frog is who you purchased marijuana from?

3 A. Yes, ma'am.

4 Q. Okay. And he's just at your house for no reason?

5 A. For no reason. About two weeks prior to the incident I  
6 had a party at my house. And I don't even know who all was  
7 there, but I know he was there.

8 Q. Okay. So he's at a party and apparently y'all are cool  
9 and ---

10 A. No, we weren't cool. He just showed up.

11 Q. Okay. Did you tell him to leave or something?

12 A. No.

13 Q. Okay. So he just shows up at your house, but nothing  
14 happens?

15 A. About ninety percent of the people that were there I  
16 didn't even know.

17 Q. Were y'all smoking pot then?

18 A. Yes.

19 Q. Okay. And he's doing some other drugs. What other  
20 drugs is he trying to bring around?

21 A. I knew he was dealing with meth. That's one of the  
22 reasons why I quit messing with him.

23 Q. Okay. But you'd paid up your tab? I mean, you didn't  
24 owe him money, right, for drugs?

25 A. No, I didn't owe him anything.



**CHRISTOPHER E. MEJEAN - CROSS EXAMINATION BY MS. HODGE**

171

1 Q. Okay. So you're saying this Frog just decided to come  
2 to your house, you don't owe him anything, nobody's there,  
3 and there's no party going on, no reason for him to be  
4 there, he just shows up and steals your shotgun?

5 A. Yes, ma'am.

6 Q. Okay.

7 A. Ransacked my house.

8 Q. Just for this shotgun, is that ---

9 A. For anything he can find to sell, my guess.

10 Q. Okay. Well, your muzzleloader gun was still there,  
11 correct?

12 A. Um-hum (affirmative). Correct.

13 Q. Your rifle was actually not there, is that correct?

14 A. No. My rifle was there.

15 Q. Your rifle was there as well?

16 A. Yes, ma'am.

17 Q. So there were two guns ---

18 A. There was three guns.

19 Q. Three guns in the house ---

20 A. Three guns.

21 Q. --- that you're saying the police just totally missed  
22 finding one of your guns?

23 A. Correct.

24 Q. Okay. They found one and they found an empty case.

25 And then they just were totally off the mark and ---

**CHRISTOPHER E. MEJEAN - CROSS EXAMINATION BY MS. HODGE**

172

1 A. I had ---

2 Q. --- missed the rifle?

3 A. Excuse me. I had all three of them in the closet right  
4 next to each other, all in bags.

5 Q. Okay. You didn't have them over at your friend Marcus'  
6 house ---

7 A. No, ma'am.

8 Q. --- in his gun case?

9 A. No, ma'am. It was my gun case that I took over there.  
10 He was ---

11 Q. At his house?

12 A. Yeah.

13 Q. Because you had to keep your guns out of your house for  
14 a while, right?

15 A. Right.

16 Q. Okay. All right. And so now your story is that Frog  
17 just comes in, steals a shotgun and runs out?

18 A. Correct.

19 Q. And as he's running out he's shooting at you?

20 A. Correct.

21 Q. And you don't get hit?

22 A. No.

23 Q. All right. And you chase the man who's shooting at  
24 you?

25 A. Correct.

**CHRISTOPHER E. MEJEAN - CROSS EXAMINATION BY MS. HODGE**

173

- 1 Q. All right. And you go and stand in front of the  
2 Smith's home?
- 3 A. I wasn't standing.
- 4 Q. You weren't standing, you were running ---
- 5 A. Running.
- 6 Q. And he's turning and shooting or ---
- 7 A. Yes.
- 8 Q. Okay. A shotgun?
- 9 A. A shotgun.
- 10 Q. All right. How many rounds can your shotgun hold?
- 11 A. Five in the magazine and one in the chamber.
- 12 Q. All right. Six ---
- 13 A. Six total.
- 14 Q. All right. So if there were more than six, someone  
15 would have to reload?
- 16 A. Yes.
- 17 Q. All right. Okay. And all you're thinking of is you're  
18 just going to chase him?
- 19 A. Correct.
- 20 Q. Just to get this shotgun back?
- 21 A. Correct.
- 22 Q. It's very valuable, you want it.
- 23 A. Yes, ma'am.
- 24 Q. You want to chase this man.
- 25 A. (Affirmative nod).

CHRISTOPHER E. MEJEAN - CROSS EXAMINATION BY MS. HODGE

174

1 Q. All right. And you are stopped momentarily by Mr.

2 Smith?

3 A. Correct.

4 Q. And you're saying that when he asks you what's going

5 on, your response is where's my mother fucking bitch at is

6 about your shotgun?

7 A. Correct.

8 Q. Okay. Is that normally what you call your shotgun?

9 A. No.

10 Q. Okay. Have you probably called your wife that at some

11 point?

12 A. I've called her every name in the book probably.

13 Q. Okay. All right. And so you don't stop to tell him,

14 dude, there's this guy, or I'm sorry I was standing in front

15 of your house when he was shooting at me, or are y'all okay,

16 nothing?

17 A. Nothing.

18 Q. Could care less about them, in fact?

19 A. It wasn't that I didn't care about them because I did

20 care about them. I still do care about them. It was time

21 of the essence.

22 Q. You know how to get in touch with Frog, right? I mean,

23 you did. When you want your drugs, you'd call Frog, right?

24 A. After I quit messing with him, I lost his number.

25 Q. You probably could have found some people that run in

**CHRISTOPHER E. MEJEAN - CROSS EXAMINATION BY MS. HODGE**

175

1 that crowd though that probably could have got you in touch  
2 with Frog?

3 A. Probably.

4 Q. Okay. But you -- your story is that you felt it was  
5 imperative for you to just chase him down that night because  
6 you thought you'd never find him again?

7 A. Correct.

8 Q. Okay. All right. And you are saying or telling this  
9 jury you don't recall calling your wife's cell phone two  
10 times that night?

11 A. No, ma'am.

12 Q. Okay. You recall all this other stuff, correct?

13 A. Yes.

14 Q. But you don't recall that?

15 A. Right.

16 Q. Okay. And let's see here. You just keep running all  
17 night looking for Frog?

18 A. Yes.

19 Q. You're not worried about your wife and your kids at  
20 this point?

21 A. Not at that time, no.

22 Q. Okay. You didn't even know where they were, true?

23 A. I didn't know -- I didn't know where they were.

24 Q. Didn't know and didn't care?

25 A. I cared, but trying to hunt that gentleman down seemed

**CHRISTOPHER E. MEJEAN - CROSS EXAMINATION BY MS. HODGE**

176

1     like more important.

2     Q.    That was more important than wondering where your wife  
3     and children might be?

4     A.    Um-hum (affirmative).

5     Q.    All right. And you did not get arrested until -- would  
6     noon the next day be about right?

7     A.    Correct.

8     Q.    Okay. So all of this incident happening with Frog and  
9     the shooting, it's eleven, 11:30, twelve, would that be a  
10    fair assessment, the night before?

11    A.    That's fair.

12    Q.    Okay. So about twelve hours before the police finally  
13    arrest you?

14    A.    Correct.

15    Q.    Okay. And in those twelve hours you don't think you  
16    needed to call them to talk about this attempted murder on  
17    your life and the stealing of your gun? You don't think  
18    that?

19    A.    I called my wife the next day.

20    Q.    Okay. Did you think that you needed to call the  
21    police, that you were almost murdered by Frog?

22    A.    I didn't think -- (negative nod).

23    Q.    Didn't think ---

24    A.    I didn't think ---

25    Q.    --- that needed to happen?

**CHRISTOPHER E. MEJEAN - CROSS EXAMINATION BY MS. HODGE**

177

1 A. No.

2 Q. Okay. Sounds like a fairly dangerous person if they're  
3 willing to shoot at you with a shotgun, right?

4 A. Correct.

5 Q. Because pointing a shotgun at someone and shooting at  
6 them, that could kill them, right?

7 A. Right.

8 Q. Very dangerous.

9 A. Very dangerous.

10 Q. All right. And so you would not ever point your  
11 shotgun at a person and fire it, would you?

12 A. No.

13 Q. Okay. You wouldn't fire it into someone's home, would  
14 you?

15 A. No.

16 Q. Because that's very dangerous, isn't it?

17 A. Correct.

18 Q. And if you -- I'm not a big hunter or marksman or a gun  
19 person, but what I've always understood, and you tell me if  
20 this is your understanding, if you're going to shoot, you  
21 might need to aim to kill because you don't know what's  
22 coming back on you, right?

23 A. I only kill what I intend to eat.

24 Q. Okay. And to kill something, you just shoot at it,  
25 correct?

**CHRISTOPHER E. MEJEAN - REDIRECT EXAMINATION BY MS. SULLIVAN**

178

1 A. You ...

2 Q. You hope to hit it?

3 A. No. You don't hope. You practice your marksmanship,  
4 you take care of your firearms so they operate ---

5 Q. Work properly.

6 A. --- safely and properly.

7 Q. All right.

8 A. And you aim for where if you do hit them, you hit a  
9 major artery or -- where they don't suffer.

10 Q. All right. To kill them?

11 A. Correct.

12 Q. So when you're shooting your shotgun at something you  
13 are intending to kill it, correct?

14 A. Correct.

15 Q. All right. That's all the questions I have.

16 **MR. SULLIVAN:** Just have one, Your Honor.

17 **Redirect Examination by Mr. Sullivan:**

18 Q. Did you know when you talked to Tee that their house  
19 had been hit by gunfire?

20 A. When I talked to him I didn't know that his house had  
21 been shot.

22 Q. Did he seem fine to you except being upset?

23 A. He seemed fine.

24 Q. Okay.

25 **MR. SULLIVAN:** No further questions, Your Honor.



1           **THE COURT:** Thank you. Anything?

2           **MS. HODGE:** No, Your Honor.

3           **THE COURT:** Thank you. Sir, you may step down. Please  
4 be careful.

5           A. Thank you.

6           **MR. SULLIVAN:** The Defense rests, Your Honor.

7           **THE COURT:** Okay. The Defense has now rested. Let me  
8 see the lawyers at sidebar on this side, please, before we  
9 do this.

10           (Whereupon a bench conference was held off the record  
11 in the presence of the jury, but out of their hearing)

12           **THE COURT:** Madame Forelady and ladies and gentlemen,  
13 I've conferred with the lawyers. The State, I'm sorry, the  
14 Defense has now rested its case, which means it does not  
15 intend to put up any other evidence, any other testimony,  
16 any exhibits whatsoever. They have now rested. I  
17 understand the State is not calling a rebuttal.

18           **MS. HODGE:** That's correct, Your Honor.

19           **THE COURT:** Okay. And the State will not be -- have a  
20 rebuttal witness, which means that all of the testimony and  
21 the evidence that is coming in before you is now in  
22 evidence.

23           Now, there's a couple of matters that I need to take up  
24 outside of your presence. And I've conferred with the  
25 lawyers here. That probably would only take about fifteen

1 or -- no more than twenty minutes, but that's going to put  
2 us very close to five pm. And I don't mind going to about  
3 5:45, but I just hate to give the jury, you, the jury, this  
4 case that late in the afternoon.

5 So I think, and after conferring with them, what we're  
6 going to do is release you now to go home and be back in the  
7 morning at nine am wherever they have you, no later than  
8 nine am. Once again, I will be here just a couple of  
9 minutes after 8:00 like I always am. The lawyers are going  
10 to stay with me this afternoon and we're going to confer on  
11 a couple of matters here but be ready to go at nine so that,  
12 Madame Forelady and ladies and gentlemen, we anticipate that  
13 I will take the bench promptly at nine.

14 We will have all of our little nuts and bolts, I call  
15 that stuff, done and you will then hear closing arguments  
16 from the lawyers and the charge on the law in this case and  
17 then move straight into deliberations. I think that's  
18 probably a much better -- I see some head nodding. So  
19 everybody's agreeing with me. Okay. That's what we're  
20 going to do.

21 Now, having said that, please -- the case is at an end,  
22 you are not free to deliberate, you're not free to discuss  
23 it with a family member, or friend or anyone else. Please  
24 do not try to learn anything, as I told you before, about  
25 this case. I don't know that there would be anything in the

1 newspaper, or radio or television. I've not seen any media  
2 here.

3 But nonetheless, if there is, please ask someone to  
4 hold that for you for another day or so and you can read it  
5 at that point in time. But please do not try to deliberate  
6 this or resolve it in your own mind. It is a collective  
7 decision that must be made by all twelve of you together  
8 while you are together and it must be unanimous, as you  
9 know.

10 And with that, Madame Forelady, we'll let you take your  
11 jury to be released for the evening. Hope you all have a  
12 good evening.

13 (Whereupon the jury exited the courtroom at 4:19 pm)

14 **THE COURT:** Matters from the Defense?

15 **MR. SULLIVAN:** Nothing from the Defense, Your Honor.

16 **THE COURT:** Okay. Matters from the State?

17 **MS. HODGE:** No, Your Honor.

18 **THE COURT:** Okay. Lady and gentleman, I will release  
19 your -- well, I'm going to tell him to follow your  
20 instructions. But if you would join me in chambers, and  
21 also I've got some 403 people, I have extended that courtesy  
22 to you. You're welcome to join us if you'd like to see what  
23 happens in a charge conference. We are going to have a  
24 small charge conference and make sure we have our charge  
25 ready for tomorrow morning.

1           Sir, I'm going to let you stay out and not be  
2 incarcerated, as I told you earlier today, as a courtesy to  
3 your lawyer. He has assured me that you've always been  
4 timely. I'm telling you once again, and I don't mean to be  
5 repetitive, but I am telling you once again that at 9:00  
6 tomorrow morning if that chair is empty, it's empty, but we  
7 will proceed with this trial, and I'll issue a bench  
8 warrant. You understand?

9           **MR. MEJEAN:** Yes, sir.

10          **THE COURT:** Okay. So with that I'm extending that  
11 courtesy to you through your lawyer. And you just -- you be  
12 wherever Mr. Sullivan tells you to be in the morning and  
13 whatever time he tells you to be there, okay?

14          **MR. MEJEAN:** Yes, sir. Thank you.

15          **THE COURT:** Okay. All right.

16          **MR. SULLIVAN:** Thank you, Your Honor.

17          **THE COURT:** You need to talk to him for a minute before  
18 we go back?

19          **MR. SULLIVAN:** Just to tell him what time to be here.

20          **THE COURT:** Okay.

21                 (Whereupon court was in recess at 4:21 pm)

**CLOSING ARGUMENTS - MR. SULLIVAN**

183

1     **Wednesday, June 3, 2015:**

2             (Whereupon court reconvened at 9:21 am)

3             **THE COURT:** Thank you. Please be seated. Good morning  
4 again everyone. We ready for our jury?

5             **MS. HODGE:** Yes, sir.

6             **MR. SULLIVAN:** Defense is ready, Your Honor.

7             **THE COURT:** Okay. All right. Yes, ma'am.

8             (Whereupon the jury entered the courtroom at 9:22 am)

9             **THE COURT:** Good morning, ladies and gentlemen. Madame  
10 Forelady, any matters for the jury?

11            **MADAME FORELADY:** No, Your Honor.

12            **THE COURT:** No matters whatsoever. Okay. Give your  
13 attention to the lawyers.

14            **MR. SULLIVAN:** May it please the Court.

15            **THE COURT:** Yes, sir.

16            **MR. SULLIVAN:** Ms. Hodge, Ms. Bishop. Ladies and  
17 gentlemen, I'm Tim Sullivan. I am defending Eric Mejean in  
18 this case. What I like to do -- I'm not going to talk long  
19 because after a while you're not going to listen to me  
20 anyway. But the biggest thing is I'd like to get out of the  
21 way what we agree on, no use arguing about that.

22            First of all, I'll go back to the first, these people  
23 were neighbors. They were friends. They socialized  
24 together. They ate meals together. In this case they went  
25 swimming together. But these people were friends. There

CLOSING ARGUMENTS - MR. SULLIVAN

184

1 was nothing in the testimony that I recall -- now if I say  
2 something and you recall it different, just say the old man  
3 doesn't remember right.

4 So -- but I don't recall anything that would cause any  
5 animosity up to the point this happened. There was no  
6 arguments between Eric, his wife or the Smiths. Everything  
7 was fine. Eric was at a party. Regina and Melissa had been  
8 swimming with the kids. Everything was fine.

9 We can all pretty much agree that that day was people  
10 partying. Eric was at Marcus' house with a bunch of  
11 friends. They were drinking, like he said, kicking off the  
12 4th of July early. Melissa had the kids. They were tired.  
13 She was ready to get on home. He said, I'm not ready to go  
14 home, you go ahead.

15 Now you heard they've had some problems. She knew that  
16 when he drank he became a little belligerent. So she said  
17 I'm not going home to put up with him. He can go home or he  
18 can stay at Marcus'. I'm going to my cousin's or my  
19 mother's and I'll see him in the morning and everything will  
20 be cool.

21 So at that point she is gone, Eric's at the party.  
22 He's ready to go or they tell him he's ready to go or  
23 whatever. And he told you they were drinking different  
24 things. Then Chad -- now on this night it is raining and  
25 lightning, bad weather. Chad takes him home and drops him

CLOSING ARGUMENTS - MR. SULLIVAN

185

1 off at the end of the roadway.

2 At this point the Smiths and their daughter are asleep.  
3 She was out all day with the kids swimming, you get tired in  
4 the sun, he'd worked all day, came in had a sandwich and  
5 they went to bed. They were fast asleep.

6 They talked about the gravel road traffic out there.  
7 They couldn't -- they didn't hear any traffic because they  
8 were sound asleep and a storm's going on. If there's no  
9 traffic, then obviously he didn't hear Chad drop off Eric.

10 So now we get to the point Eric's home and he goes to  
11 the door, he thinks somebody's in. And at this point --  
12 prior to that, somebody, if this Frog fellow was there, had  
13 to get him there. They had to drop him off just the way  
14 that Eric was dropped off. They didn't hear that because  
15 they didn't hear the car with big Chad.

16 And so we could assume that if Frog was in there,  
17 somebody was waiting somewhere in a car, and the gunshots  
18 starts, he leaves. And the Smiths don't see anything or  
19 hear anything until this gunshot goes through the top of the  
20 trailer and then all hell breaks loose.

21 Now Eric says he got in there and Frog that he knew  
22 from buying marijuana, but he cut him off because Eric got,  
23 I mean, Frog got into the meth stuff. He did not want to  
24 fool with that. That's hard drugs. He worked. He had  
25 children. Didn't want the pot. It's a crime, but that's

CLOSING ARGUMENTS - MR. SULLIVAN

186

1 not what he's charged with. He was being honest.

2 So if you believe that Frog was there and ran out, he's  
3 got a fight, chasing a guy with a shotgun. Why would  
4 somebody -- that is stupid unless you're drunk and you're  
5 not thinking clearly. He's got my shotgun, damn it, I'm  
6 going to get him. I don't think he could shoot me.

7 And he hears the shots start at the back and come  
8 forward. Adam testified, Officer Adam that the shells were  
9 going in different places. So somebody's running and  
10 shooting. If it's Frog, then he's running. He starts  
11 shooting back here. There is some damage to the back door.  
12 When he said he shot at him, he ducked into the shed. He's  
13 running around trying to shoot him. He's running after him.

14 Tee then hears this stuff, comes out with his gun and  
15 says, Eric, what the heck's going on? Did you shoot my  
16 trailer? He says, no. Now if Tee had felt threatened, he  
17 had a gun. And if Eric had approached him in some dangerous  
18 situation, Lord forbid, he could have shot him and been  
19 justified. But that didn't happen. I don't think Tee felt  
20 threatened by him.

21 He said, what the hell are you doing? And he makes the  
22 comment about where is the fucking bitch? Well, everybody  
23 assumes he's talking about his wife. He says he's talking  
24 about his shotgun. You know, that's for y'all to decide.

25 And then he continues chasing this guy. And he's gone



**CLOSING ARGUMENTS - MR. SULLIVAN**

187

1 the rest of the night. Now somebody along the way -- he  
2 doesn't remember. He's not denying it. Somebody called  
3 from the house and called his wife. But I don't know how  
4 that affects this case. He left and then came back the next  
5 day, found Melissa and knew the police were looking for him.

6 Now did he run? No. Stayed at the house. Policeman  
7 drove up. He walked out, I understand you're looking for  
8 me, here I am. He's arrested. There was no flight there,  
9 trying to get away. So I think we can pretty much agree on  
10 there's no animosity here. He's not egregious here to these  
11 people.

12 Now if you believe -- you're going to have a lot of  
13 verdict forms here. You're going to have attempted murder.  
14 And on that, you're going to have it on all three people.  
15 But I think if you decide it was it's going to affect all of  
16 them.

17 On that you can find -- if you believe that Frog did  
18 this, then you find him not guilty. That's the end of the  
19 case. If you think Eric did it, then you've got to go to  
20 the next step. Did he have the specific intent to kill  
21 somebody? This is very important.

22 If this were a murder case and somebody had been  
23 killed, you'd go to the fact was it a plan, was it a  
24 specific intent to kill somebody? If it's not, you go to  
25 manslaughter. That's why we have a manslaughter charge.

CLOSING ARGUMENTS - MR. SULLIVAN

188

1           In this case the lawyers -- if somebody shoots through  
2   a house like this and the jury doesn't think he intended to  
3   kill somebody, that is still reckless and stupid, but we  
4   can't just let him walk because he didn't intend to kill  
5   somebody, then he's not guilty of the attempted murder, but  
6   we can't let him go. Let's drop it down and get him for  
7   something. So you drop down to reckless endangerment,  
8   disregard for life. You can't do that either. So if you  
9   think he is out there just looking for his wife and his  
10   hat's off and just shooting, here's how you consider this.

11           Now I think it's important to this case as far as  
12   specific intent. And Ms. Hodge brought it out very well.  
13   Eric is a hunter. Has been all his life. Has different  
14   weapons for different animals, turkey, deer. Whether you  
15   agree with hunting or not, a lot of people do it. If you  
16   shoot you make sure you try and hit them where they won't  
17   suffer. So he was an experienced hunter. He knew how to  
18   shoot.

19           If he was going to try and shoot them, there wouldn't  
20   have been nothing to talk -- he'd been along the level of  
21   where he thinks they were. Now if you think he's drunk and  
22   just being reckless, then that's not attempted murder. But  
23   here is an experienced hunter. If he'd intended to kill  
24   somebody, he's aiming somewhere.

25           But here are shots starting in the backyard. Officer

CLOSING ARGUMENTS - MR. SULLIVAN

189

1 Adam says they could all been fired at the same time. We  
2 have a disagreement on who heard how many shots. Eric has  
3 some. Tee heard some. There were some pistol fire from  
4 Tee. And all these shots were found laying around the yard  
5 starting in the back and coming out this way.

6 So if you find that Frog didn't do it and actually it  
7 was Eric, I think you'd find he was drunk and reckless.  
8 Like I say, an experienced hunter. If he intended to kill  
9 -- why? They were friends. They'd been together that day.  
10 Why would he come home all of a sudden and want to kill this  
11 man, his wife and his kid? That does not make sense.

12 And what he did, if he did it, was totally stupid and  
13 totally disregard. And he -- you can punish him for that by  
14 finding him guilty of the lesser offense of assault and  
15 battery, high and aggravated. Then there's another charge  
16 below that, which I don't think you'll get to, but you'll  
17 have three different and then variations on each one of  
18 those.

19 But go back and think, they're friends, he's an  
20 experienced hunter. Did he try and shoot somebody or is he  
21 just drunk and reckless? That's going to be the question  
22 you have to answer.

23 I'm sure Ms. Hodge will -- she's a very good lawyer.  
24 She's going to bring out some points that are going to try  
25 and point you to the murder case. I can't stop her. You've

**CLOSING ARGUMENTS - MS. HODGE**

190

1 heard what I said. You can consider that or you can --  
2 please listen to Ms. Hodge. Think about everything.

3 Who could get there in a car? Who could leave? Frog  
4 could have gotten there. They couldn't hear it. They  
5 didn't hear Chad come up. We don't know. And really I'm  
6 not sure anybody really knows what happened because if Eric  
7 was that drunk I'm not sure he knows what -- he may have  
8 really thought this. He may have had a black out thing and  
9 he left and stayed out all night. That doesn't make sense.

10 But if you try to kill somebody you don't go back to  
11 your house and wait on the police. So you don't really know  
12 what happened. You come up, we think he shot the trailer.  
13 I couldn't have done that. So friendship, no reason to kill  
14 them, stupid. Unfortunately stupid can get you put in jail.  
15 It can cause a conviction.

16 So if you look at it like that -- I'm not going to talk  
17 to you anymore. You know the case. You've heard it. It's  
18 just a matter of what was in his mind. Did he intend to  
19 kill his friends? It's up to you. Thank you.

20 **THE COURT:** Solicitor.

21 **MS. HODGE:** Thank you, Your Honor. May it please the  
22 Court.

23 **THE COURT:** Yes, ma'am.

24 **MS. HODGE:** Mr. Sullivan. Well, you are about to do  
25 the job that you were selected to do in this case, which is

**CLOSING ARGUMENTS - MS. HODGE**

191

1 reach a verdict. And to do that you're going to need some  
2 tools just like to do any job. Your main tool is going to  
3 be like Mr. Sullivan just stated, for you to figure out what  
4 happened here you're going to need the facts. That's your  
5 first tool. What happened?

6 Then you're going to need to have the law. Did what  
7 happen break the law? And the Judge is going to give you  
8 the law.

9 So your third most important tool, the way you're going  
10 to figure out what happened and was the law broken is with  
11 your common sense. That's why we have juries comprised of  
12 all kinds of people from our community that make big  
13 decisions every day that discern truth from false, that  
14 figure out best choices, worst choices, just use your common  
15 sense. And this case is exactly the type of case that needs  
16 good old fashion common sense.

17 Common sense tells you who's telling the truth and  
18 who's lying. And you do that all day long in your regular  
19 life. Now there are people that you love and trust and  
20 you're probably not mentally checking off if they're telling  
21 you the truth or not because you've already got a trust  
22 relationship with them.

23 But here in this courtroom, you've never seen these  
24 people. You've never heard from these people. So you're  
25 doing this internally thinking to yourself do I believe what

**CLOSING ARGUMENTS - MS. HODGE**

192

1 they're saying because we have two totally different  
2 stories?

3 There's some coming together on what they can't change,  
4 which is physical evidence and the testimony from the people  
5 that have no ax to grind. So they're going to have to, the  
6 Defense is going to have to manipulate a story that can  
7 incorporate all of that but be totally separate from what  
8 the State presents is the truth.

9 So you've got to figure out which one of these am I  
10 believing? Because if you believe the Defendant's story,  
11 then you just have to stop right there, he's not guilty.  
12 Frog did this. But if you've got some questions about that,  
13 you're going through your mental checklist.

14 Well, number one, you're listening to the testimony and  
15 saying is what this person's telling me making sense? Is it  
16 logical? Is it reasonable? Is it plausible, possible? All  
17 of those things you're listening to the story on, I don't  
18 think that makes any sense, right? That's what you do in  
19 day-to-day life, normal life. So you're checking the  
20 content of what's being told to you.

21 You're also looking at the consistency of what's being  
22 told to you. Is that story consistent throughout? Did the  
23 Smiths tell you a consistent story? Did they tell the  
24 police that same consistent story? And is what they said  
25 consistent with what the physical evidence shows?

**CLOSING ARGUMENTS - MS. HODGE**

193

1 Absolutely.

2 The Defendant's version, is it reasonable, practical,  
3 plausible? Is it consistent with what the police have said?  
4 There's been no claim of some Frog breaking in and  
5 attempting to murder Mr. Mejean. It's not consistent. Is  
6 it somewhat consistent with the evidence that the State  
7 presents? Yes, because they had to fabricate a story to  
8 match things that can't be changed.

9 The third thing you do when you're trying to see if  
10 somebody's telling you the truth is you look or you think  
11 about the motivation behind the person telling you what  
12 they're telling you. Why are they saying this? Who's got  
13 something to gain? Who's got something to lose? Whose  
14 life's going to be different tomorrow?

15 I submit to you the only person in this entire case  
16 whose life's going to change tomorrow is the Defendant's.  
17 Mr. and Mrs. Smith, Officer Davis, the State, the Judge, Mr.  
18 Sullivan, you guys, your lives are all basically going to be  
19 the same tomorrow. You'll have this experience under your  
20 belt, but nothing's really going to change. But Mr. Mejean  
21 has a lot on the line.

22 So he has a lot of motivation to tell you a bunch of  
23 bunk, to get himself out of trouble, to escape  
24 responsibility. So it wouldn't be past him or beyond him to  
25 want to make up this story, to absolve himself of that. So

**CLOSING ARGUMENTS - MS. HODGE**

194

1 as you're listening to the testimony or you were listening  
2 and you go back in the room and you start discussing  
3 people's testimony, I'm sure those will be things that  
4 you'll be thinking through and determining what's truth and  
5 what's not here.

6 Verdict means -- well, in Latin verdict comes from the  
7 Latin word veredicto. And it means to speak the truth. So  
8 your verdict needs to speak the truth about what happened in  
9 this case.

10 How do we know what happened in this case? Well, we  
11 look at the State's evidence. The Smiths do not have any ax  
12 to grind against Mr. Mejean prior to this. They are  
13 sleeping in their home with their child. They are awoken by  
14 gunshots. And as I said in my opening, there by the grace  
15 of God were they not hurt or killed.

16 I want you to -- and, again, as I've said numerous  
17 times in this case, I'm not a big hunter or firearms person,  
18 but State's number 58, which was the main slug that came off  
19 of the kitchen floor, if you've never seen this or held one  
20 of these before, this could do some serious damage to a  
21 human being. This came through their kitchen drawer.

22 What if one of them was standing there getting a drink  
23 of water? What if their little girl had walked through  
24 there? They'd be dead. That would be a murder case. Why  
25 would it be a murder case? Because the Defendant acted with



**CLOSING ARGUMENTS - MS. HODGE**

195

1 reckless disregard for the life of another human being  
2 purposely, wilfully, intentionally. That's why it would be  
3 a murder case.

4 And the fact that it didn't happen doesn't take that  
5 away. The fact that it didn't happen is, again, by the  
6 grace of God nobody died from these shots. But the  
7 intention was there to shoot into a home where you knew  
8 people lived and were probably sleeping, but could have been  
9 awake.

10 Why else would you take your shotgun and fire it three  
11 times into a person's home if you did not intend them harm?  
12 If you were not totally disregarding their lives and safety?  
13 You wouldn't. Especially if you were a gun person and you  
14 know and you are very well versed in what guns can do and  
15 how to properly use them and not use them. You would not  
16 point them at someone's home and shoot into the home. Even  
17 the Defendant admitted that. That would be dangerous. That  
18 could kill somebody.

19 So now we go back to how do we know the Defendant did  
20 this? Well, this is where your common sense comes in. This  
21 is a piece of property that about five people live on,  
22 various trailers. Defendant and his wife had -- was at this  
23 party, they've had a history of arguing and you even heard  
24 him say the front door was broken because they got into a  
25 fight. So they probably had a volatile relationship.

**CLOSING ARGUMENTS - MS. HODGE**

196

1           She had left him about two weeks prior to this. She'd  
2    come back. Now he's getting his 4th of July weekend started  
3    early, drinking beer, drinking liquor, just doing his own  
4    thing. And you heard him say he didn't care that his wife  
5    didn't want to stay. He didn't care. He wanted to get his  
6    party on. So that shows you a little bit into the mind-set  
7    of the Defendant.

8           And he goes home to find no wife. She says, I never  
9    called him to tell him. I was out of there because I don't  
10   like the way he is when he's drinking. I wonder why. These  
11   are things for you to consider. You think he got home and  
12   he got mad, where's my wife, for the nice word, as he's  
13   looking through his house, he's tearing stuff up.

14          I submit to you he's probably looking for things like  
15   this, State's number 67, the Winchester buckshot. Let's  
16   see, probably not the buckshot, but the rifle slug, which  
17   are empty because we've got, let's see, about eight over  
18   here, nine if you consider State's number 60, which was the  
19   one the officer actually picked up and put on the back of  
20   his trunk.

21          So you guys are going to have these back in the jury  
22   room with you to look at. I submit that this one that the  
23   officer found in the driveway and put on the back of his  
24   vehicle looks a lot different than the others. Its color  
25   has changed some. It looks maybe a little bit older or

**CLOSING ARGUMENTS - MS. HODGE**

197

1 dirtier, but nonetheless it was still on top of the ground  
2 and not down into the debris like the officer said.

3 These three came from the front yard of the victims'  
4 house. And they just so happen to match these over at the  
5 Defendant's area by his storage shed, all of these, and then  
6 just so happened to match the ammunition still in the  
7 storage shed, and just so happened to match the ammunition  
8 inside of his house. These are all very coincidental  
9 things, if you will. Or common sense tells you the  
10 Defendant loaded his gun, grabbed his left over ammo, stuck  
11 it in his pocket and started going off looking for his  
12 mother fucking bitch, not his shotgun, his wife, which he  
13 admitted he's called her that and numerous other things in  
14 the past.

15 I think that you can put this together with the fact  
16 that the victim's wife and the Defendant's wife were really  
17 good friends. Maybe she was a sympathizer when they got  
18 into arguments. Maybe she'd go to that house. We don't  
19 know. That part we don't know because we don't know what's  
20 going on in the Defendant's mind, but we know that he has  
21 been drinking, that he's been fighting with his wife and he  
22 shows up, that he's got a shotgun -- plenty of shotgun  
23 shells and that he's the only person seen at this residence  
24 on this night and that he is in a foul mood.

25 He doesn't stick around to say anything about some guy

**CLOSING ARGUMENTS - MS. HODGE**

198

1 breaking in and shooting at him. In fact, he wants to tell  
2 you that he was shot at through the door by this person. 52  
3 and 53, the front door and the back door of the Defendant's  
4 residence. Take a look at these. See if you see any things  
5 that resemble what happened over at the victims' house. Is  
6 there anything in there because you would see a hole that  
7 looked very similar to -- well, if there was birdshot it  
8 would look like this. It's not in these pictures.

9 Or if he was shot with slugs, it would look like this.  
10 Pretty big holes. Nothing small. It's not a pistol shot.  
11 You're not going to see that at his home. Why? Because it  
12 didn't happen. It's not the truth.

13 I submit to you once you review the State's evidence,  
14 the Defendant's testimony, you go through your mental  
15 checklist of what's true, what's believable, what's  
16 rational, what is consistent, what the motivation behind  
17 each witness' testimony is you will be able to reach a  
18 verdict that speaks the truth. And I believe that verdict  
19 will be guilty of attempted murder.

20 Mr. Sullivan has harked on to you the fact that he  
21 didn't have the specific intent to kill these people. Well,  
22 if he didn't, then why would he take his shotgun and point  
23 it straight in their homes and fire? Why? Just because  
24 he's being stupid? Maybe.

25 Maybe he was being stupid, stupid and didn't care if he

**CHARGE OF THE COURT**

199

1 killed somebody. That still shows malice, and recklessness  
2 and intent to harm. And he might be a good shot, but maybe  
3 not after how many odd beers and some Red Stag liquor and  
4 something else.

5 So just because nothing bad happened, there by the  
6 grace of God does not mean he did not intend for it to  
7 happen. And, again, I submit that the Defendant should be  
8 found guilty of attempted murder on all three counts. Thank  
9 you.

10 **THE COURT:** Thank you. Madame Forelady and ladies and  
11 gentlemen of the jury, you have seen and heard the evidence  
12 presented as well as the arguments of counsel. And it is  
13 now my duty and obligation to instruct you on the law that  
14 is applicable to this case. It will then be your solemn  
15 duty and obligation to begin your deliberations through  
16 which process you will decide the facts, apply the law as I  
17 instruct it and render a fair and impartial decision.

18 It is your exclusive duty to determine what the facts  
19 are in this case. You do that based on your own common  
20 sense, examination and evaluation of the testimony and other  
21 evidence received during the trial. You twelve jurors alone  
22 will decide what effect, value and weight is to be given to  
23 any particular testimony or other evidence received.

24 Quite simply, ladies and gentlemen, your ultimate goal  
25 is to find the truth in this case. And by doing so you will

**CHARGE OF THE COURT**

200

1 fulfill your obligations as jurors in giving both the State  
2 and the Defendant a fair and impartial trial based on the  
3 evidence presented and the law as I charge you.

4 The indictments in this case charge the Defendant with  
5 three counts of attempted murder. I'll remind you that the  
6 fact he was arrested, charged and indicted is not evidence  
7 in the case and cannot be considered by you as evidence of  
8 his guilt, nor does it create any presumption or inference  
9 of guilt. The documents themselves are simply the formal  
10 written instruments which contain the charges made against  
11 him and bring the case before the Court.

12 The Defendant has pled not guilty to the three  
13 indictments. And that plea puts the burden on the State of  
14 South Carolina to prove him guilty beyond a reasonable  
15 doubt. A person charged with committing an offense, a  
16 criminal offense in South Carolina is never required to  
17 prove himself innocent, rather, the burden remains at all  
18 times on the State of South Carolina to prove him guilty  
19 beyond a reasonable doubt.

20 I charge you that it is a cardinal, important and vital  
21 rule of law that in a criminal trial, no matter what the  
22 seriousness of the charge may be for which he stands  
23 charged, the Defendant will always be presumed to be  
24 innocent of the crime for which the indictment was issued  
25 unless guilt has been proven by the State satisfying you of

**CHARGE OF THE COURT**

201

1     that guilt beyond a reasonable doubt. The presumption of  
2     innocence does not end when you begin your deliberations,  
3     but it accompanies him throughout the trial until you reach  
4     a verdict of guilt based on evidence satisfying you of that  
5     guilt beyond a reasonable doubt.

6             The presumption of innocence is like a robe of  
7     innocence placed about the shoulders of the Defendant, which  
8     remains with him from the moment of his arrest and continues  
9     until it has been stripped from his shoulders by evidence  
10    satisfying you of his guilt beyond a reasonable doubt. The  
11    presumption of innocence is not a mere legal theory, nor is  
12    it a legal phrase, but it is a substantial right to which  
13    every defendant is entitled unless you twelve jurors are  
14    satisfied from the evidence of his guilt beyond a reasonable  
15    doubt.

16            I remind you that during the trial you and I have  
17    certain duties to perform. As the trial judge it is my  
18    responsibility to preside over the trial, and I also have  
19    the duty to rule on admissibility of evidence offered during  
20    the trial. You are to consider only the competent evidence  
21    before you. You are to consider only the testimony which  
22    has been presented from the witness stand and any exhibits  
23    which have been made a part of the record and any  
24    stipulations of counsel.

25            I have the additional duty to charge you the law in

**CHARGE OF THE COURT**

202

1     this case. And as the Judge, I am the sole judge of the law  
2     in this case and it is your duty as jurors to accept it and  
3     apply it as I now state it to you. If you have any  
4     preconceived idea as to what the law is, or what the law  
5     ought to be, or what the law should be, you must set it  
6     aside at this time and follow the law as I instruct it.

7             In every case tried in this court before a jury, you  
8     twelve jurors alone become the sole judge of the facts in a  
9     case. A trial judge cannot state, comment on or make any  
10    statement to a trial jury about a fact in this case. You,  
11    the jury, are the sole judge of the facts and you are not to  
12    infer from anything that I have said during the progress of  
13    this trial in ruling on the admissibility of evidence or  
14    otherwise or anything that I say now during my instructions  
15    that I have an opinion about the facts in this case.

16            The law of the State of South Carolina does not allow  
17    me to have an opinion about the facts in this case. You  
18    twelve jurors alone are the judge of the facts in this case.  
19    And it is your duty to determine what effect, value, weight  
20    and truth of the evidence presented to you during this  
21    trial.

22            The State has the burden of proving the Defendant  
23    guilty beyond a reasonable doubt. Ladies and gentlemen,  
24    proof beyond a reasonable doubt is proof that leaves you  
25    firmly convinced of the Defendant's guilt. There are very



**CHARGE OF THE COURT**

203

1 few things in this world that we know with absolute  
2 certainty. And in criminal cases the law does not require  
3 proof that overcomes every possible doubt.

4 A reasonable doubt may also be described as the kind of  
5 doubt that would cause a reasonable person to hesitate to  
6 act. If you have such a doubt as to the guilt of the  
7 Defendant, then he is entitled to a verdict of not guilty.  
8 Reasonable doubt may arise from evidence which is in the  
9 case or from the absence or lack of evidence in a case.

10 Based on your consideration of the evidence if you are  
11 firmly convinced that he is guilty of the crime charged, you  
12 must find him guilty. On the other hand, if you think  
13 there's a real possibility that he is not guilty, you must  
14 give him the benefit of that doubt and find him not guilty.  
15 You twelve jurors alone must make the determination of  
16 whether or not reasonable doubt exists as to the guilt of  
17 the Defendant.

18 There are two types of evidence which are generally  
19 presented during a trial, that's direct evidence and  
20 circumstantial evidence. Direct evidence is testimony of a  
21 person who claims to have actual knowledge of a fact such as  
22 an eyewitness. It is evidence which immediately establishes  
23 the main fact to be proved.

24 Circumstantial evidence is proof of a chain of facts  
25 and circumstances indicating the existence of a fact. It is

**CHARGE OF THE COURT**

204

1 evidence which immediately establishes collateral facts from  
2 which the main fact may be inferred. Circumstantial  
3 evidence is based on inference and not on personal knowledge  
4 or observation.

5 I tell you that the law makes absolutely no distinction  
6 between the weight or value to be given to either direct or  
7 circumstantial evidence, nor is a greater degree of  
8 certainty required of circumstantial evidence than of direct  
9 evidence. You twelve jurors should weigh all of the  
10 evidence in the case, and after doing so if you are not  
11 convinced of his guilt beyond a reasonable doubt, you must  
12 find him not guilty.

13 Under the Constitution of South Carolina you are the  
14 finders of the facts in this case, and necessarily you must  
15 determine the credibility of the witnesses who have  
16 testified. Credibility simply means believability. It  
17 becomes your duty as jurors to analyze and to evaluate the  
18 evidence and determine which evidence convinces you of its  
19 truth.

20 In determining believability of a witness who may have  
21 testified you may believe one witness over several or  
22 several over one. You may believe a part of a witness'  
23 testimony and reject the remaining testimony of that very  
24 same witness. You may believe the testimony of a witness in  
25 its entirety or you may reject the testimony of a witness in

**CHARGE OF THE COURT**

205

1 its entirety.

2 You may consider whether any witness has exhibited to  
3 you any interest, bias, prejudice or other motive in this  
4 case. And you also may consider the appearance and manner  
5 of a witness while on the witness stand.

6 You may consider how the witness came to know the facts  
7 to which he or she testified and whether or not the witness  
8 had an opportunity to hear, observe or perceive a fact by  
9 means of their senses. I tell you, ladies and gentlemen,  
10 that whatever your good judgment and common sense tells you  
11 is the most believable testimony is the testimony that you  
12 should accept and reject the testimony that you find not to  
13 be credible or believable.

14 Criminal intent is a necessary element of each crime  
15 that must be proved by the State beyond a reasonable doubt.  
16 Criminal intent is always a matter that must be determined  
17 by you, the jury, from the circumstances surrounding the  
18 situation.

19 There is no way to prove intent within a -- to a  
20 mathematical certainty. There's no way medical science can  
21 dissect a person's brain and determine what he had in mind.  
22 So the law says that criminal intent may be inferred from  
23 the circumstances shown to have existed. And this is how a  
24 jury makes a determination of whether or not the element  
25 requiring intent was present.

**CHARGE OF THE COURT**

206

1 Criminal intent is a state of mind which operated  
2 jointly with an act is the commission of a crime. Criminal  
3 intent is a state of mind, a conscious wrong-doing.

4 So it is up to you, the jury, to determine what the  
5 Defendant intended to do based on the circumstances shown to  
6 have existed. I tell you that the State must prove criminal  
7 intent beyond a reasonable doubt just as the State must  
8 prove every element beyond a reasonable doubt as I've  
9 previously explained.

10 It is not necessary to establish intent by direct and  
11 positive evidence, but intent may be established by  
12 inference in the same way as any other fact by taking into  
13 consideration the acts of the parties and all the facts and  
14 the circumstances in this case. While the State may prove  
15 motive, it is unnecessary to do so, but the State must prove  
16 intent.

17 I have instructed you and told you earlier that the  
18 Defendant is charged with three counts of attempted murder,  
19 specifically that Christopher Eric Mejean did in Greenville  
20 County, South Carolina on or about July 2, 2012 unlawfully  
21 with malice aforethought and with the intent to kill,  
22 attempt to kill Tee Smith, Regina Smith and A.S., a minor  
23 child belonging to Mr. and Mrs. Smith all in violation of  
24 South Carolina law. Particularly section 16-3-29 states a  
25 person who with intent to kill attempts to kill another

**CHARGE OF THE COURT**

207

1 person with malice aforethought, either express or implied,  
2 commits the offense of attempted murder.

3 Malice is hatred, ill will or hostility towards another  
4 person. It is the intentional doing of a wrongful act  
5 without just cause or excuse and with the intent to inflict  
6 an injury or under circumstances that the law will infer an  
7 evil intent.

8 Malice aforethought does not require that malice exist  
9 for any particular time before the act is committed, but  
10 malice must exist in the mind of the Defendant just before  
11 and at the time of the act committed. Therefore, there must  
12 be a combination of the previous evil intent and the act.

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

18 Express malice is shown when a person speaks words  
19 which express hatred or ill will for another or when the  
20 person prepared beforehand to do the act which was later  
21 accomplished. For example, lying in wait for a person or  
22 any other act of preparation going to show that the deed was  
23 within the Defendant's mind would be express malice.

24 Malice may be inferred from conduct showing a total  
25 disregard for human life. An attempt is an effort to

**CHARGE OF THE COURT**

208

1 accomplish a crime which does not succeed. An attempt  
2 includes a specific intent to do a particular criminal act  
3 along with an act falling short of the act intended. The  
4 State must show more than mere preparation and intent.  
5 There must be some overt act committed in the effort to  
6 commit the crime.

7 Intent means intending the result which actually  
8 occurs, not accidentally or involuntarily. Intent may be  
9 shown by acts and conduct of the Defendant and other  
10 circumstances from which you may naturally and reasonably  
11 infer intent.

12 To prove attempted murder the State must prove beyond a  
13 reasonable doubt that the Defendant attempted to kill  
14 another person with malice aforethought. Should you find  
15 that the State has not proved all elements of attempted  
16 murder beyond a reasonable doubt, you may consider the  
17 lesser included offense of assault and battery of a high and  
18 aggravated nature.

19 Assault and battery of a high and aggravated nature is  
20 defined as the lesser -- it is defined as a lesser included  
21 offense of attempted murder by State law. To prove assault  
22 and battery of a high and aggravated nature the State must  
23 first prove beyond a reasonable doubt that the Defendant  
24 unlawfully injured another person.

25 Next, the State must prove beyond a reasonable doubt

**CHARGE OF THE COURT**

209

1     that either great bodily injury resulted or that the act was  
2     accomplished by means likely to produce death or great  
3     bodily injury. Great bodily injury is defined as bodily  
4     injury which causes a substantial risk of death or which  
5     causes serious permanent disfigurement or protracted loss or  
6     impairment of the function of a bodily member or organ.

7             Should you find that the State has not proven all  
8     elements of assault and battery of a high and aggravated  
9     nature beyond a reasonable doubt, you may consider the  
10    lesser included offense of assault and battery in the first  
11    degree. A person commits assault and battery in the first  
12    degree if the person unlawfully offers or attempts to injure  
13    another person with the present ability to do so and the act  
14    is accomplished by means likely to produce death or great  
15    bodily injury.

16            Assault and battery in the first degree is a lesser  
17    included offense of assault and battery of a high and  
18    aggravated nature as defined by State law. To prove assault  
19    and battery in the first degree the State must prove beyond  
20    a reasonable doubt that the Defendant offered or attempted  
21    to injure another with the present ability to do so and the  
22    act was accomplished by means likely to produce death or  
23    great bodily injury. Great bodily injury is defined as  
24    bodily injury which causes a substantial risk of death or  
25    which causes serious permanent disfigurement or protracted

**CHARGE OF THE COURT**

210

1    loss or impairment of the function of a bodily member or  
2    organ.

3            Now, ladies and gentlemen, you have been selected as  
4    fair and impartial jurors sworn to impartially try and  
5    determine the facts of this case. You are to decide this  
6    case according to the testimony that you have heard from the  
7    sworn witnesses along with all of the evidence introduced in  
8    the case.

9            Now, Madame Forelady, ladies and gentlemen, your  
10   verdict must be a unanimous verdict. Madame Forelady, when  
11   the jury agrees on the verdict, you will indicate your  
12   verdict in a space provided on a verdict form, which I'm  
13   going to explain next, sign your name as the Forelady of the  
14   jury, then knock on the jury room door and inform a bailiff  
15   that you have reached a verdict. At that time we will  
16   return you to the courtroom and receive your verdict.

17           I tell you that you all must be -- I tell you that  
18   during your deliberations you may only discuss the case in  
19   the jury room with your fellow jurors present because they  
20   have seen and heard the same evidence that you have seen and  
21   heard. However, you must not discuss the case with anyone  
22   else until you have returned a verdict.

23           Now, Madame Forelady, ladies and gentlemen, if someone  
24   needs to use the facilities, if someone gets up and leaves  
25   the room for whatever reason, whatever reason that might be,



**CHARGE OF THE COURT**

211

1 at that point you must suspend your deliberations until that  
2 person rejoins the group. There again, all twelve must be  
3 present and participating, even if they're listening, but  
4 all twelve must be together during your deliberations. And  
5 at any time if anyone leaves the room to use the facility to  
6 refresh themselves, please suspend your deliberations until  
7 that person returns.

8 Now, Madame Forelady, these three forms are what's  
9 referred to as the jury verdict form. This is a form that I  
10 create and I use it in every case. It has the caption of  
11 the case, the State of South Carolina, the County of  
12 Greenville and the case number and the case. It's just to  
13 tie this form to this particular case.

14 There are three of them because there are three  
15 separate and distinct offenses charged. There's attempted  
16 murder charged on three different people. So we had one  
17 trial, but there are three people involved, three counts,  
18 okay? All right. Three different indictments. And you  
19 will see that listed up here because it has three different  
20 numbers.

21 Now, question number one, we, the jury, unanimously  
22 find the Defendant, Christopher Eric Mejean, on the charge  
23 of attempted murder as to, and I'm not going to read all  
24 three of them, but this one just happens to have the minor  
25 child on it, but there's one for the minor child, there's

**CHARGE OF THE COURT**

212

1 one for Mr. Smith, there's one for Mrs. Smith. They're  
2 exactly alike.

3 We, the jury, unanimously find the Defendant on the  
4 charge of attempted murder as to the Defendant not guilty or  
5 guilty. There is absolutely no significance to the fact  
6 that not guilty is first and guilty is second. It merely  
7 means that one necessarily has to be put before the other.  
8 This form I use in every trial that I do, every criminal  
9 trial I do.

10 If you answer guilty to the question number one, you  
11 stop here. And it says to do that right here. It says if  
12 you answered not guilty, then please answer the following  
13 questions. So if you answer guilty to question number one,  
14 you then proceed to question number two.

15 Question number two says we, the jury, unanimously find  
16 the Defendant, Christopher Eric Mejean, on the charge of  
17 assault and battery of a high and aggravated nature as to  
18 the minor child, A.S., either not guilty or guilty. The  
19 instructions say that if you answer guilty to question  
20 number two, you stop here. Do not proceed to question  
21 three.

22 If, however, you answer not guilty, and it says that,  
23 to question number two, please answer the following  
24 question. And the following question is we, the jury,  
25 unanimously find the Defendant on the charge of assault and

CHARGE OF THE COURT

213

1 battery in the first degree as to the minor child either not  
2 guilty or guilty. And then, Madame Forelady, it says I  
3 certify this decision was a unanimous decision of the jury,  
4 a place for the Forelady to sign, and it has today's date  
5 and Greenville, South Carolina on it.

6 Now, I want to be clear, Madame Forelady, that you can  
7 find guilty or not guilty on separate and distinct charges,  
8 okay? You can find guilty on one, not guilty on two. You  
9 can find not guilty on all three. You can find guilty on  
10 all three. It is entirely within the province of the jury's  
11 discretion. But there is a separate and distinct jury form  
12 for each person, okay? All right.

13 Madame Forelady, I'm going to ask you here in just  
14 about twenty seconds to take your jury back to the jury  
15 room. Do not begin your deliberations when you get there.  
16 I'm sending all thirteen jurors there.

17 It's going to take about five or six minutes, all of  
18 these pieces of evidence belong to you, the jury. They've  
19 been introduced. They are yours to look at. And they will  
20 be in your jury room with you.

21 I'm going to ask the lawyers to come forward as soon as  
22 you leave the room. My court reporter has a list up here of  
23 every one of those, and they're going to verify that  
24 everything is here.

25 And the reason for that, quite honestly, is, and I

**CHARGE OF THE COURT**

214

1     practiced law for twenty-five years before taking this job,  
2     is lawyers are notorious for picking up an exhibit. We do  
3     it accidentally. And then we talk to a witness about it,  
4     and then we walk over and put it back on our table, and it  
5     gets closed up at the end of the day. Nobody means to do  
6     it, it's just accidents happen, okay? I want to make sure  
7     that all of the exhibits are here.

8             So I'm going to ask the lawyers to come forward and  
9     they are going to make sure that all of the exhibits are  
10    here. And once they are satisfied that they are there, the  
11    bailiff is going to bring you or bailiffs are going to bring  
12    you all of the exhibits with these three forms.

13            When you receive these three forms, Mr. Alternate, you  
14    will leave with that bailiff. When the bailiff brings the  
15    evidence and these three forms, that is the signal to Madame  
16    Forelady and the jury to begin their deliberations. Mr.  
17    Alternate, you will then leave the room. It's not proper  
18    for you to be there.

19            So you would leave at that point. And they will have a  
20    separate and distinct place segregating you from anyone  
21    else. In the event we were to have some emergency, then you  
22    would replace that juror and join the panel, okay? All  
23    right. Madame Forelady, at this time will you take the jury  
24    out, but do not begin deliberations.

25            (Whereupon the jury exited the courtroom at 10:07 am)

CHARGE OF THE COURT

215

1           **THE COURT:** Exceptions from the State?

2           **MS. HODGE:** None from the State, Your Honor.

3           **THE COURT:** From the Defense?

4           **MR. SULLIVAN:** I may have not caught it, but I don't  
5 recall you telling them if they have a question as to the  
6 bigger offense or the lesser, you have to resolve that in  
7 his favor and go to the lesser.

8           **THE COURT:** I don't think I said that. All right.

9 Tell the bailiff to bring ---

10          **MR. SULLIVAN:** And I didn't have a copy. I should  
11 have. I would have caught that before we started. I hate  
12 to create a problem, but I think that's important in this  
13 case.

14          (Whereupon the jury entered the courtroom at 10:10 am)

15          **THE COURT:** Madame Forelady, ladies and gentlemen, this  
16 is my bad, I neglected to make one comment. In the event  
17 that you have a doubt as to whether or not the Defendant  
18 created -- committed the greater offense versus a lesser  
19 offense, you must resolve that in his favor. All right.  
20 Thank you. Take the jury out, please.

21          (Whereupon the jury exited the courtroom at 10:11 am)

22          **THE COURT:** Exceptions from the State?

23          **MS. HODGE:** No, sir.

24          **THE COURT:** From the Defense?

25          **MR. SULLIVAN:** Nothing, Your Honor.

1           **THE COURT:** All right.

2           (Pause)

3           **THE COURT:** Everything there?

4           **MS. HODGE:** Yes, sir.

5           **THE COURT:** Okay.

6           (Whereupon the jury began deliberating at 10:19 am)

7           (Whereupon court was in recess at 10:19 am)

8           (Whereupon court reconvened at 11:09 am)

9           **THE COURT:** We've got a question or request from the  
10 jury. Will the lawyers come up? They want the definition  
11 given to them in writing. Let me hand these up to both of  
12 you and see if that's -- I had her cut and paste.

13          **MS. HODGE:** Okay. On what you charged?

14          **THE COURT:** Yeah.

15          (Pause)

16          **MR. SULLIVAN:** I have no objection to it, Your Honor.  
17 You going to make a copy for the Court's exhibit?

18          **THE COURT:** Yeah. We'll make them a Court's exhibit,  
19 and we'll send them back. I'm not going to bring the jury  
20 back in here.

21          **MS. HODGE:** Okay.

22          **THE COURT:** I'll just make these Court's exhibits.

23          **MS. HODGE:** Sounds good.

24          (Whereupon Court's exhibits 1 and 2 were marked)

25          **MS. HODGE:** Okay. Thank you.

1           **THE COURT:** Thank you both.

2           (Whereupon court was in recess at 11:12 am)

3           (Whereupon court reconvened at 11:30 am)

4           **THE COURT:** Okay. We have another -- we have a  
5 question this time regarding State's exhibit 45, which is a  
6 picture of some sort.

7           **MS. HODGE:** Um-hum (affirmative).

8           **THE COURT:** I don't know what it is. Is this picture  
9 staged by someone for photographs or is this the scenario  
10 that was found when officers arrived?

11          **MR. SULLIVAN:** I think everything was when everybody  
12 arrived, wasn't it? Except the only thing I remember staged  
13 was when he put the cartridge on the trunk of the car.

14          **MS. HODGE:** And -- well, I mean, I think there's  
15 testimony, if they want to hear what testimony the forensic  
16 officer said, some of the officers put on the bed, had  
17 located items and placed them on the bed for him to  
18 photograph some of the ...

19          **THE COURT:** I don't think I can answer the question  
20 because -- comment on a fact.

21          **MS. HODGE:** Right.

22          **THE COURT:** But I can tell them that I can't -- what do  
23 you want me to tell them? I can tell them that or I can  
24 tell them if they want to hear the testimony regarding  
25 introduction ---

1           **MR. SULLIVAN:** I think if we knew what 45 was we might  
2 be -- give them a more definitive answer if we could agree  
3 on it.

4           **MS. HODGE:** Well, I don't know that we can make any ---

5           **MR. SULLIVAN:** Comment.

6           **MS. HODGE:** --- comment on that because that would be  
7 -- yeah, I mean, remember what -- recall from the testimony  
8 what they can and/or that you will have the court reporter  
9 find -- locate that portion where it was admitted because we  
10 did talk about each photograph and could probably find that  
11 in the ...

12          **THE COURT:** Let's ask Susan. Is that hard to do?

13          **MADAME COURT REPORTER:** I'd have to try to find it. 45  
14 is a photo.

15          **MS. HODGE:** It's a photo. It's probably from inside  
16 the Defendant's residence. It's one of the ones either with  
17 the gun on the bed or the shells.

18          **THE COURT:** We can get -- you want me to get -- I'm  
19 guessing the 45 probably would have been put into evidence  
20 through the police officer.

21          **MS. HODGE:** Right. Through ---

22          **MR. SULLIVAN:** All of the photographs came in ---

23          **THE COURT:** Yeah. Do we have -- let us get item 45,  
24 exhibit 45.

25               (Whereupon the attorneys were conferring off the



1 record)

2       **THE COURT:** All right. Number 45 is the one with the  
3 gun case laying on the bed.

4       **MS. HODGE:** Yeah, I think it was a drawer on the bed.

5       **MR. SULLIVAN:** Yeah, that's it.

6       **MS. HODGE:** And I did specifically ask him about that.  
7 He said, I don't know if the officers did that or that's how  
8 it was. So it's in the -- it'll be in the testimony.

9       **MR. SULLIVAN:** I think she asked him was that drawer  
10 out. He said, I don't know if the officer done it or it  
11 could have been there when I got -- when they got here. He  
12 never answered.

13       **THE COURT:** Yeah.

14       **MR. SULLIVAN:** We don't know who put the gun casing or  
15 the drawer or when.

16       **THE COURT:** All right. So what do you want me to tell  
17 ...

18       **MR. SULLIVAN:** Let's see, Kris. Could we agree that  
19 the testimony was that it was not known who placed those  
20 items on the bed. It could have been done -- the officer  
21 didn't know.

22       **THE COURT:** I don't think I can say that.

23       **MS. HODGE:** Yeah, I think that's just too ---

24       **MR. SULLIVAN:** It could have been done by the officers  
25 or by somebody in the house before the officers -- that's

1     what he said.

2           **THE COURT:** I understand. But I don't think I can say  
3     that.

4           **MS. HODGE:** Right.

5           **MR. SULLIVAN:** See if Susan can find it.

6           **MS. HODGE:** Sometimes I've found when you just say or  
7     if you tell them, you know, you'll have to go from your best  
8     recollection, but, you know, if you need to hear something  
9     we can try to -- we can try to find it for you in the  
10    record. And then sometimes they don't even want to come  
11    back and listen. It might be a small point that they just  
12    thought you could answer, and ...

13          **THE COURT:** Right.

14          **MR. SULLIVAN:** You could just say you must hear the  
15    record and ---

16          **THE COURT:** Yeah. I'm going to say ---

17          **MR. SULLIVAN:** --- best memory.

18          **THE COURT:** What if -- let's see if we can agree on the  
19    language. It's -- you must go on your own recollection ---

20          **MS. HODGE:** Of the testimony.

21          **THE COURT:** --- of the testimony regarding exhibit 45.  
22    If you need to rehear that testimony, we can try to find it  
23    in the record and replay it -- and return you to the  
24    courtroom and replay that testimony.

25          **MS. HODGE:** Okay.

1           **THE COURT:** Mr. Sullivan, that sound okay?

2           **MR. SULLIVAN:** That sounds fine to the Defense, Your  
3 Honor.

4           (Whereupon Court's exhibits 3 and 4 were marked)

5           **THE COURT:** Okay. This is what it's going to say. And  
6 I've marked it as Court's number 4. You must go on your own  
7 recollection of that testimony regarding exhibit 45. If you  
8 need to rehear that testimony, we can try to find it, return  
9 you to the courtroom and play that testimony. Any  
10 objection?

11          **MS. HODGE:** Not from the State.

12          **MR. SULLIVAN:** Not from the Defense, Your Honor.

13          **THE COURT:** Okay.

14          (Whereupon court was in recess at 11:39 am)

15          (Whereupon court reconvened at 4:57 pm)

16          **THE COURT:** Thank you. Please be seated. It's almost  
17 5:00, right at 5:00. And I'm not going to keep them -- we  
18 don't have a verdict.

19          **MS. HODGE:** Oh, we don't?

20          **THE COURT:** We do not.

21          **MS. HODGE:** Is that not the light?

22          **THE COURT:** They sent a light -- they needed  
23 refreshments and some other things.

24          **MS. HODGE:** Oh.

25          **THE COURT:** So we're going to stop for the day and

1 bring them back in the morning.

2 **MS. HODGE:** May I just ask if you would ask them if  
3 they want to stop for the day because maybe they're close?  
4 I mean, is this -- that's just a suggestion.

5 **MR. SULLIVAN:** I don't want to pressure them, Judge.  
6 It's better ---

7 **THE COURT:** Yeah. Well, let me tell you before they  
8 get in here. They've asked for coffee, the air to be turned  
9 down, water. Sounds like they're in for a little while. So  
10 I just said I'm -- we're not staying on a Wednesday night  
11 til later.

12 **MS. HODGE:** All right.

13 **THE COURT:** So we'll just send them home, bring them  
14 back in the morning, and they can resume at nine in the  
15 morning.

16 **MS. HODGE:** Okay.

17 (Whereupon the jury entered the courtroom at 4:58 pm)

18 **THE COURT:** Okay. Madame Forelady and ladies and  
19 gentlemen of the jury, you're hard at work and you have  
20 been. And I'm in receipt of your request. But I was  
21 prepared to stop at 5:00. You've been working quite a long  
22 time today. You are at work. This is work.

23 This is a Wednesday, not a Thursday or even a Friday  
24 afternoon, and certainly not a Saturday. So we're going to  
25 ask you to discontinue your deliberations at this point for

1 the evening, allow you to go home, be with your families,  
2 eat dinner, enjoy yourselves and be back here in the morning  
3 at 9:00 sharp. Be assembled by 9:00. So be here shortly  
4 before then because remember you cannot resume your  
5 negotiations, I'm sorry, your deliberations, I said that  
6 wrong, deliberations without all twelve of you being in the  
7 room, okay?

8 So we would ask you to not discuss this case with  
9 anyone overnight. Don't think about it overnight. This is  
10 work. You're going home, enjoy your families and watch a  
11 ball game or do whatever it is you want to do. Okay. All  
12 right. With that, Madame Forelady, if you would -- you want  
13 them to go down to be released from here or there? What you  
14 need them to do?

15 **THE BAILIFF:** Just go back to the jury room ---

16 **THE COURT:** Be released from the jury room. Okay. Be  
17 released from the jury room. All right. Thank you, Madame  
18 Forelady. Did you need to talk to me?

19 **THE ALTERNATE:** Yes, sir.

20 **THE COURT:** Hang on one second.

21 (Whereupon the jury exited the courtroom at 5:00 pm)

22 **THE COURT:** Solicitor, counsel, we had a juror that --  
23 who is a lawyer who wanted to talk to me earlier, and I  
24 would not speak to him outside the presence of the lawyers.  
25 So I don't know if he has a question or what. But, yes,

1 sir.

2 **THE ALTERNATE:** Well, I don't want to be a problem. I  
3 just did not know given that I have not been part of the  
4 deliberations so far whether it was necessary for me to  
5 continue to -- and if it is, I'll be happy to do it.

6 **THE COURT:** Yes, sir.

7 **THE ALTERNATE:** You know, that's certainly your  
8 prerogative.

9 **THE COURT:** Yes, sir, it is. It is my custom not to  
10 release my juror because none of us know if we have a sick  
11 child to attend to. In my case I have some elderly parents.  
12 And if I were on the jury and I had to quickly leave or  
13 something like that, it would cause a problem in the case.

14 **THE ALTERNATE:** Right.

15 **THE COURT:** So we would ask you to be back tomorrow.

16 **THE ALTERNATE:** Well, I thank you very much for ---

17 **THE COURT:** Yes, sir.

18 **THE ALTERNATE:** --- thinking of that.

19 (Whereupon the alternate exited the courtroom)

20 **THE COURT:** All right. Sir, you are in custody at this  
21 time. And I cannot extend any further courtesies to you at  
22 this time. So we'll have to ask you to be with us tonight,  
23 okay?

24 **MR. MEJEAN:** Yes, sir.

25 **THE COURT:** All right. Anything from the Defense?

1           **MR. SULLIVAN:** Nothing, Your Honor. I have -- we've  
2 checked with Randy and Melissa. She's going to bring in  
3 some fresh clothes in the morning. So he'll be dressed --  
4 he'll get here eight or 8:30, and we'll have the clothes  
5 here, and he'll be dressed before nine.

6           **THE COURT:** Very good. Anything from the State?

7           **MS. HODGE:** No, sir.

8           **THE COURT:** Okay. All right. We'll reconvene in the  
9 morning at nine am. Thank you.

10          **MR. SULLIVAN:** Thank you, Judge.

11                   (Whereupon court was in recess at 5:02 pm)

**VERDICT OF THE JURY**

226

1     **Thursday, June 4, 2015:**

2             (Whereupon the jury began deliberating at 9:00 am)

3             (Whereupon court reconvened at 10:57 am)

4             **THE COURT:** Okay. We're ready for our jury.

5             (Whereupon the jury entered the courtroom at 10:59 am)

6             **THE COURT:** Madame Forelady, has the jury reached a  
7 verdict?

8             **MADAME FORELADY:** Yes, Your Honor.

9             **THE COURT:** All right. If you would hand that to the  
10 bailiff.

11            **MADAME CLERK:** Your Honor, this is case number 2013-GS-  
12 23-5236, 5237, 5238, the State versus Christopher Eric  
13 Mejean. We, the jury, unanimously find the Defendant,  
14 Christopher Eric Mejean, on the charge of attempted murder  
15 as to Tee Smith, not guilty.

16            We, the jury, unanimously find the Defendant,  
17 Christopher Eric Mejean, on the charge of assault and  
18 battery of a high and aggravated nature as to Tee Smith, not  
19 guilty.

20            We, the jury, unanimously find the Defendant,  
21 Christopher Eric Mejean, on the charge of assault and  
22 battery in the first degree as to Tee Smith, guilty. Signed  
23 Foreperson Barbara Shaw-Twining.

24            As to -- we, the jury, unanimously find the Defendant,  
25 Christopher Eric Mejean, on the charge of attempted murder



**VERDICT OF THE JURY**

227

1 as to the minor child, A.S., not guilty.

2 We, the jury, unanimously find the Defendant,  
3 Christopher Eric Mejean, on the charge of assault and  
4 battery of a high and aggravated nature as to the minor  
5 child, A.S., not guilty.

6 We, the jury, unanimously find the Defendant,  
7 Christopher Eric Mejean, on the charge of assault and  
8 battery in the first degree as to the minor child, A.S.,  
9 guilty. Signed Foreperson Barbara Shaw-Twining.

10 We, the jury, unanimously find the Defendant,  
11 Christopher Eric Mejean, on the charge of attempted murder  
12 as to Regina Smith, guilty. If this is your verdict, please  
13 raise your right hand.

14 (Whereupon all jurors raised their right hand)

15 **MADAME CLERK:** Thank you.

16 **THE COURT:** Polling of the jury by the State?

17 **MS. HODGE:** No, sir.

18 **THE COURT:** By the Defense?

19 **MR. SULLIVAN:** Yes, sir. They took so long, I'd like  
20 to make sure.

21 **THE COURT:** All right.

22 **MADAME CLERK:** Ladies and gentlemen, the verdict that  
23 has -- that I have just published was a verdict you reached  
24 in the jury room. I ask you, was it your verdict then and  
25 is it your verdict now? As I call your name, please answer

VERDICT OF THE JURY

1     yes or no.   Barbara Shaw-Twining.

2           **MS. SHAW-TWINING:**   Yes.

3           **MADAME CLERK:**   Thank you.   Sawyer Mayfield.

4           **MR. MAYFIELD:**    Yes.

5           **MADAME CLERK:**   Thank you.   Denise Lambert.

6           **MS. LAMBERT:**    Yes.

7           **MADAME CLERK:**   Thank you.   Steven Schwark.

8           **MR. SCHWARK:**     Yes.

9           **MADAME CLERK:**   Thank you.   Kendra Sprogis.

10          **MS. SPROGIS:**    Yes.

11          **MADAME CLERK:**   Thank you.   John Brackett.

12          **MR. BRACKETT:**   Yes.

13          **MADAME CLERK:**   Thank you.   Robin Michaels.

14          **MS. MICHAELS:**   Yes.

15          **MADAME CLERK:**   Thank you.   Robert Dean.

16          **MR. DEAN:**        Yes.

17          **MADAME CLERK:**   Thank you.   Lloyd Harvey.

18          **MR. HARVEY:**     Yes.

19          **MADAME CLERK:**   Stephanye Sullivan.

20          **MS. SULLIVAN:**   Yes.

21          **MADAME CLERK:**   Rita Brown.

22          **MS. BROWN:**      Yes.

23          **MADAME CLERK:**   And Christopher Greathouse.

24          **MR. GREATHOUSE:**   Yes.

25          **MADAME CLERK:**   Thank you.

1           **THE COURT:** Anything from the State?

2           **MS. HODGE:** Nothing from the State, Your Honor.

3           **THE COURT:** From the Defense?

4           **MR. SULLIVAN:** Not for the jury, Your Honor.

5           **THE COURT:** Not from the jury. Madame Forelady, and  
6 ladies and gentlemen of the jury, thank you so very much for  
7 your jury service this week. This concludes jury service  
8 this week, Madame Clerk?

9           **MADAME CLERK:** Yes, sir.

10          **THE COURT:** Yes. Thank you so very much for your jury  
11 service this week and in this case. We simply cannot do  
12 what we do without your assistance. It is both a duty, and  
13 an obligation, and also a right, and also a privilege to  
14 serve on jury duty. But we do thank you for your service.  
15 We know it interrupts your personal lives, but, again, we  
16 couldn't do it without you.

17          At this time that concludes your jury service. And I'm  
18 going to allow you to leave the jury box. You can either  
19 remain in the courtroom, if you'd like. I've had jurors ask  
20 me to do that. You're certainly welcome to do that. Or you  
21 may leave, whichever you choose to do.

22          If you'd like to stay, please be seated in the galley  
23 area out here. And if you leave -- you need to take them  
24 this way or how do you want them to leave? Go back that  
25 way. Okay. I think they're going to collect those badges

1 from you anyway.

2 So at this time, Madame Forelady, before you -- your  
3 last official act is to come up and sign these indictments  
4 for me before I release everybody.

5 (Pause)

6 **THE COURT:** If anybody wants -- I'm going to release  
7 everybody right now, Madame Forelady. Anybody who wants to  
8 sit in the galley is welcome to go right through here and  
9 sit down, if you'd like. And anyone who wants to leave, if  
10 you'll -- well, Madame Bailiff tells you which door to go  
11 out. All right.

12 (Whereupon the jury exited the courtroom at 11:08 am,  
13 and a few stayed for sentencing)

14 **THE COURT:** You can have a seat out here and then you  
15 can go -- I'll let you come back and collect your sheets,  
16 how about that? Matters from the State?

17 **MS. HODGE:** Nothing.

18 **THE COURT:** Matters from the Defense?

19 **MR. SULLIVAN:** Yes, sir, Your Honor. I'll never guess  
20 what juries do. This jury worked real hard. I think I have  
21 -- my opinion on the facts and the verdict, an inconsistent  
22 verdict. You have three potential victims in the trailer,  
23 nobody knows where they are, there's no movement. And on  
24 two -- there's three shots fired. On two they find assault  
25 and battery, first degree, and then have an intent to kill.

1 That's inconsistent on how you pick out one to kill and the  
2 other two you're just scaring. It's just not consistent  
3 with the facts and the charge, I don't think. I'd like to  
4 move to set it aside.

5 **THE COURT:** Okay. And from the State? Any response?

6 **MS. HODGE:** Your Honor, we don't know what juries  
7 decide back there. And I believe that the evidence in the  
8 case supported a verdict on any of these charges. And I  
9 can't comment on why they came back one attempted and two  
10 assault and battery, first, but I do believe that the  
11 evidence supports the verdicts.

12 **THE COURT:** Mr. Sullivan, I'm going to have to deny  
13 your motion in that. I believe there is evidence that will  
14 support that. It's not an inconsistent verdict. I think  
15 the testimony was such that it may have been that the jury  
16 could conceivably think that he was actually shooting at the  
17 wife of the -- the wife victim in the other home in that the  
18 -- his wife and that lady were friends.

19 And who knows what the jury was thinking. It may be  
20 that he was aiming for her and, therefore, not at the child,  
21 particularly, or the husband, but I don't know that, but I  
22 think there is evidence there the jury could have concluded  
23 that.

24 **MR. SULLIVAN:** Thank you, Your Honor. If you'll just  
25 note my objection, and we'll ---

1           **THE COURT:** Yes, sir.

2           **MR. SULLIVAN:** --- proceed whenever you're ready.

3           **THE COURT:** Your objection is noted.

4           **MR. SULLIVAN:** Come on up here. This jury worked real  
5 hard on this case.

6           **THE COURT:** They did work very hard on this case.

7           **MR. SULLIVAN:** I have explained to Mr. Mejean that we  
8 would proceed to sentencing unlike federal court where you  
9 wait. So he's ready.

10          **THE COURT:** All right. Solicitor.

11          **MS. HODGE:** Thank you, Your Honor. May it please the  
12 Court.

13          **THE COURT:** Yes, ma'am.

14          **MS. HODGE:** As far as the Defendant's criminal history,  
15 in 2006, simple assault and battery, 2008, breach of peace,  
16 2009, criminal domestic violence, first offense, and assault  
17 and battery of a high and aggravated nature.

18          Your Honor, Mr. and Mrs. Smith could not be present  
19 today. They had child care issues. But they have,  
20 obviously, been invested in this case. They were truly  
21 upset and traumatized about this and confused as to why this  
22 would have happened. And I know that their daughter has had  
23 some continuing issues and some anxiety related to this  
24 incident, which as anyone can imagine, if your home is shot  
25 into, that's going to cause some stress and anxiety for your

1 child.

2 They've never said to me any type of sentence they  
3 think that the Defendant should receive. They thought that  
4 he might need help, maybe alcohol or drug help, but they did  
5 think that he needed to be punished for his actions and the  
6 consequences of his actions.

7 The State had offered him assault and battery, first  
8 degree, five year sentence, and he declined that. We would  
9 just ask that the Court could consider or not consider,  
10 certainly not asking punishment for going to trial. That's  
11 not what I'm saying. But when someone pleads guilty, I  
12 think they receive a benefit from early acceptance. And in  
13 this case clearly the Defendant did not wish to do that. So  
14 we would just ask that the Court impose what you think is  
15 proper in this case.

16 **THE COURT:** Thank you. Mr. Sullivan.

17 **MR. SULLIVAN:** Judge, you've got a lot of range here.  
18 You've heard and seen the witnesses and heard his record.  
19 He and his wife did have a long relationship. She's been  
20 here the whole time. She's present in the courtroom today  
21 and has been here beside him. They have children.

22 And he expects and she expects he will get jail time.  
23 I think you have a range -- high and aggravated, I think the  
24 assault, first, ten, ten and you have thirty. Fifty years,  
25 I think, you can play with.

1 I don't know what happened that night. There were  
2 shots fired into it. I personally don't think he was really  
3 trying to kill anybody. It was stupid. They think he did.  
4 I'm not going to try to argue it. They think he shot into  
5 it.

6 Whether it was intentional, I have no idea. I don't  
7 think he's somebody that was arguing with somebody, they ran  
8 in and he shot to try and hit them. We've had those cases  
9 before. Get in arguments in the street, some guy runs in  
10 and tries to shoot through the door. That's obviously got  
11 an intent to hurt. He didn't -- I don't know -- but they  
12 found that way.

13 I'll leave the sentence in your hands, Judge. I'm  
14 hoping you'll -- there's one charge that's going to affect  
15 the way he's housed, credits he gets. I don't -- I didn't  
16 tell him how much time, how to calculate. I don't do that.

17 But I would like for you to consider something in the  
18 range of -- I'm thinking ten years. He'll have a lot of  
19 time to think about it. I don't think ATU is going to help  
20 the situation. I think a straight ten. I'm not going to  
21 ask you to go back to what we left on the table. I know  
22 he's not being punished for going to trial.

23 **THE COURT:** Right.

24 **MR. SULLIVAN:** But I would ask for something in that  
25 range and wish him the best of luck.



1           **THE COURT:** Yes, sir.

2           **MR. SULLIVAN:** He's been a nice client and shown up  
3 every time.

4           **THE COURT:** Yes, sir. Sir, I'd be happy to hear  
5 anything you'd like to say.

6           **MR. MEJEAN:** Your Honor, I'd just like to say that I  
7 don't agree with any of the verdicts, especially the last  
8 one. I swear under oath twice and my statement still stays  
9 the same, I did not shoot that house. I did not cause  
10 bodily harm, physical harm, mental harm towards the Smith  
11 family.

12           I loved them like a family. I was neighborly to them,  
13 helped them out, whatever I could. I just don't agree with  
14 any of it. I ask don't take me away from my family. I beg  
15 you. I need my kids. I need my wife.

16           **THE COURT:** Anything else, sir?

17           **MR. MEJEAN:** My statement still remains not guilty.  
18 Thank you, sir.

19           **THE COURT:** Thank you.

20           **MR. SULLIVAN:** Judge, the only thing I would add is I  
21 wish you would consider, I hope you would, concurrent. I  
22 know he's going to be sentenced on everything. You have to  
23 do that. But I'd ask that the main sentence be on the  
24 attempt to kill, which is at your discretion, even the big  
25 one, that they run together.

**SENTENCE OF THE COURT**

236

1           **THE COURT:** Yes, sir. Sir, I don't have an opinion  
2 about what happened out there. The law of this State does  
3 not allow me to have an opinion. I preside over the trials.  
4           We have a jury system that's been in existence since  
5 the founding of this nation. And your jurors, twelve jurors  
6 selected from the population by your lawyer and the State's  
7 lawyer have convicted you. And I understand you disagree  
8 with that, and you can continue to disagree with that. But  
9 I don't have an opinion about what happened. You  
10 understand?

11           **MR. MEJEAN:** Yes, sir.

12           **THE COURT:** It's my job to preside over the trial and  
13 then to hand out sentencing at the end of the trial. But  
14 what I'm looking at is a jury that's convicted you of  
15 attempted murder.

16           **MR. MEJEAN:** Yes, sir.

17           **THE COURT:** And the jury has convicted you of assault  
18 and battery, first degree. You understand that?

19           **MR. MEJEAN:** Yes, sir.

20           **THE COURT:** Okay. On 2013-5237, that's one of the  
21 assault and batteries, first degree, you're confined to the  
22 South Carolina Department of Corrections for the maximum ten  
23 years. I will run it concurrent with the other indictment,  
24 credit for any time you have served.

25           2013-5236, that's another assault and battery, first

SENTENCE OF THE COURT

237

1 degree. Confined to the State Department of Corrections for  
2 the maximum ten years. It's concurrent with the other  
3 indictments. Credit for time that you have served, if any.

4 And finally, 2013-5238, that's the attempted murder,  
5 you're confined to the State Department of Corrections for a  
6 period of fifteen years. That's concurrent with the other  
7 indictments. Credit for any time that you did serve. Best  
8 of luck to you, sir.

9 **MS. HODGE:** Thank you, Your Honor.

10 (Whereupon court was in recess at 11:18 am)

11 (Whereupon court reconvened at 11:47 am with Leigh  
12 Paoletti, Assistant Solicitor, standing in for the State)

13 **THE COURT:** All right. Go ahead, Mr. Sullivan.

14 **MR. SULLIVAN:** Judge, in the matter of the State versus  
15 Christopher Eric Mejean, as you know the jury has found him  
16 guilty and he has been sentenced. I've conferred with him  
17 in the holding cell, and he instructed me he wants to appeal  
18 the verdict. So I told him I would file the appeal and it  
19 would be handled by the Office of Indigent Defense.

20 **THE COURT:** Certainly.

21 **MR. SULLIVAN:** That's all I wanted.

22 **THE COURT:** Thank you, Mr. Sullivan.

23 **MR. SULLIVAN:** Thank you, Judge.

24 **MS. PAOLETTI:** Thank you, Judge.

1

(Hearing Ended at 11:48 am)

2

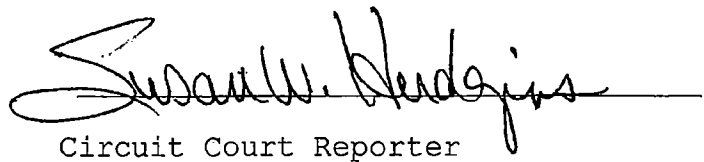
(End of Requested Transcript of Record)

## Certificate of Reporter

I, the undersigned, Susan W. Hudgins, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and evidence introduced in the trial/hearing of the captioned case, relative to appeal, in the Circuit Court for Greenville County, South Carolina, on the 2nd - 4th day of June 2015.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

August 13, 2015

  
Circuit Court Reporter

*State v. Mejean*  
**Greenville County Courthouse**  
**RANDOM STRIKE SHEET**

JUDGE NAME : Kelly R. Keith  
 TRIAL TYPE : Criminal  
 PANEL ID : KELLY 6/2/2015  
 COURTROOM CRT8

DESCRIPTION : KELLY 6/2/2015

Sorted by: Random Nbr

Trial

| NAME                           | JUROR NBR | RACE | SEX | ST/PLTFF | DEF | CRT | REMARKS |
|--------------------------------|-----------|------|-----|----------|-----|-----|---------|
| ✓ Shaw-Twining, Barbara J      | (F) 192   | W    | F   | ( )      | ( ) | ( ) | WF      |
| DX 2 Ammons, Taylor A          | 4         | W    | M   | ( )      | ( ) | ( ) | WM      |
| ✓ Mayfield, Sawyer T           | 141       | W    | M   | ( )      | ( ) | ( ) | WM      |
| ✓ Lambert, Denise H            | 126       | W    | F   | ( )      | ( ) | ( ) | WF      |
| ✓ Schwark, Steven M            | 189       | W    | M   | ( )      | ( ) | ( ) | WM      |
| ✓ Sprogis, Kendra L            | 205       | W    | F   | ( )      | ( ) | ( ) | WF      |
| DX 7 Bird, Amy                 | 16        | W    | F   | ( )      | ( ) | ( ) | WF      |
| ✓ Brackett, John H             | 21        | W    | M   | ( )      | ( ) | ( ) | WM      |
| ✓ Michaels, Robin H            | 150       | W    | F   | ( )      | ( ) | ( ) | WF      |
| DX 10 Storay, David E Jr.      | 208       | W    | M   | ( )      | ( ) | ( ) | WM      |
| SX 11 Shockley, Joshua J       | 195       | W    | M   | ( )      | ( ) | ( ) | WM      |
| SX 12 Parnell, Raymond J       | 168       | W    | M   | ( )      | ( ) | ( ) | WM      |
| ✓ 13 Dean, Robert S            | 51        | W    | M   | ( )      | ( ) | ( ) | WM      |
| ✓ 14 Harvey, Lloyd D Jr. ✓     | 98        | W    | M   | ( )      | ( ) | ( ) | WM      |
| ✓ 15 Sullivan, Stephanye F     | 211       | B    | F   | ( )      | ( ) | ( ) | BF      |
| SX 16 Paterson, Caitlin F      | 169       | W    | F   | ( )      | ( ) | ( ) | WF      |
| ✓ 17 Brown, Rita B ✓           | 24        | W    | F   | ( )      | ( ) | ( ) | WF      |
| SX 18 Harkness, William A II   | 94        | W    | M   | ( )      | ( ) | ( ) | WM      |
| ✓ 19 Greathouse, Christopher W | 90        | W    | M   | ( )      | ( ) | ( ) | WM      |
| ✓ 20 Jones, Jeffrey S ✓ (A)    | 116       | W    | M   | ( )      | ( ) | ( ) | WM      |
| 21 Finley, Mark H              | 67        | W    | M   | ( )      | ( ) | ( ) |         |
| 22 Brownlee, Katrina           | 26        | B    | F   | ( )      | ( ) | ( ) |         |
| 23 Vinson, Joel R Jr.          | 221       | W    | M   | ( )      | ( ) | ( ) |         |
| 24 Mack, Diane G ✓             | 137       | B    | F   | ( )      | ( ) | ( ) |         |

# Greenville County Courthouse

## RANDOM STRIKE SHEET

JUDGE NAME : Kelly R. Keith  
 TRIAL TYPE : Criminal  
 PANEL ID : KELLY 6/2/2015  
 COURTROOM CRT8

DESCRIPTION : KELLY 6/2/2015

Sorted by: Random Nbr  
 Trial

| NAME                          | JUROR NBR | RACE | SEX | ST/PLTFF | DEF | CRT | REMARKS |
|-------------------------------|-----------|------|-----|----------|-----|-----|---------|
| 25 Lalonde, Steven J          | 125       | W    | M   | ( )      | ( ) | ( ) |         |
| 26 Peterson, Setina A         | 173       | B    | F   | ( )      | ( ) | ( ) |         |
| 27 Watson, Annette L          | 225       | W    | F   | ( )      | ( ) | ( ) |         |
| 28 Dotson, Charles W          | 58        | B    | M   | ( )      | ( ) | ( ) |         |
| 29 Burger, Stacey G           | 29        | W    | M   | ( )      | ( ) | ( ) |         |
| 30 Vaughn-Schaefer, Laura A ✓ | 219       | W    | F   | ( )      | ( ) | ( ) |         |
| 31 Gunter, Lee B              | 93        | W    | M   | ( )      | ( ) | ( ) |         |
| 32 Delahunty, Lesa N ✓        | 52        | W    | F   | ( )      | ( ) | ( ) |         |
| 33 Gainous, Julie M           | 75        | W    | F   | ( )      | ( ) | ( ) |         |
| 34 Sromek, Rita L ✓           | 206       | W    | F   | ( )      | ( ) | ( ) |         |
| 35 Hayden, Joseph A ✓         | 100       | W    | M   | ( )      | ( ) | ( ) |         |

Total Number of Jurors: 35

\*\* END OF REPORT \*\*

## FORM 5

STATE OF SOUTH CAROLINA

County of Greenville

IN THE COURT OF COMMON PLEAS

Christopher Eric Mejia, #364242

Full name and prison number (if any) of Applicant

2018-CP-23-02956

v.

APPLICATION FOR

State of South Carolina

POST-CONVICTION RELIEF

ENTERED COMPUTER

18 MAY 18 PM 4:29  
Paul Wickensimer CDC 601 SCINSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention Perry Correctional Institution; 430  
Oaklawn Rd. 29669
2. Name and location of Court which imposed sentence Greenville County  
Courthouse 305 East North Street Greenville SC, 29601
3. Name(s) of co-defendant(s) (if any) \_\_\_\_\_
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
  - (a) N/A
  - (b) N/A

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- (c) N/A
5. The date upon which sentence was imposed and the terms of the sentence:
- (a) June 4, 2015; Sentence of 15 years (fifteen)
- (b) \_\_\_\_\_
- (c) \_\_\_\_\_
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty \_\_\_\_\_
- (b) ☒ after a plea of not guilty ☒ \_\_\_\_\_
- (c) after a plea of nolo contendere \_\_\_\_\_
7. Did you appeal from the judgment of conviction or the imposition of sentence?  
yes
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. South Carolina Court of Appeals
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- (b) the result in each such Court to which you appealed:
- i. Appeal Affirmed
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- (c) the date of each such result:
- i. June 28, 2017
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. \_\_\_\_\_
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) \_\_\_\_\_
- (b) \_\_\_\_\_

- (c) \_\_\_\_\_
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

- (a) Ineffective Assistance of Trial Counsel
- (b) Ineffective Assistance of Appellate Counsel
- (c) Presumption of Prejudice (continued on reverse side)

11. State concisely and in the same order the facts which support each of the grounds set out in (10):

- (a) The only objection made by Trial Counsel was inconsistency of verdict
- (b) Appellate Counsel failed to send defendant a copy of transcript
- (c) Trial Counsel - b II, IIin, note it that e's at here to defend me

12. Prior to this application have you filed with respect to this conviction:

- (a) any petition in a State Court under South Carolina Law? NO
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? NO
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? NO
- (d) any other petitions, motions or applications in this or any other Court? NO

13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:

- (a) the specific nature thereof:

- i. N/A
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- iv. \_\_\_\_\_

- (b) the name and location of the Court in which each was filed:

- i. N/A
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- iv. \_\_\_\_\_

Continuation of question 10:

(D) Failure to move/object to Evidence

(E) Failure to file on Appeal

(F) Instructions on lesser Included Offence

(G) failure to object to argument

(H) Actual Innocence and Insufficiency of evidence

(I) failure to investigate/prepare for trial

Continuation of question 11:

(A-2) Other objections should have been made with the so-called victims' claims in the Discovery and testimony.

(B-2) Appellate Counsel failed to send copy of secondary brief of Appeal

(C-2) Continually asking defendant to take the plea deal.

(D-1) Failure to object to evidence when there was no weapon

(D-2) Failure to object when witness/victim did not see defendant with a gun as stated in the statement in Discovery.

(D-3) failure to object to evidence when fingerprints were not tested for on spent shells.

(D-4) failure to object to evidence after the statement was made from forensics at time of trial the unlikely possibility of fingerprints on the spent shells.

(D-5) Failure to object to evidence when Defendant was never tested for Gun Shot Residue prior to being in custody.

(E-1) Trial Counsel Timothy Sullivan did not file defendant's Direct Appeal as requested to do so when counsel informed defendant the right of appeal the day of defendant's conviction/sentencing.

(E-2) Direct Appeal lawyer Mr. Williams, who defendant was planning on hiring for Appeal noticed that Direct Appeal was not on file months after trial so Mr. Williams filed the Direct Appeal.

(F-1) Trial Counsel failed to inform defendant of any type of lesser Included offenses prior to the trial or during trial.

(F-2) The court failed to show evidence in the record that would tend to show that the defendant is guilty of the lesser rather than the greater offense.

4/20/18

Continuation part II of question 11;

- (F-3) The court failed to show evidence or through the statements of witnesses testimonies of specific intent.
- (F-4) Defendants defense was that he did not shoot the house, did not assault his neighbors nor did defendant ever have any type of issues with his neighbors as known in the court, the witnesses Mr/Mrs. Smith.
- (G-1) Trial Counsel failed to object to arguments of Mr. Smith about what was said at the time of incident when the Discovery, Mr. Smith asked the Defendant if he had shot his house and the Defendant told Mr. Smith "No". At the day of the trial, Trial Counsel did not bring that part of the statement up, especially when Defendant brought it to Counsel's attention during the trial.
- (G-2) failure to object to cross-examination of witnesses, foransies and Defendant.
- (H-1) Defendant claimed innocence at time of trial and prior to sentencing.
- (H-2) All evidence given at time of trial was very circumstantial and Trial Counsel failed to argue that.
- (I-1) Trial Counsel only met with Defendant once in County jail, and twice in office only a few days prior to trial to ask Defendant what happened and failed to investigate.

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(I-2) Trial Council failed to go over Discovery and investigate, therefore failed to question or have a separate expert witness for the Defense side. Questions "like why Defendant would shoot his own house?" Also failed to investigate the testimony of the forensics' findings in Discovery.

REMANENT

REMANENT

REMANENT

(c) the disposition thereof:

- i. N/A
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- iv. \_\_\_\_\_

(d) the date of each such disposition:

- i. N/A
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- iv. \_\_\_\_\_

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

- i. N/A
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- iv. \_\_\_\_\_

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

NO

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

- i. N/A
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_

(b) the proceedings in which each ground was raised:

- i. N/A
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_

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Revised 3/2003

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

- (a) Failure of Trial Counsel at time of trial  
 (b) Failure of Appellate Counsel at time of first Brief.  
 (c) \_\_\_\_\_

17. Were you represented by an attorney at any time during the course of:

- (a) your arraignment and plea? yes  
 (b) your trial, if any? yes  
 (c) your sentencing? yes  
 (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? yes  
 (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed?  
N/A

18. If you answered "yes" to one or more parts of (17), list:

- (a) the name and address of each attorney who represented you:  
 i. Timothy Sullivan with the Public Defenders Office  
Greenville County Courthouse 302 East North Street Greenville SC, 29601  
 ii. John H. Strom with South Carolina Commission on Indigent  
Defense, Division of Appellate Defense 1332 Lady Street Suite 40  
~~iii.~~ Columbia, SC 29201  
 \_\_\_\_\_  
 (b) the proceedings at which each such attorney represented you:  
 i. Trial  
 \_\_\_\_\_  
 ii. Direct Appeal  
 \_\_\_\_\_  
 iii. \_\_\_\_\_  
 \_\_\_\_\_

19. State clearly the relief you seek in filing this application:

~~Cir~~ Sentence and Conviction vacated

20. Are you now under sentence from any other court that you have not challenged?

NO

STATE OF SOUTH CAROLINA )

County of Greenville )

VERIFICATION

I, Christopher Eric McLean # 364242, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

*[Signature]*

SWORN to and subscribed before me this 1st  
day of May 2018.

Tamara Conwell (L.S.)  
Notary Public

My Commission Expires: September 25, 2023

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P.C.I. MAILROOM



**APPLICATION TO PROCEED WITHOUT PAYMENT  
OF COSTS AND AFFIDAVIT  
IN SUPPORT THEREOF**

I, Christopher Eric Maione #364242, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.



\_\_\_\_\_  
*Applicant*

SWORN or affirmed to and subscribed before me this

1st day of May, 2018.

Tamara Connell  
Notary Public

My Commission Expires

My Commission Expires: September 25, 2023

**RECEIVED**

MAY 01 2018

P.C.I. MAILROOM

I Christopher Eric Mejean SCDC # 364242, do certify for the record state that I have not, nor ever have I recieved a copy of my Transcript or a copy of my sentencing sheet. Even prior to my multiple requests from my trial counsel and my appellate counsel. No replies have been made back to me from either. I requested a copy of my trial transcript and sentencing sheet from the clerk of court in Greenville County. Copies were not sent to me due to not having any indictment numbers since my conviction. Not having my legal work is preventing me my right of due process law for a fair trial or to continue my defense of my P.C.R.

Subscribed before me  
this 1st day of May 2018

S/ Eric Mejean  
Eric Mejean  
# 364242

S/ Tamara Conwell  
Notary of Public South Carolina  
my commision expires

My Commission Expires  
September 25, 2023

**RECEIVED**

MAY 01 2018

P.C.I. MAILROOM

|                                   |   |                              |
|-----------------------------------|---|------------------------------|
| STATE OF SOUTH CAROLINA           | ) | IN THE COURT OF COMMON PLEAS |
| COUNTY OF GREENVILLE              | ) | THIRTEENTH JUDICIAL CIRCUIT  |
|                                   | ) |                              |
| Christopher Eric Mejean, #364242, | ) | Case No.: 2018-CP-23-2956    |
|                                   | ) |                              |
| Applicant,                        | ) |                              |
|                                   | ) | <b>RETURN</b>                |
| v.                                | ) |                              |
|                                   | ) |                              |
| State of South Carolina,          | ) |                              |
|                                   | ) |                              |
| Respondent.                       | ) |                              |

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The State ("Respondent"), making its Return to the application for Post-Conviction Relief ("PCR") filed on May 18, 2018, would respectfully show this Court:

**I.**

Christopher Eric Mejean ("Applicant") is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Greenville County Clerk of Court. In June 2013, the Greenville County Grand Jury indicted Applicant for three (3) counts of attempted murder (2013-GS-32-5236; 2013-GS-32-5237; 2013-GS-32-5238). Timothy Sullivan, Esquire represented Applicant. Assistant Solicitor Kris Hodge, Esquire prosecuted the case. On June 2-4, 2015, proceeded to trial before the Honorable R. Keith Kelly. The jury found Applicant guilty of one (1) count attempted murder as charged, and two (2) counts of the lesser included offense of assault and battery in the first degree. Judge Kelly sentenced Applicant to imprisonment for concurrent terms of ten (10) years each for assault and battery in the first degree and fifteen (15) years for attempted murder.

Applicant filed a timely notice of appeal. John H. Strom, Esquire, of the SC Commission on Indigent Defense, perfected the appeal. The South Carolina Court of Appeals affirmed Applicant's conviction on June 28, 2017. State v. Mejean, Op. No. 2017-UP-259 (S.C. Ct. App.

filed June 28, 2017). The remittitur was returned to the circuit court on July 14, 2017.

Attached to this Return and incorporated by reference are the records of the Greenville County Clerk of Court regarding the subject convictions, Applicant's records from the South Carolina Department of Corrections, the trial transcript, Applicant's appellate records, and the application. Respondent reserves the right to amend this Return upon receipt of any relevant materials.

## II.

On June 18, 2013, the Greenville County Grand Jury indicted Applicant, Christopher Mejean on three counts of attempted murder arising from an incident on July 2, 2012, when multiple shotgun blasts were fired into an occupied dwelling with three people inside. The matter was called for a jury trial on June 2, 2015, before the Honorable R. Keith Kelly, Circuit Court Judge.

Tee Smith testified he, and his wife and their daughter lived at a trailer park in Pelzer, South Carolina. Applicant and his family moved next door a couple of years after the Smiths moved there, and the families became friends. Mr. Smith stated he hung out with Applicant almost every day, their wives became friends, and their children played together. (TT, pp. 51-56; R. pp. 51-56)

Mr. Smith and his wife worked at the same grocery store, and on July 1, 2013, his wife worked the morning shift, and he worked the evening shift until 8:00 p.m. Their daughter went over to Applicant's trailer until Mrs. Smith got home. Mrs. Smith and their daughter were home when Mr. Smith got home from work, and after eating dinner, they all went to bed. (TT. pp. 56-58; R. pp. 56-58)

Later that night, the Smiths woke up when shots were fired into their trailer. Mr. Smith testified he saw bullet marks on the walls, and he had wood all over his head. When he and his wife checked the remaining rooms, they found evidence of gun shots in the kitchen and in the living room where their daughter slept. Mr. Smith got his gun, went outside and fired two warning shots into the air, and when he came back inside, he told his wife to call 911. (TT. pp. 58-59; R. pp. 58-59)

While they waited for authorities to arrive, Mrs. Smith called Applicant's wife because she was worried about the family. Mr. Smith went back outside and saw Applicant coming out of his house and going toward his shed. Applicant then approached Mr. Smith, who asked him if he had shot up the Smith home. Applicant replied: "where's my f\*\*king bitch." Mr. Smith saw something long in Applicant's hand, which Applicant was holding down by his side. Mr. Smith testified it reminded him of a shotgun, and he knew Applicant had one. He also testified Applicant's truck was not there. (TT. pp. 63-66; R. pp. 63-66)

Mr. Smith stated Applicant was enraged and yelling at him when Mr. Smith asked if he shot at the Smith home, Applicant never asked Mr. Smith what had happened, and showed no concern about the fact someone had shot the Smith home. He further stated Applicant had been inside the Smith home and knew the lay-out.

Mrs. Smith testified she and her daughter went swimming with Applicant and his family the afternoon of July 1, 2012, but about an hour later, Applicant decided he did not want to stay so he left to go to a friend's house. After a couple of hours, Applicant's wife called him to come pick her and the children up, but he refused. Mrs. Smith took Applicant's wife and children to Applicant's friend's house, and then she and her daughter went home. (TT. pp. 68-71; R. pp. 68-71)

Mrs. Smith fell asleep after eating dinner and woke up when she heard a loud noise. She woke Mr. Smith, and when they checked the rest of the residence, they realized someone had shot at the trailer. Mrs. Smith was concerned about Applicant's family and called Applicant's wife, who told her she and the children were not home. (TT. pp. 71-73; R. pp. 71-73)

Mrs. Smith testified Applicant and his wife had problems, and Applicant's wife actually moved out of the trailer and lived with her parents for a couple of weeks. She further testified Applicant had been to the Smith home and knew the lay-out. (TT. pp. 78-80; R. pp. 78-80)

Applicant's wife (Mrs. Mejean) confirmed Mrs. Smith's testimony about the events of that afternoon, as well as Mrs. Smith's telephone call to her that night. She stated Applicant was drinking, and they were arguing that evening, and she "decided that it was probably best for [her] just to let him cool off," so she went home and got some clothes for her and the children, and went to spend the night at her cousins. (TT. pp. 82-87; R. pp. 82-87)

At some point during the evening Mrs. Mejean received a call from the phone at their house, but all she could hear was "a bunch of muffled yelling." She subsequently received another call from their house and all she heard was "really loud" yelling before the line went dead. Approximately thirty minutes later, the police called and asked her to return home. When she went inside the home, it was "demolished," and one of Applicant's guns was missing. (TT. pp. 88-93; R. pp. 88-93)

A forensic investigator testified about the evidence recovered from the scene that night, and the photographs he took there. He found three shell casings in the Smith's front yard, and testified about the casings and shot patterns in the Smith trailer. One shot penetrated the bedroom wall above the Smith's heads. Another shot passed through a kitchen chair. A third

shot penetrated the side of the living room wall and exited through the roof. (TT. pp. 100-137; State's Exhibits 8- 53; R. pp. 100-137)

Applicant moved for a directed verdict, arguing the State failed to present sufficient evidence he had a specific intent to murder the Smiths. The State argued the use of a deadly weapon implied a specific intent to kill. The circuit court denied the motion. (TT. pp. 143-144; R. pp. 143-144)

Applicant testified that when he got home from his friend's house that night, his front door was partially open, and he found a man he previously purchased marijuana from inside holding one of Applicant's shotguns. After the man shot at him and ran out of the trailer, Applicant stated he chased the man, and when he asked Mr. Smith about his "f\*\*king bitch," he was talking about his shotgun rather than his wife. On cross-examination, however, Applicant admitted he did not normally refer to his shotgun as his "f\*\*king bitch," but he had "probably called [his wife] every name in the book. (TT. pp. 157-178; R. pp. 157-178)

The circuit court charged the jury on the law of general criminal intent, the elements of attempted murder, malice, express or implied malice aforethought, and the lesser included offenses of assault and battery of a high and aggravated nature (ABHAN), and first degree assault and battery. (TT. pp. 205-210; R. pp. 205-210) The jury convicted Applicant of attempted murder as to Mrs. Smith, and first degree assault and battery as to Mr. Smith and the minor daughter. (TT. pp 226-227; R. pp. 226-227). The court sentenced him to concurrent prison terms of fifteen years on the attempted murder conviction and ten years each on the assault and battery convictions.

### III.

In his application for post-conviction relief, Applicant alleges that he is being held in

custody unlawfully for the following reasons:

1. "Ineffective Assistance of Trial Counsel"
  - a. The only objection made by Trial Counsel was inconsistency of verdict
  - b. Other objections should have been made with the so-called victims' claims in the Discovery and testimony
2. Ineffective Assistance of Appellate Counsel
  - a. Appellate Counsel failed to send defendant a copy of transcript
  - b. Appellate Counsel failed to send copy of secondary brief of Appeal
3. Presumption of Prejudice
  - a. Trial Counsel verbally telling Defendant that he's not here to defend me
  - b. Continually asking defendant to take the plea deal
4. Failure to move/object to evidence
  - a. Failure to object to evidence when there was no weapon
  - b. Failure to object when witness/victim did not see defendant with a gun as stated in the statement in Discovery
  - c. Failure to object to evidence when fingerprints were not tested for on spent shells
  - d. Failure to object to evidence after the statement was made from forensics at time of trial the unlikely possibility of fingerprints on the spent shells
  - e. Failure to object to evidence when Defendant was never tested for Gun Shot Residue prior to being in custody
5. Failure to file an appeal
  - a. Trial Counsel Timothy Sullivan did not file defendants' Direct Appeal as requested to do so when counsel informed defendant the right of appeal the day of defendants' conviction/sentencing
  - b. Direct Appeal Lawyer Mr. Williams, who defendant was planning on hiring for Appeal noticed that Direct Appeal was not on file months after trial so Mr. Williams filed the Direct Appeal
6. Instructions on lesser included offence
  - a. Trial Counsel failed to inform defendant of any type of Lesser Included offenses prior to the trial or during trial
  - b. The court failed to show evidence in the record that would tend to show that the defendant is guilty of the lesser rather than the \_\_\_\_ offence
  - c. The court failed to show evidence or through the statements of witnesses testimonies of specific intent
  - d. Defendants defense was that he did not shoot the house, did not assault his neighbors nor did defendant ever have any type of issues with his neighbors as known in the court, the witnesses, Mr./Mrs. Smith
7. Failure to object to argument
  - a. Trial Counsel failed to object to arguments of Mr. Smith about what was



said at the time of incident when the Discovery, Mr. Smith asked the Defendant if he had shot his house and the Defendant told Mr. Smith “no.” At the day of the trial, Trial Counsel did not bring that part of the statement up, especially when Defendant brought it to Counsel’s attention during the trial

- b. Failure to object to cross-examination of the witnesses, forensics, and Defendant
- 8. Actual Innocence and Insufficiency of evidence
  - a. Defendant claimed innocence at time of trial and prior to sentencing
  - b. All evidence given at time of trial was very circumstantial and Trial Counsel failed to argue that
- 9. Failure to investigate/prepare for trial”
  - a. Trial Counsel only met with Defendant once in county jail, and twice in office only a few days prior to trial to ask Defendant what happened and failed to investigate
  - b. Trial Counsel failed to go over Discovery and investigate, therefore failed to question or have a separate expert witness for the Defense side. Questions “like why Defendant would shoot his own house?” Also failed to investigate the testimony of the forensics’ findings in Discovery

Applicant’s relief sought is for a vacation of his sentence and conviction. Attached to this Return and incorporated by reference are the records of the Greenville County Clerk of Court regarding the subject conviction, Applicant’s records from the South Carolina Department of Corrections, the trial transcript, Applicant’s appellate records, and the application. Respondent reserves the right to amend this Return upon receipt of any relevant materials.

#### IV.

Respondent submits Applicant’s allegations of ineffective assistance of counsel are without merit. In a PCR action, Applicant bears the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, Applicant must prove that “counsel’s conduct so undermined the proper functioning of the adversarial process that [it] cannot be relied

upon as having produced a just result.” Strickland v. Washington, 466 U.S. 668 (1984); Butler, 286 S.C. at 442, 334 S.E.2d at 814.

In evaluating allegations of ineffective assistance of counsel, the reviewing court applies the two-pronged test outlined in Strickland v. Washington, 466 U.S. 668. First, Applicant must prove that counsel’s performance was deficient. Id.; Cherry v. State, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). Under this prong, the court measures an attorney’s performance by its “reasonableness under prevailing professional norms.” Cherry, 300 S.C. at 117, 386 S.E.2d at 625 (quoting Strickland, 466 U.S. at 690). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Butler, 286 S.C. at 442, 334 S.E.2d at 814. “Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment.” Id. (citing Strickland, 466 U.S. at 690). The Applicant must overcome this presumption to receive relief. Cherry, 300 S.C. at 118, 386 S.E.2d at 625. Second, counsel’s deficient performance must have prejudiced the Applicant such that “there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.” Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625.

Respondent submits Applicant can satisfy neither requirement of the Strickland test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that the record does not conclusively refute. Accordingly, Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

## V.

Applicant also asserts claims of presumption of prejudice, failure to move/object to evidence, failure to file an appeal, instructions on lesser included offense, failure to object to

argument, actual innocence and insufficiency of evidence, and failure to investigate/prepare for trial. Respondent submits these additional assertions fall within ineffective assistance of counsel and should be considered with the ineffective assistance of counsel claims.

## VI.

Applicant alleges ineffective assistance of appellate counsel in his application. A defendant is constitutionally entitled to effective assistance of appellate counsel. Evitts v. Lucey, 469 U.S. 387, 105 S.Ct. 830, 83 L.Ed.2d 821 (1985). "However, appellate counsel is not required to raise every non-frivolous issue that is presented by the record." Thrift v. State, 302 S.C. 535, 539, 397 S.E.2d 523 (1990). Appellate counsel has a professional duty to choose among potential issues according to their merit. Jones v. Barnes, 463 U.S. 745 (1983). Where the strategic decision to exclude certain issues on appeal is based on reasonable professional judgment, the failure to appeal all trial errors is not ineffective assistance of counsel. Griffin v. Aiken, 775 F.2d 1226 (4th Cir. 1985).

The Applicant must show that appellate counsel's performance was deficient and that he was prejudiced by the deficiency. Thrift, at 537; Gilchrist v. State, 364 S.C. 173, 612 S.E.2d 702 (2005); Anderson v. State, 354 S.C. 431, 581 S.E.2d 834 (2003). When a claim of ineffective assistance of counsel is based upon failure to raise viable issues, the court must examine the record to determine "whether appellate counsel failed to present significant and obvious issues on appeal." Gray v. Greer, 800 F.2d 644, 646 (7th Cir. 1986). Generally, the presumption of effective assistance of counsel will be overcome only when the alleged ignored issues are clearly stronger than those actually raised on appeal. Id.

Respondent contends that Applicant's appellate counsel rendered effective assistance of counsel. However, this ground for relief may raise factual issues that are not conclusively

refuted by the record. Respondent therefore requests an evidentiary hearing on this allegation.

#### VII.

Applicant must specify any claims he intends to raise at the post-conviction relief evidentiary hearing. Any claims not specifically laid out in this PCR application or in amendments will be opposed by the State at an evidentiary hearing pursuant to §§ 17-27-10 to -160 of the South Carolina Code of Laws and Rule 71.1 of the South Carolina Rules of Civil Procedure. See also Rules 15(a)-(b), SCRCPP. All claims should be made well in advance of the evidentiary hearing. Applicant has been appointed an attorney; therefore, the attorney, and not Applicant, is the only individual authorized to file amendments to this application. See Rule 11, SCRCPP. Pro se filings will not be considered at the PCR hearing. Respondent reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to Respondent. See Rule 15(a), SCRCPP.

Pursuant to § 17-27-150 of the South Carolina Code of Laws, Applicant may not invoke formal discovery processes to issue subpoenas or otherwise obtain discovery materials unless granted leave from the Court upon a showing of good cause. Furthermore, Respondent requests that all potential exhibits and materials used to produce potential expert witness testimony be sent to Respondent well in advance of the evidentiary hearing. Respondent reserves the right to request a continuance and oppose witness testimony and exhibits that are withheld until the last minute resulting in undue prejudice to Respondent.

#### VIII.

Each and every allegation contained within the application not expressly admitted, qualified, or explained in this Return is hereby denied.

## IX.

WHEREFORE, Respondent requests that an evidentiary hearing be held on the claims of ineffective assistance of trial/appellate counsel.

Respectfully submitted,

ALAN WILSON  
Attorney General

W. JEFFREY YOUNG  
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON  
Senior Assistant Deputy Attorney General

DESHAWN H. MITCHELL  
Assistant Attorney General

By:  for DHM  
~~ATTORNEYS FOR RESPONDENT~~

Office of the Attorney General  
Post Office Box 11549  
Columbia, SC 29211  
Telephone: (803) 734-3737

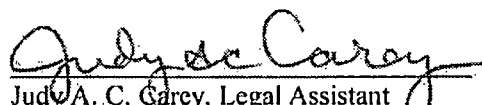
October 23, 2018

|                                 |   |                              |
|---------------------------------|---|------------------------------|
| STATE OF SOUTH CAROLINA         | ) |                              |
|                                 | ) | IN THE COURT OF COMMON PLEAS |
| COUNTY OF GREENVILLE            | ) |                              |
|                                 | ) |                              |
|                                 | ) | 2018-CP-23-2956              |
|                                 | ) |                              |
| CHRISTOPHER ERIC MEJEAN, 364242 | ) |                              |
|                                 | ) |                              |
| Applicant,                      | ) |                              |
|                                 | ) |                              |
| vs                              | ) | AFFIDAVIT OF SERVICE BY MAIL |
|                                 | ) |                              |
| STATE OF SOUTH CAROLINA,        | ) |                              |
|                                 | ) |                              |
| Respondent.                     | ) |                              |
| _____                           | ) |                              |

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the **Return** in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

**Sarah M. Henry, Esquire**  
**406 Pettigru Street**  
**Greenville SC 29601**

DATED this 23<sup>rd</sup> day of October, 2018.

  
 Judy A. C. Carey, Legal Assistant  
 For Respondent

STATE OF SOUTH CAROLINA )

COUNTY OF GREENVILLE )

COURT OF COMMON PLEAS  
2018-CP-23-02956

CHRISTOPHER ERIC MEJEAN,  
APPLICANT, )

vs. )

TRANSCRIPT OF RECORD

STATE OF SOUTH CAROLINA,  
RESPONDENT. )

**ORIGINAL**

December 18, 2018  
Greenville, South Carolina

B E F O R E:

THE HONORABLE ALEX KINLAW, JR., JUDGE.

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

SARAH M. HENRY, ESQ.  
Attorney for the Applicant

CHRISTIAN SAVILLE, ESQ.  
Attorney for the Respondent

HOLLIE M. JENKINS  
Circuit Court Reporter

I N D E X

(AW) - Denotes Applicant's Witness  
(RW) - Denotes Respondent's Witness

Page No.(AW) CHRISTOPHER ERIC MEJEAN:

Direct Examination by Ms. Henry.....6  
Cross-Examination by Mr. Saville.....31

(AW) C. TIMOTHY SULLIVAN:

Direct Examination by Ms. Henry.....33  
Cross-Examination by Mr. Saville.....77

E X H I B I T S

(There were no exhibits introduced.)



P R O C E E D I N G S

THE COURT: Counsel, are you ready?

MR. SAVILLE: Yes, sir.

May it please the Court.

This is the case of Christopher Eric Mejean v. the State of South Carolina, docket number 2018 common pleas 23-2956.

The Applicant, in June of 2013, was indicted by the Greenville County Grand Jury for three counts of attempted murder. He was represented by Timothy Sullivan at trial. Assistant Solicitor Kris Hodge prosecuted the case. On June 2nd, 2015, he proceeded to trial before the Honorable R. Keith Kelly.

The jury found him guilty of one count of attempted murder and two counts of the lesser included offense of assault and battery first degree. Judge Kelly sentenced him to imprisonment for concurrent terms of 10 years for each of the assault and batteries, and 15 years for the attempted murder.

He, subsequently, filed an appeal. John H. Strom perfected the appeal. And his conviction was affirmed on June 28th, 2017. The remittitur was returned to the circuit court on July 14th, 2017.

Mr. MeJean filed an application for PCR on May 18th, 2018. And he is present today and represented by

1 Ms. Sarah Henry.

2 And, at this point, I'll turn it over to her to  
3 enumerate on which allegations they wish -- they wish to  
4 pursue.

5 Thank you.

6 THE COURT: Yes, ma'am.

7 MS. HENRY: Thank you, Your Honor.

8 I think the main allegation that we're -- we're going  
9 forward on is ineffective assistance of counsel. And I'll  
10 be putting my client up to talk about that and, also,  
11 Mr. Sullivan. Those are the only two witnesses.

12 THE COURT: All right. Are you ready to proceed?

13 MS. HENRY: Thank you, Your Honor.

14 And before I -- before I put him up, I do -- and I've  
15 talked to the -- the AG about this. I do just want to  
16 give the Court just a little quick summary of facts, if  
17 the Court doesn't mind --

18 THE COURT: Okay.

19 MS. HENRY: -- so that we don't have to get bogged  
20 down on that during the testimony.

21 So as far as the -- the factual basis for this case,  
22 it looks like an assailant fired a gun into the victims  
23 house. Regina Smith and Tee Smith were asleep in the same  
24 bed. They had a daughter that was asleep in the living  
25 room. Bullets entered both rooms. Eric, my client, was

1 discovered outside by Mr. Smith.

2 My client, during the trial, testified that there'd  
3 been a third party who stole his gun. And that that  
4 person, that third party, had fired at Mr. MeJean, my  
5 client, and then hit a house -- hit his neighbor's house.  
6 And that he had not, actually, fired on the house.

7 And then those were kind of two different versions of  
8 events. That's just a -- a short background of kind of  
9 what happened at the trial.

10 All right. I call my client, Eric Mejean, to the  
11 stand.

12 Eric, go up there and sit by him. And take that with  
13 you.

14 THE COURT: If you'll come around and be sworn.

15 THE CLERK: Mr. Mejean, please place -- place your  
16 left hand on the Bible and raise your right hand the best  
17 you can.

18 WHEREUPON,

19 CHRISTOPHER ERIC MEJEAN,  
20 after first having been duly sworn, testified as follows:

21 THE CLERK: Thank you.

22 You may be seated.

23 And, please, state your full name for the record.

24 THE WITNESS: Christopher Eric Mejean.

25 THE COURT: Yes, ma'am.

DIRECT EXAMINATION

BY MS. HENRY:

Q All right. So Mr. Mejean -- Eric, you -- you filed an application for post-conviction relief?

A Yes, I did.

Q Okay. Do you have a copy of that application that you filed?

A I do.

Q Okay. So I'm going to ask -- I'm going to ask you to walk through that with me. Okay.

A Okay.

Q All right. Your attorney -- your attorney that you've -- you've alleged has inaffectionate -- ineffective assistance of counsel is -- is who?

A Tim Sullivan.

Q Okay. And he represented -- he represented you on what charges?

A Three counts of attempted murder.

Q All right. And did you -- were those cases tried?

A Yes, they were.

Q Okay. Were you convicted?

A I was convicted of two lesser -- lessers, assault and battery first degree, and a third attempted murder.

Q Okay. And what sentences did you receive on the attempted murder?

1       A     10 years each on the assault and battery first  
2       degree, and 15 years on the attempted murder. And the  
3       Judge ran them all concurrent to 15 years.

4       Q     Okay. And when did you start your sentence?

5       A     June.

6       Q     Was it June 4 -- was it June 4th?

7       A     I think it was June 4th, 2015.

8       Q     All right. And you've been incarcerated since?

9       A     Yes, ma'am.

10      Q     Okay. And you filed a post-conviction relief action  
11     against Mr. Sullivan?

12      A     Yes, ma'am.

13      Q     Okay. Can I -- and you have that with you?

14      A     I do.

15      Q     All right. Can I -- can I ask you to flip to Page 4  
16     of that?

17      A     Okay.

18      Q     All right. And I'm going to draw your attention  
19     to -- I believe it's listed as continuation of question  
20     2-A-2. Can you see that?

21      A     Yep.

22            MS. HENRY: Okay. And, Your Honor, I believe you  
23     should have a copy of this. This should be part of the  
24     record.

25            THE COURT: I do.

1 MS. HENRY: Okay.

2 BY MS. HENRY:

3 Q All right. So, Eric, one of the allegations that you  
4 made against Mr. Sullivan is that an objection should have  
5 been made with the victims claims from the discovery and  
6 the testimony. Can you tell me what you mean by that?

7 A The discovery and the testimony didn't add up at the  
8 trial. I believe -- I believe I should -- the question  
9 should have been objected to as far as Tee's statement  
10 that he made during the trial.

11 Q Well, let's back it up. So -- so I believe -- are  
12 you referring to Tee Smith?

13 A Tee Smith.

14 Q Okay. So who is Tee Smith in this -- in this case?

15 A He was my former neighbor.

16 Q Okay. Was he one of the victims?

17 A He is considered one of the ones, yes.

18 Q Okay. And you believe that -- and which testimony --  
19 like, what did -- what did Mr. Smith say that you -- what  
20 did Mr. Smith say during his testimony that you felt was  
21 not accurate?

22 A His -- his statement of the discussion me and him had  
23 from a distance away from each other. And he asked me if  
24 I had shot his house. And I told him, No. And he stated  
25 that in the discovery. But during the trial, he failed to

1 state that at his testimony.

2 Q So Mr. Smith, the victim -- one of the victims in  
3 this case, was asked during his testimony if you had  
4 denied shooting at his house. So someone asked him that  
5 and he said -- he said what?

6 A Mr. Sullivan did not ask that question to Tee Smith.

7 Q All right. What other -- what other discovery and  
8 testimony issues do you think -- do you feel like weren't  
9 addressed?

10 A I'm sorry.

11 Q So here -- let's move on to C-2.

12 A Okay.

13 Q All right. So you said the -- your attorney -- so  
14 Mr. Sullivan continually asked you to take the plea?

15 A Yes.

16 Q And that -- you feel that that was ineffective  
17 assistance of counsel?

18 A Yes, I do.

19 Q Why?

20 A Because I -- I didn't feel like he was putting up the  
21 effort to, actually, put up a case for me. And I -- I  
22 believe that if -- if he had worried more about the case  
23 than just what seemed to be, like, just get it over with  
24 to just try to get me to take the plea.

25 Q So when you -- when you say that Mr. Sullivan

1 continually tried to get you to take the plea, let me ask  
2 you some questions about that.

3 A Okay.

4 Q So did Mr. Sullivan threaten you at all?

5 A No.

6 Q Okay. So did he -- did he -- and when I say didn't  
7 threaten -- so did Mr. Sullivan promise you anything?

8 A No.

9 Q Okay. So did Mr. Sullivan tell you that the case was  
10 impossible to win? What were your discussions about this  
11 plea offer and Mr. Sullivan's response that -- that made  
12 you think that what he was doing was wrong?

13 A He never told me that the case was unbeatable. But  
14 from what I was told from my wife, it seemed like that's  
15 where he was leading on to.

16 Q Okay. So let's -- and anything else about that that  
17 you want to discuss or you want to tell the Court?

18 A The -- a verbal statement he made to me before the  
19 trial that he wasn't there to defend me, that he was only  
20 there to represent me.

21 Q And what did you think that meant?

22 A That he wasn't there to help me.

23 Q All right. So let's move on to D-1?

24 A Okay.

25 Q All right. You feel that Mr. Sullivan should have



1       objected to -- and I -- you may have to stop and explain  
2       this to me. And I believe that you and I talked about  
3       this. So let's walk through this.

4             Okay. So Mr. -- this is back to Tee Smith. He was  
5       the victim in this case; correct?

6       A     Correct.

7       Q     Okay. So he testified that he saw you with a weapon?

8       A     He did not testify -- he -- he -- he stated in the  
9       discovery that he did not see me with a gun. He testified  
10      at the trial that -- pretty much the same thing. He  
11      assumed it was a gun, but he -- he couldn't tell.

12      Q     And you believe Mr. Sullivan should have done what?

13      A     I -- I think he should have objected to that -- to  
14      that statement.

15      Q     Okay. Anything else you want to say about that?

16      A     No.

17      Q     All right. D-2. You -- I believe that D-2 -- D-2  
18      is, essentially, the same issue as D-1; is that correct?

19      A     That's correct.

20      Q     All right. So moving along. All right. D-3. There  
21      was a forensics officer that testified in this case, this  
22      would be Officer Davis?

23      A     Correct.

24      Q     Okay. Officer Davis, also, had a report that was  
25      part of the discovery?

1       A     Correct.

2       Q     All right.  As part of his testimony -- well, as part  
3       of his investigation, he found some shell casings at the  
4       scene?

5       A     Correct.

6       Q     All right.  When he was -- as part of the direct  
7       examination by Kris Hodge, the Solicitor in this case, he  
8       testified that he did not test the shell casings for  
9       fingerprints?

10      A     He did not.

11      Q     All right.  When he was asked by the Solicitor why he  
12      didn't do that, is it your understanding that he testified  
13      that the heat from the firing and the wet ground would  
14      have prevented that -- would have prevented fingerprints  
15      from showing up on the shell casings?

16      A     That was his statement, yes.

17      Q     Okay.  Did Mr. -- and Mr. Sullivan crossed Mr. Davis?

18      A     Yes.

19      Q     Okay.  And I believe that your objection here is that  
20      you feel that Mr. Sullivan did not do a good enough job,  
21      or did not have -- you know, what is your objection here?  
22      That there was no -- that he didn't call his own expert or  
23      that he didn't try to have the -- the shell casings  
24      fingerprinted on his own?  What's your objection?  What do  
25      you feel like he failed at --

1       A     I feel that Mr. Sullivan should have had a -- a  
2       forensics gentleman on -- on the Defense side, just  
3       because Mr. Davis was the officer reporting to the -- to  
4       the scene. I believe there should have been another  
5       gentleman in the court. There's -- I think -- I think  
6       Mr. Sullivan should have objected to his statement, even  
7       when the question was brought up about the pristine boxes  
8       and tests were not done on those as well.

9       Q     Okay. So -- so the ineffective assistance of counsel  
10      here is that you feel that Mr. Sullivan did not thoroughly  
11      question -- or effectively cross the forensics expert,  
12      Officer Davis?

13     A     Correct.

14     Q     And that you feel that Mr. Sullivan did not procure  
15      his own expert?

16     A     Correct.

17     Q     Regarding the fingerprint issue?

18     A     Yes.

19     Q     Is that correct?

20     A     That's correct.

21     Q     All right. Is there anything else related to the  
22      fingerprints -- fingerprinting or the testimony of Officer  
23      Davis?

24     A     Not -- not as far as the fingerprints, no.

25     Q     Okay. So you were -- so this -- this occurred in the

1 evening. And you were arrested the next morning; is that  
2 correct?

3 A That's correct.

4 Q Okay. So when you were arrested, you -- were you  
5 given any kind of GSR test or gunshot residue test?

6 A I was not.

7 Q Okay. Did you ask for one?

8 A No. I did not ask for one.

9 Q Okay. Is that something that you felt -- is that  
10 something that you felt like would have exonerated you if  
11 you had been given the GSR test?

12 A Yes.

13 Q All right. As part of his questioning of forensics  
14 Officer Davis, did Mr. Sullivan bring that up?

15 A He did.

16 Q He did. Okay. So he did ask Officer Davis why you  
17 were not tested for gunshot residue?

18 A He did ask why I had -- I was not tested, yes.

19 Q Okay. Then what is your -- where is the ineffective  
20 assistance of counsel? You've put this here as D-5.

21 A I feel like the objection should have been made.  
22 Because if the test would have been made, it could have  
23 cleared me of the target.

24 Q So, Eric, you just testified that you believed that  
25 Mr. -- I just want to make sure that we're -- I'm

1 understanding what you're saying. So I just asked you if  
2 Mr. Sullivan asked the officer why you weren't tested.  
3 And you just testified that he did ask. So I'm confused.  
4 I just want to make sure that we're getting all this out.  
5 It was my understanding that Mr. Sullivan did not bring  
6 that issue up?

7 A No. He -- he did bring -- he did bring it up.

8 Q Then what do you think he -- what did he fail to do?

9 A But when the -- when the forensics made the statement  
10 that I was not tested, I think -- I think that objection  
11 should have been made because I should have been tested.

12 Q Okay. Let's move on. I think that we've -- I think  
13 we've exhausted that.

14 A Okay.

15 Q All right. So E-1? It's my -- so at the end of  
16 this, it's my understanding that you were not happy  
17 with -- with how the trial went; is that correct?

18 A That's correct.

19 Q All right. And that you wished to file an appeal?

20 A I did.

21 Q At the time, Mr. Sullivan told you that you had the  
22 right to -- to appeal within 10 days?

23 A He did.

24 Q He did. Did you ask Mr. Sullivan to file an appeal?

25 A Yes, I did.

1 Q Okay. Did Mr. Sullivan file an appeal?

2 A From my knowledge, no, he didn't.

3 Q Okay. Who ended up filing the appeal in this case?

4 A A lawyer named Mr. Williams.

5 Q Okay. Was he someone that you had to retain?

6 A I -- my wife was in the process of obtaining him.  
7 She did not. And when he seen that the direct appeal had  
8 not been filed, he filed it for me.

9 Q Okay. When you say that you asked Mr. Sullivan to  
10 file an appeal on your behalf, how did you ask it? Was  
11 it -- did you request it in writing or is this a  
12 conversation?

13 A It was a conversation directly after being sentenced  
14 and convicted. He met me at the little window booth and  
15 asked -- and told me I had a right to -- for a direct  
16 appeal. And I said, Yes, I would like to file a direct  
17 appeal.

18 Q Is this at the holding cell in the courthouse or at  
19 the detention --

20 A At the courthouse.

21 Q At the courthouse. Okay. So this is the same day of  
22 trial?

23 A Yes.

24 Q Okay. Or the last day of trial?

25 A Yes.

1 Q All right. I'm going to call your attention to -- to  
2 F-1 here.

3 A Okay.

4 Q Okay. So at the trial -- at this trial, you were,  
5 initially, charged with three counts of attempted murder?

6 A Correct.

7 Q And as -- as the trial progressed, at least, towards  
8 the end of it, the Solicitor's Office, and Mr. Sullivan,  
9 and the -- the Judge had a -- an in-court conversation  
10 about adding lesser includeds, or giving the jury an  
11 option of several lesser includeds. Is that your  
12 understanding?

13 A That's my understanding, yes.

14 Q And those lesser includeds included ABHAN, assault  
15 and battery of a high and aggravated nature?

16 A Yes.

17 Q And assault and battery first?

18 A Yes.

19 Q Okay. You were, ultimately, convicted of two of  
20 these lesser includeds; right?

21 A Correct.

22 Q So you -- you were found guilty of attempted murder  
23 against Regina Smith; is that correct?

24 A That's correct.

25 Q And then against the daughter and Tee Smith, you were

1 found guilty of assault and battery first?

2 A Correct.

3 Q And then your understanding is the assault and  
4 battery first is a lesser included and was added as a  
5 lesser included?

6 A Correct.

7 Q Okay. So it's my understanding that you and  
8 Mr. Sullivan -- did you and Mr. Sullivan ever have any  
9 kind of conversation about the possibility of there being  
10 lesser included -- or there being other -- additional  
11 options for guilt added to the -- added to the three  
12 attempted murders?

13 A No.

14 Q Okay. So when you went into this trial and you --  
15 and you decided to move forward with it, you were under  
16 the impression that it was -- the jury had to find you  
17 guilty of a specific intent, attempted murder or nothing?

18 A Correct.

19 Q Okay. Did you and Mr. Sullivan have any  
20 conversations in the middle of the trial after you found  
21 out that there would be lesser includeds given to the jury  
22 as an option?

23 A No.

24 Q Okay. So did Mr. Sullivan ever at any time explain  
25 to you how that would work?



1 A No.

2 Q Okay. Did he talk to you at all about the trial  
3 strategy involved in -- for final argument, or anything  
4 else when there were lesser included offenses on the table?

5 A No.

6 Q Okay. Do you feel that -- if you had known about  
7 the -- the option of having lesser included offenses given  
8 to the jury as an option, do you feel like that would have  
9 changed your decision to go forward with the trial?

10 A It would have made me think about it a lot more. But  
11 I still believe that I still would have regretted it  
12 and -- or refused the deal.

13 Q Okay. If you'll flip over for me. I'm going to draw  
14 your attention to F-3. All right. So you're claiming  
15 that Tim was ineffective because he failed to show -- or  
16 failed to bring up as part of -- as part of his case or  
17 through his cross that this -- that the witness  
18 testimonies did not support specific intent. Can you talk  
19 to us a little bit about that?

20 A Correct. Yes. It -- definitely both the discovery  
21 and Tee Smith and Regina Smith's testimonies state that we  
22 were good friends. We never had issues before. Our kids  
23 hung out, played pretty much every day. And there's --  
24 there's no possible reason why I would be the one to do  
25 this. And I don't believe there was any specific intent.

1 Q Okay. Let me ask you a couple of -- a couple of  
2 questions about that. So as part of -- so the Solicitor  
3 in this case, Kris Hodge, as part of her direct  
4 examination of Tee Smith, she asked him a series of  
5 questions about your past marital history?

6 A Correct.

7 Q Okay. One of -- some of those questions suggested  
8 that you had a volatile or violent history with your wife;  
9 is that accurate?

10 A That's correct.

11 Q Okay. So as part of her direct examination with  
12 Regina Smith, the other victim, Kris Hodge asked her a --  
13 the same series of questions. As -- you know, as far as  
14 you recall, she asked her about your wife moving out?

15 A Correct.

16 Q Okay. Asked her if y'all had any fights?

17 A Yes.

18 Q If she knew about any altercations between the two of  
19 you, questions like that --

20 A Correct.

21 Q -- is that how you recall that?

22 A Yes, ma'am.

23 Q Okay. And then Kris Hodge, also, asked you about  
24 past altercations?

25 A Yes.

1 Q Including altercations in the distant past?

2 A Correct.

3 Q Okay. She asked if you guys had a volatile  
4 relationship or not, did she not?

5 A You threw me off on volatile.

6 Q Okay. Did you guys have a -- a violent or a -- did  
7 you guys have a violent relationship? Did you -- did you  
8 guys yell at each other a lot? Did she ask you those  
9 kinds of questions?

10 A Yes, she did.

11 Q Okay. At any point when Kris Hodge was asking Tee  
12 Smith that -- those questions about your prior bad acts,  
13 about the bad things that you had done in this -- in your  
14 marriage --

15 A Correct.

16 Q -- did Mr. -- did Mr. Sullivan object to any of that?

17 A No, he didn't.

18 Q Okay. At any time when the Solicitor was asking  
19 Regina Smith about your prior bad acts, about your wife  
20 having to move out a month prior to this incident, any of  
21 those times -- any of those questions, did Mr. -- did  
22 Mr. Sullivan object to any of those?

23 A No, he did not.

24 Q Okay. And when the Solicitor was asking you about  
25 your prior poor marital history or your prior poor

1 behavior with your wife, did Mr. Sullivan object to any of  
2 those questions?

3 A No, he did not.

4 Q Okay. Did he perform any kind of follow-up with you  
5 and try to rehab any of that? Did he ask you about the  
6 positives in your relationship? Did he -- did he do any  
7 of that with you?

8 A No, he did not.

9 Q All right. Let's see. And then when Kris -- so when  
10 the Solicitor was giving their [sic] closing in this case,  
11 do you recall whether or not your relationship with your  
12 wife -- the allegedly bad relationship with your wife, do  
13 you recall whether or not that was a key focus?

14 A It was -- it -- she definitely tried to make it a key  
15 focus, yes.

16 Q Okay. Do you feel that the Solicitor in this case  
17 relied on that -- the information that she'd gotten in  
18 through that series of questions to support her basis for  
19 the specific intent?

20 A Yes, I do.

21 Q Okay. And do you think that -- Mr. Sullivan's  
22 handling of the prior bad acts of the prior poor marital  
23 history, do you think that that was ineffective assistance  
24 of counsel?

25 A Yes, I do.

1 Q I'm going to draw your attention to H-2.

2 A Okay.

3 Q Okay. One of the things that you allege was the  
4 trial was very circumstantial and that trial counsel  
5 failed to argue that. Can you -- can you tell us briefly  
6 what you mean by that?

7 A That all the evidence that the forensics unwrapped,  
8 all the spent shells, all the cartridge boxes, all the  
9 pristine boxes, none of it can point to me as the shooter.

10 Q Okay. So were there any witnesses -- were there any  
11 actual witnesses to -- to you or anybody else firing into  
12 the Smith's house?

13 A No.

14 Q Okay. So were there any witnesses to you firing into  
15 your own home?

16 A No.

17 Q Okay. So is that what you're trying to say, that  
18 there was no -- are there any forensics that tie you back  
19 to the shell casings?

20 A (There was no verbal response.)

21 Q So any fingerprints, any DNA?

22 A No fingerprints, no DNA, no. The only thing is that  
23 the boxes were found in my house.

24 Q Okay.

25 A The empty boxes.

1 Q The empty boxes. Okay. So no forensics, no DNA on  
2 the physical evidence. Is -- so that's right?

3 A Uh-huh.

4 Q Okay. And no actual -- no actual witnesses to this  
5 incident?

6 A No.

7 Q Okay. And is that -- and you feel that Mr. Sullivan  
8 didn't highlight that? He didn't highlight that there was  
9 no -- no physical evidence and no direct eyewitnesses?

10 A No.

11 Q Okay. And you feel -- do you feel like he should  
12 have?

13 A He should have, yes.

14 Q Okay. You, also, said that trial counsel -- one of  
15 your allegations was that trial counsel did not meet with  
16 you frequently enough. Can you talk to me about that?

17 A The only time I met him was once when I was in the  
18 county, in what that call Pro V. I did meet with him  
19 throughout the three years waiting on the trial and  
20 showing up for court. But nothing was discussed about the  
21 trial. And I met with him twice two days back to back a  
22 week before the trial.

23 Q Okay. Was there anything that you felt like was  
24 really important to this case that you didn't discuss with  
25 Mr. Sullivan?

1 A Any type of a defense.

2 Q So you and Mr. Sullivan never discussed the defense  
3 for this trial?

4 A No.

5 Q What did you talk about during those two days?

6 A Going over the discovery and me explaining to him  
7 what, actually, happened.

8 Q Okay. But you feel that -- what would -- for you,  
9 what would -- what would discussing your defense have  
10 looked like? What did you want Mr. Sullivan to do that  
11 didn't happen during those conversations?

12 A I -- I really can't say.

13 Q That's okay. That's okay. All right. And you,  
14 also, allege -- I'm going to -- this is -- I think this is  
15 our last section. It's on the back of the page, I-2?

16 A Yes.

17 Q And that you -- you feel that -- that he -- the claim  
18 is that trial counsel failed to go over discovery with  
19 you. But I think -- I think we've changed our mind on  
20 that; right? He did -- it sounded like he did review the  
21 discovery. Were there parts of it that he did not review  
22 with you?

23 A Yes. He -- he did go over the discovery in our --  
24 our two meetings. But as far as what was collected and  
25 put in the discovery, nothing was investigated by him.

1 Q Okay. So what do you think -- so were there  
2 witnesses -- so which -- did you give Mr. Sullivan any  
3 witnesses or leads that you wanted him to pursue that he  
4 did not pursue?

5 A I definitely wanted him to investigate the  
6 possibility of fingerprints or DNA.

7 Q Okay. So you believe -- so you feel that he should  
8 have asked the solicitor's office to try the [phonetic]  
9 fingerprints?

10 A Yes.

11 Q Okay. Do you feel that he should have hired a  
12 fingerprint expert?

13 A Yes.

14 Q Okay. Are there any other experts that you feel like  
15 would have really benefitted, or helped, or changed your  
16 case?

17 A The -- what really takes place with GSR, definitely.

18 Q All right. So you think there should have been a GSR  
19 expert?

20 A Yes.

21 Q Okay. Any other additional expert witnesses that you  
22 think that should have been included?

23 A No.

24 Q How about lay witnesses? Are there any other -- any  
25 other witnesses that you think that Mr. Sullivan should



1 have called or that you gave him to call that he did not?

2 A I -- character witnesses.

3 Q Okay. Who were they?

4 A My friend's -- his name is Marcus Barton.

5 Q Okay. And what would Mr. Barton have testified to?

6 A He was, actually, my friend, where I was at that  
7 night.

8 MR. SAVILLE: Your Honor, I would have to object.  
9 This calls for speculation.

10 THE COURT: I'm going to overrule. I'm going to let  
11 him answer the question.

12 Go ahead. You can answer the question.

13 THE WITNESS: What was the question again?

14 BY MS. HENRY:

15 Q So the question is, it looks like -- so let's back  
16 this up. Did you ask Mr. Sullivan to contact or to call  
17 Marcus -- Marcus Barton? Was Mr. Sullivan aware of Marcus  
18 Barton?

19 A He never asked me who -- I told him I had a couple of  
20 character witnesses. But nothing further was done about  
21 that. He -- he did ask me if there was anybody to, I  
22 guess, not really investigate, but anybody else that was  
23 there, if there was anybody else that was there that  
24 night, but there wasn't.

25 Q Okay. So you didn't have any eye witnesses yourself?

1 A No.

2 Q Or witnesses that were present during this time?

3 A No.

4 Q You did have witnesses that were with you prior --

5 A Correct.

6 Q -- in the day?

7 A Correct.

8 Q That could, perhaps, have testified to your state of  
9 mind?

10 A Correct.

11 Q Or to your alcohol consumption?

12 A That, my respect for firearms.

13 Q Okay.

14 A The -- I always took those seriously.

15 Q And you testified to -- you testified to those  
16 issues?

17 A I did.

18 Q But you felt that -- you felt that Mr. Sullivan could  
19 have investigated and put up evidence that there was  
20 available witnesses and available evidence that would have  
21 supported your claims?

22 A Yes.

23 Q And that Mr. Sullivan could have put those up?

24 A He could have.

25 Q And that you feel -- and did you feel that he didn't

1 investigate those properly or ask you about them?

2 A I don't think properly. Because nothing further  
3 after a phone call about if there was anybody that he  
4 could call was done about it.

5 Q Okay. Anything else that you can tell the Court as  
6 far as a lack of investigation on Mr. Sullivan's part?

7 A I think that pretty much covers it.

8 Q Okay. And you feel that Mr. -- that -- and, again,  
9 this is just to kind of wrap this up. But you feel that  
10 both individually -- do you feel that individually and  
11 collectively that if Mr. Sullivan had -- had done these --  
12 these things, followed up with the GSR, if he had objected  
13 in the areas that you have requested, do you think that it  
14 would have changed the outcome of the trial?

15 A Yes, I do.

16 Q Do you think the verdict would have been different?

17 A I do.

18 Q Why do you think that?

19 A Because from the beginning of the trial, I was  
20 already labeled a bad guy. But to see the facts in the  
21 case would have cleared my name. I fell like -- I think  
22 the trial would have went completely different. I think  
23 the -- the jury would have seen the truth and they would  
24 have done the right thing.

25 Q All right. Is there anything else that you want to

1 tell the Court about this, or any other issue related to  
2 ineffective assistance of counsel for Mr. Sullivan that  
3 you feel like we haven't addressed or that you want to  
4 talk about now?

5 A As far as trial counsel?

6 Q Yeah. As far as trial counsel.

7 A No.

8 Q Okay. And then briefly --

9 MS. HENRY: And I apologize, Your Honor. I know that  
10 we've already addressed this. But I just want to go over  
11 it really quickly.

12 BY MS. HENRY:

13 Q Your appellate -- Eric, your appellate counsel was  
14 John Harrison Strom; is that accurate?

15 A That's correct.

16 Q Okay. And he is the one that filed your appeal -- or  
17 he is the one that handled your appeal from this trial?

18 A He's the one that handled my appeal, yes.

19 Q Yes. Okay. So you had, initially, made allegations  
20 of ineffective assistance of counsel against him as well;  
21 is that accurate?

22 A That's correct.

23 Q And then earlier -- the majority of what the  
24 allegation was based on -- and stop me if I'm wrong -- was  
25 that he had not provided you with a copy of the appellate

1 transcript -- or with the trial transcript?

2 A That's correct.

3 Q Okay. Are there -- were there any other complaints  
4 that you want to make against Mr. Harrison [sic]? I think  
5 that was -- that was pretty much --

6 A That was -- that was pretty much it.

7 Q Okay. And so I believe that we addressed this  
8 earlier. But because of that and based on our  
9 discussions, you decided to drop the -- the claim of  
10 ineffective assistance of counsel as to Mr. -- Mr. Strom?

11 A Correct.

12 Q Okay. So you don't have anything that you want to  
13 say about that now?

14 A No.

15 MS. HENRY: All right. Eric, please answer any  
16 questions from Mr. Saville.

17 THE COURT: Yes, sir. Cross-examination.

18 CROSS-EXAMINATION

19 BY MR. SAVILLE:

20 Q Good morning, Mr. Mejean.

21 First, I want to apologize for mispronouncing your  
22 last name earlier.

23 A That's okay.

24 Q Sorry about that.

25 I'm -- I'm going to be very, very brief. If you

1 recall, kind of towards the beginning of the trial, do you  
2 remember y'all went over the guilty plea that they had  
3 offered in front of the Judge? It was five years cap for  
4 assault and battery. Do you remember going over that with  
5 the Judge before the trial?

6 A Reading back over the transcript, yes, I do.

7 Q Yes, sir. And do you recall that, at that time, you  
8 told the Judge that you do not need to talk with  
9 Mr. Sullivan any further?

10 A Yes.

11 Q And that he had shown you the discovery and answered  
12 all your questions?

13 A He did.

14 Q And when you were speaking with Ms. Henry a moment  
15 ago, you allege that Mr. Sullivan should have called some  
16 character witnesses and some -- and, perhaps, some expert  
17 witnesses on your behalf; is that correct?

18 A That's correct.

19 Q Are any of -- do you have any witnesses present today  
20 to testify to that extent?

21 A No, I don't.

22 MR. SAVILLE: That's all I have, Mr. Mejean.

23 Thank you.

24 THE COURT: All right. Anything on redirect?

25 MS. HENRY: No, Your Honor.

1 THE COURT: All right. And I have no questions.

2 You can step down.

3 THE WITNESS: Thank you, sir.

4 THE COURT: All right. Any other witnesses,

5 Ms. Henry?

6 Ms. HENRY: Yes. Mr. Sullivan.

7 THE COURT: All right. Come on up, Mr. Sullivan.

8 THE CLERK: Mr. Sullivan, please place your left hand  
9 on the Bible and raise your right hand.

10 WHEREUPON,

11 C. TIMOTHY SULLIVAN,

12 after first having been duly sworn, testified as follows:

13 THE CLERK: Thank you.

14 You may be seated.

15 And, please, state your full name for the record.

16 THE WITNESS: C. Timothy Sullivan.

17 THE COURT: Yes, ma'am.

18 MS. HENRY: All right. Thank you, Your Honor.

19 DIRECT EXAMINATION

20 BY MS. HENRY:

21 Q All right. Mr. Sullivan, how long have you been --  
22 you're an attorney?

23 A Yes, ma'am.

24 Q Okay. How long have you been practicing law?

25 A We had our 50th law school reunion last month.

1 Q Congratulations.

2 Okay. So you know -- you know my client, Mr. Mejean?

3 A Yes, I do. And I told the Attorney General I  
4 liked -- I liked Chris.

5 Q Well, how did you -- how did you become involved in  
6 Mr. Mejean's case?

7 A I was appointed through the public defender's office  
8 to represent him in his case.

9 Q Okay. Do you remember what his charges were?

10 A (There was no response.)

11 Q Do you remember -- we already discussed it. But do  
12 you remember his charges?

13 A Oh, yeah, attempted murder for shooting in the  
14 trailers, and all that.

15 Q Okay. So you remember how the charges happened and  
16 how he came to be arrested?

17 A Well, not to go back too far. There'd been some  
18 attempt to go to the fireworks. There'd been some  
19 swimming during the day. And there had been some  
20 drinking.

21 And there was a party at this Marcus' house. And the  
22 girls didn't want to stay. They were tired. And Chris  
23 wasn't ready to go. So the girls went home.

24 When Chris' wife got home, she knew he'd been  
25 drinking. And they didn't want to get in an argument. So



1 she went to a cousin's house, or somebody.

2 The -- Tee, and his wife, and child went to bed.

3 Sometime later during the night, there was a storm, rain,  
4 lightening, thunder, this type of thing. And so somebody  
5 shot three shots through the trailer where the victims  
6 lived. There was the -- the lady, Melissa [sic], and  
7 there was Tee, and then there was a child. And they  
8 didn't really know what was going on with the lightening  
9 and all, and the gunshots.

10 So Tee got up and got his pistol and kind of was  
11 looking around, looked out. And, eventually, he saw Chris  
12 Mejean coming up from the shed. There was a shed back --  
13 the trailers were kind of on a gravel road with a shed  
14 behind Chris'. And he thought he had a gun.

15 I think on Page 66, he said he thought he had a gun.  
16 It looked long, that is was -- he even said he had a  
17 Mossberg. I think it's on the -- 66, Lines 13 through  
18 about 18.

19 So he thought he had a gun. And Chris -- the victim,  
20 Tee asked Chris what was going on. And according to Tee,  
21 Chris said, Where is my mother fucking wife? And later  
22 on, there was some conversations. Chris said he meant his  
23 gun -- he was talking about a gun.

24 So that's how it started. The cops came. Ms. --  
25 whatever their last name, the victim, Melissa --

1 Q So the Smiths --

2 A -- she called the police. And they came and --

3 Q And -- and Mr. Smith -- I mean, sorry, Mr. Sullivan,  
4 I don't mean to interrupt. But I think that it's Regina  
5 Smith, and then Melissa Mejean.

6 A Ah, Regina.

7 Q Just so -- yeah, but everything else -- yes.

8 A She called 911. It took them about 45 minutes to get  
9 there. In the meantime, Chris had gone -- there was a  
10 pasture out there in front of the house. And Chris had  
11 gone over --

12 Would you allow her to bring me -- this is my  
13 assistant.

14 Thank you.

15 Chris had gone over -- Chris got there and said --  
16 later on, it developed that -- that he and his wife had  
17 had an argument. And that they'd pushed the -- the front  
18 door was broken. So they pushed the sofa against it. So  
19 that -- when he got home -- somebody gave him a ride home.  
20 He saw that the door was cracked. He knew something was  
21 wrong because they had been using the back door until they  
22 could get the front door fixed.

23 So he went in the front. And a fellow named Frog --  
24 I don't know his last name. But his name was Frog. He  
25 was there and that he had a gun. And that he was going

1 after him. And there was a shot at the back door. And  
2 then Frog ran out and Tee -- Chris was chasing him. And  
3 he fired a few shots at him. But he knew the site was off  
4 on the gun. So if he stayed to the left, the shots would  
5 miss him.

6 So then he went over the fence. And then he came  
7 back and asked Tee another question. And then Chris went  
8 back and was not seen again that night.

9 The cops came and investigated. They took pictures.  
10 They found shotgun shells, spent shells and casings. I  
11 think about 10 in all in different places. They, also,  
12 found where some bird shot had gone through one of the  
13 bedrooms. And then a couple of bullets had gone through  
14 that had shattered the furniture, tables, and stuff like  
15 that, damage to the house.

16 Most of the shots had gone at an upward angle, like  
17 if you were going to -- I thought, well, if you're trying  
18 to kill somebody, you'd be shooting directly through, but  
19 these were like wild shots whoever did it.

20 Then Regina thought she heard some more shots, but  
21 wasn't sure. So when the police got there, they collected  
22 the evidence.

23 They -- then Ms. Mejean got there and asked her if  
24 they could search the house. She gave consent. When they  
25 went in, the house was a -- was a wreck, things

1       overturned, this type of thing. And Ms. Mejean had told  
2       them that when they left everything was clean and in  
3       place. They went to the bedroom and they found empty  
4       shotgun and -- and rifle fragments.

5               Tee [sic] was a hunter. And, at one time, he said  
6       that he did not shoot just to shoot, that he killed for --  
7       for meat. That whatever he shot, he ate, turkey, quail,  
8       deer, whatever. He was a good shot.

9               He had three guns. At one time, he kept them at  
10      Marcus' house in a gun safe, but then later he transferred  
11      them to his own house. He had a black powder gun, a  
12      shotgun, and had a rifle. When the police got there, the  
13      rifle and the shotgun were missing.

14              After they gathered the evidence -- I don't know  
15      where Ms. Mejean went. But they came back the next day  
16      and Chris was at home. He was at his house. And he was  
17      arrested without incident. He insisted to me that he had  
18      not shot the gun at any time, that the fellow, Frog, that  
19      he knew had done the shooting and he was chasing him.

20              As far as the general overall case, that's -- that's  
21      pretty much it, except after that I saw -- saw Chris. We  
22      got discovery. I gave him a full copy. And what I tell  
23      people, I say, look, this is your copy, you write it up,  
24      look at it, make notes. We're going to get back together  
25      and go through it thoroughly. And so we did that.

1 Chris was able to make bail. And so we were able to  
2 meet in a nicer setting than the jail and go over several  
3 times the discovery.

4 The offer was five years. And, of course, we went  
5 through that on a colloquy with the Judge, Judge Kelly,  
6 who fully explained to Chris the dangers of going to  
7 trial. And that the offer of five, he would still give  
8 him that, even though we were getting ready to pick a  
9 jury. And Chris insisted he was not guilty and he wanted  
10 a trial. So that's, basically, what happened.

11 Q Okay. So it sounds like you met with Mr. Mejean  
12 several times. Do you remember the number of times?

13 A No. I don't know if I have it. I don't remember the  
14 exact times. I know there was a jail visit. And then we  
15 had different -- different meetings. I think -- he said  
16 we had, at least, two a couple days before the trial. And  
17 then we had one before then, of course. But when we got  
18 the discovery -- I mean got the offer, we met then. I  
19 don't remember the dates.

20 Q Okay. So you're -- you're telling me, at least,  
21 three is what you think --

22 A At least, three or four, yes. We went over the  
23 discovery. He had his copy and I had mine.

24 Q Okay. So during those meetings, I know that you said  
25 that you went over the discovery. Did you guys -- did you

1 discuss the indictments with him or -- and the elements of  
2 the offenses?

3 A Yeah. The -- in other words, if -- the intent to  
4 kill, you know, we discussed whether -- changed the  
5 manslaughter to attempted murder, and that type of stuff.  
6 So you have attempted murder, and then down to assault and  
7 battery high and aggravated nature, and then assault  
8 with -- not guilty. It was different forms of the  
9 verdict.

10 Q Okay. So when you discussed this with him, you went  
11 over the -- the elements for the attempted murder, y'all  
12 talked about specific intent --

13 A Intent, yes. We discussed that and the -- to make  
14 sure that was in the charge so that I could then argue  
15 that, well, he had -- had the ability to have the intent.  
16 There was evidence from -- that he'd been -- had been  
17 drinking a good bit. As far as this thing about them  
18 separating at one time, I didn't think that was a prior  
19 bad act.

20 Kris did have a couple of items on his record that we  
21 went over with Judge Kelly. And we made them exclude  
22 those prior bad acts. One was assault and battery and  
23 something else.

24 Q Okay. So when you went over the indictments and the  
25 offense elements, did you talk about the possible

1       punishments for each of them, how much time the -- the  
2       attempted -- the attempted murder carried?

3       A     Oh, yeah.

4       Q     What did you tell him?

5       A     I think attempted murder was, you know, I think, 30,  
6       as I recall. And then the high and aggravated was maybe  
7       10 or 20. I don't recall right now.

8       Q     Okay. So you did discuss -- so did you discuss with  
9       Mr. Mejean the possibility that there would be lesser  
10      included offenses, and what that would mean?

11      A     Yeah. And -- well, the offer was a lesser -- the  
12      offer itself was a lesser included.

13      Q     Well -- so outside of what -- outside of the  
14      possibility of a plea for a lesser included, did you guys  
15      end up talking about there being potential lesser  
16      inclusions as part of the trial as an option for the jury?

17      A     Yeah. Well, as a matter of fact, the jury was given  
18      that option.

19      Q     Did you -- but did you -- did you discuss that option  
20      with Mr. Mejean?

21      A     Yes.

22      Q     Yeah, you did.

23      A     Yes. I mean, yes, ma'am.

24      Q     Thank you, Mr. Sullivan.

25            Okay. Let's see. And did you guys go over his --

1 all of his rights, his right to a trial, his right to  
2 testify, all the rest of that stuff? And, like, when you  
3 discussed his option to a plea, did you talk about what  
4 the trial would look like?

5 A Yeah. I mean, he knew what a trial was, basically.  
6 And, also, as far as him testifying, I explained that to  
7 him and about that he would be treated like any other  
8 witness. And we even went over that before he testified.  
9 Judge Kelly went through the usual colloquy with him about  
10 the dangers, the pitfalls, and he would be subject to  
11 cross-examination just like any other witness.

12 Q All right. And you discussed reasonable doubt with  
13 him?

14 A [Inaudible] in specific terms. Because I'm not sure  
15 I know what it means when they do the charge.

16 Q I think it depends on what the Judge says maybe.

17 A Yeah.

18 Q Is that something you talked about, about his  
19 innocent until proven guilty --

20 A Yeah. If a jury believes -- you know, they have to  
21 find beyond a reasonable doubt that he was the one who did  
22 it and not this fellow named Frog.

23 Q Okay. At any point in time, did Mr. Mejean indicate  
24 to you that there was anything that he didn't understand,  
25 or that he didn't agree with what your trial strategy was



1 going to be?

2 A No. I mean, we went over everything. And that's  
3 pretty much it. We were just going to attack the fact  
4 that he was a -- a good shot. That if he'd been intending  
5 to kill somebody, the shots would not have been upwards  
6 trajectory. They'd have been straight through, that type  
7 of thing, just generally. But not -- not specific like  
8 that.

9 Q Okay. So it sounded -- so -- and, Mr. Sullivan, stop  
10 me if I'm wrong. But it sounded like -- so did you --  
11 when you argued this, did you argue in the alternative?  
12 Because it -- my understanding from Mr. Mejean's testimony  
13 was that he was innocent and that someone named Frog was  
14 firing at him. But it sounded like what you just said was  
15 that the trial strategy was that Mr. Mejean did it, but  
16 there was no intent?

17 A No, that he -- he didn't do it. And one of the --  
18 one of the elements that he didn't do it was being a good  
19 shot, he would have shot -- if he had intended to kill  
20 somebody, he would have shot straight through where they  
21 were more likely to be than in the ceiling. These shots  
22 were upward trajectory, rather than straight through.  
23 With him being a good shot, that would go to the intent  
24 that he did not really -- if he did it, he didn't intend  
25 to hurt anybody.

1 Q Okay. So you argued in the alternative?

2 A Yes.

3 Q You argued both?

4 A Yes.

5 Q Okay. I just wanted to make sure I'm understanding.

6 And do you recall -- do you recall the specific items that  
7 were given to you as part of the discovery, the two -- the  
8 two victim statements, the --

9 A I had the whole -- whole thing.

10 Q You got the whole -- okay.

11 A Pictures of everything, of the room, the bedroom, his  
12 house, and the outside shots, the photos, yes.

13 Q Okay. It sounded -- it sounded like when you guys  
14 talked -- when you and Mr. Mejean talked about this that  
15 he gave you a -- like, a third party -- a third party kind  
16 of who done it, this Frog person?

17 A Frog.

18 Q Okay. What -- what efforts were made -- what was he  
19 able to tell you about Frog?

20 A Okay. This was not -- this was brought out at trial.  
21 He knew Frog from when he bought marijuana.

22 Q Okay.

23 A He didn't smoke a lot. But he said when he smoked  
24 marijuana, Frog was his source. Then Frog started dealing  
25 in meth. And that -- at that point, he cut him off

1       because he did not want to fool with anything or be  
2       associated around hard stuff, let's say.

3               So I asked him for Frog's number. He said since he  
4       had stopped dealing with him, he did not know his phone  
5       number, nor his last name. So I had no way of knowing how  
6       to get in touch with Frog. And I didn't think Frog would  
7       have admitted shooting up the house had I found him.

8       Q     Okay. So did you reach out and find out whether or  
9       not Frog was a common alias or if that was somebody that  
10      the police were aware of at all?

11      A     All I knew was what I got from Chris is he only knew  
12      him as Frog.

13      Q     All right. So you were never able to find his actual  
14      name, or to search for him, or find out if he had a  
15      record?

16      A     No.

17      Q     Okay.

18      A     Do you mean Frog?

19      Q     Yeah.

20             Okay. And as far as you -- as far as you were aware  
21      from your conversations with Mr. Mejean, were there any  
22      other, like, factual based witnesses, other than -- other  
23      than Frog, who would have -- that Mr. Mejean told you  
24      would be there or that you needed to find?

25      A     The only other witness would be just the people that

1 set up the events of what happened during the day, which  
2 really didn't affect -- they just set up the scenario. It  
3 didn't affect the actual shooting. The only witness that  
4 would have been -- he mentioned Marcus. That's where he  
5 was left when everybody left to continue the party. And  
6 Marcus was just -- I -- I guess talking about being a good  
7 friend. And -- but he was extremely intoxicated.

8 Somebody drove him home. He did not drive himself home.

9 Q Okay. Did you interview -- did you have a chance to  
10 interview Marcus?

11 A I never did.

12 Q Okay.

13 A I didn't think he could add anything to help him.

14 Q Okay.

15 A Yeah.

16 Q Okay. And then I know that you heard Mr. Mejean  
17 mention that he felt that there should have been expert  
18 witnesses called by the Defense. One of the expert  
19 witnesses he mentioned was somebody to -- well, that an  
20 expert should have been used to test the shell casings and  
21 to attempt to prove that he was not the person that  
22 handled them. Is that something that you and Mr. Mejean  
23 ever discussed?

24 A Yeah. And I had a recent case where the same thing  
25 came up. Page 137, I think, on the --

1 Q All right. Mr. Sullivan, are you in the -- are you  
2 in the transcript?

3 A Uh-huh.

4 Q All right. Give me one second so I can follow along  
5 with you. I don't know what I did to these copies. I  
6 can't keep it together.

7 A I think on the cross-examination of Detective Adam  
8 Davis.

9 Q Okay.

10 A The start at the top of Page 137 pretty much to the  
11 end is the discussion about whether or not -- there were  
12 not prints tested on the gun. And if you read from a --  
13 say, from 1 through about 18, we discussed the -- the  
14 deterioration that when you fire a shotgun that the heat  
15 deteriorates it.

16 Plus, this was a rainy, nasty night. And everybody  
17 testified about it. The rain, and the mud, and stuff  
18 would have made it impossible to lift prints from these --  
19 these items.

20 Q Okay. So you made a decision that -- so you were  
21 aware of the fingerprint issue?

22 A Yeah. I asked him about it, yeah. And he said they  
23 didn't test it because of this. And maybe I was naive to  
24 believe him, but.

25 Q Okay. So you kind of decided that you didn't -- that

1 based on the information you had about fingerprints that  
2 there didn't need to be -- you didn't need to get an  
3 expert to try to test it outside of the sheriff's office?

4 A If I would have thought fingerprints would have  
5 helped -- and looking back on it, hindsight's 20/20 -- I  
6 may have asked for fingerprints of the -- the case -- the  
7 boxes that were found in the bedroom. I don't think the  
8 shells would have done any good. But if somebody else's  
9 fingerprints were found on the boxes, maybe that would  
10 have thrown some doubt on it.

11 Q Okay. And then something else that Mr. Mejean  
12 brought up was the use of an expert to explain GSR  
13 testing.

14 A Yeah. On Page 142, the testimony -- pretty much that  
15 page discusses from -- that from Line 1 down through the  
16 rest of the page is that this shooting happened around  
17 11:00, 11:30, I think, the night that -- it was raining.  
18 Mr. Mejean was not found until the next day.

19 And it's my understanding from experts -- and I've  
20 had a murder case recently that -- GSR on the hands,  
21 unless they're tested -- they usually bag somebody when  
22 they arrest them. They have to test them within six hours  
23 or it does not show up without getting a positive result  
24 or a good result.

25 I asked them about the -- how long it stayed on

1 clothes. He did not know that. They were not tested.  
2 But that due to the weather that he was out in -- most of  
3 the night in the rain and the -- sloshing around in the  
4 mud, he did not know what that would show. He said the --  
5 on the hands -- on a person's hands, it had to be six  
6 hours. And this was almost 12 hours later.

7 Q Okay. And did you talk to anyone besides the State's  
8 forensic officer about, like, GSR and its duration and  
9 all -- you know, the -- the facts of that or like -- or is  
10 that something that -- that you independently  
11 investigated, or is that something that --

12 A I've had it in a prior murder case and looked at it.  
13 Basically, six hours is the margin for -- on skin.

14 Q Okay.

15 A Now, nobody could tell me what would be on clothes,  
16 but -- what kind of condition the clothes would have to be  
17 in for it to show up on that.

18 Q All right. But you decided not to ask them to test  
19 the clothes, or to send that out to a private --

20 A No, I did not.

21 Q Okay. Did you ever discuss the likelihood of success  
22 at trial with Mr. Mejean?

23 A Discuss what?

24 Q I'm sorry. Did you ever discuss the likelihood of  
25 success at trial with Mr. Mejean?

1 A Do you mean the -- the chance of success?

2 Q Yes.

3 A I tried to get him to take the -- the five. I  
4 didn't, you know, force him. But I thought that looking  
5 at the whole case, it just -- I look at a case like this  
6 sometimes. I look at the facts and say, which side would  
7 I like to be on? On this -- on this case, I liked -- I  
8 liked the Solicitor's side. I mean, I put up everything I  
9 thought I could.

10 I told Chris that nobody wants to go to jail. Five  
11 years is -- you're going to be out in maybe four. But if  
12 we went to trial, he was exposing himself to a lot of  
13 time.

14 Q Okay. And when you said you tried to get him to take  
15 the deal --

16 A I didn't force him. I just said -- I gave him his  
17 options. I said, I think in all possibility in my  
18 experience, there's a good possibility you will be  
19 convicted. I said, But I can't predict what a jury would  
20 do. I never do ask them when it's over. I don't want to  
21 know because they're so unpredictable.

22 Q All right. So you did develop a pretty strong  
23 opinion about the State's ability to prove that Mr. Mejean  
24 did this beyond a reasonable doubt?

25 A I thought they could prove it. I didn't know for



1       sure. I mean, nothing's absolute. And I thought looking  
2       at everything that I had that if we went to trial, there  
3       would be a good chance that he'd be convicted of  
4       something -- go ahead. I'm sorry.

5       Q     Oh, no. That's -- you're fine. I'm just breathing.

6            All right. So do you feel like you had enough time  
7       or sufficient time to prepare for this trial?

8       A     Oh, yeah. He was out, I think he said, three years.  
9       So I had plenty of time to look at it. If you go through  
10      once or twice, you pretty much know the general parameters  
11      of the case and pretty much what's important. And then  
12      you go through it and finalize, you know, the day or  
13      two -- you know, a couple times before the trial and  
14      pretty much, you memorize it.

15      Q     All right. I know that you got -- I know that you'd  
16      mentioned an offer you got from the State. Did you enter  
17      into extensive plea negotiations on this case, or --

18      A     Yeah.

19      Q     -- like, how did that work?

20      A     To get Kris Hodge -- and everybody knows Kris is  
21      not -- if she's got a good case, she's going to nail you.  
22      And we went down from attempted murder to a -- a five-year  
23      cap on assault and battery. I thought -- you know, we  
24      went through it a good bit.

25      Q     Okay. And when you -- and I know that you already

1       said that you kind of talked about the benefits and the  
2       drawbacks of taking the plea versus going to trial.

3       A     Yeah.

4       Q     Okay. And what was Mr. Mejean's response to that?

5       A     He said from day one that he did not do it. He was  
6       not -- he wanted a trial. And under no circumstance would  
7       he plead to anything related to him shooting at this  
8       house.

9       Q     Did you talk to him at all about the possibility of  
10      an Alford plea?

11      A     I don't recall. I don't think he would have pled to  
12      Alford because his position was, as I recall it, he was  
13      not going to -- Alford just says they can prove it, but I  
14      didn't do it. He'd still get the five years. I don't  
15      think Chris wanted any time. I think he thought he wasn't  
16      guilty.

17      Q     Okay. I know you said you had three years to work on  
18      this. I'm not sure what the timeline was on the offer.  
19      But did Mr. Mejean have, like, time to talk about -- talk  
20      to his family, kind of time to make that decision?

21      A     Oh, yeah, sure. I mean, it wasn't like he was  
22      offered the day before the trial. We got the offer --  
23      let's see if I have it in here. On 10/2/14 at 8:42  
24      a.m. -- Kris sent a message to Tim on 9/17 that she would  
25      reduce the A&B first to five years cap. The previous

1 offer was ABHAN.

2 So she went from attempted murder to ABHAN to  
3 attempted -- to assault and battery with five years.

4 Q Okay. And then, ultimately, Mr. Sullivan, who -- was  
5 it -- was it Mr. Mejean's decision to go to trial?

6 A Yes, ma'am.

7 Q Okay. Did you ever put any pressure on him to go to  
8 trial?

9 A No. If I did anything, I tried to -- I didn't want  
10 to deprive him of his rights. I was trying to be honest  
11 with him. And I thought it'd be best to take the plea.  
12 But I didn't put any pressure on him. I said, It's your  
13 decision. I'll abide by whatever you want to do. I'm  
14 just giving you my opinion.

15 Q All right. And we went through this a little bit  
16 already. But did you have an overall trial strategy?

17 A Well, the -- the biggest thing I had was I knew they  
18 were friends. Everybody was friends in this thing.  
19 Because they'd been neighbors for a while. They,  
20 actually, had, I think, an Easter dinner together. The  
21 kids played -- like Chris said, the kids played together.  
22 The wives were good friends. Chris -- why would he do it?  
23 It didn't make any sense for somebody to shoot up the  
24 neighbor's house, number one, that strategy.

25 And then I guess if -- if he was drinking a lot and

1 was shooting, then he didn't intend to do anything. It  
2 was just an accident-type thing. But given the discovery  
3 with Frog and the -- everything, it was going to be -- I  
4 knew what they had. And it was going to be hard to get  
5 around on this.

6 Q Okay. And you talked to Mr. Mejean about that prior  
7 to trial?

8 A Yeah.

9 Q Okay. What -- what did he think about the trial  
10 strategy? Was he on board?

11 A He just said, I did not do it.

12 Q Okay. Let's see. I want to talk to you a little bit  
13 about some specific cross-examination that you did. All  
14 right. So I'm going to call your attention to trial  
15 transcript Pages -- let's see -- 60 and 64. This is,  
16 actually, the direct examination of Mr. Tee Smith. Okay.  
17 So I'm -- let's see.

18 A Okay.

19 Q So I'm on Page 60 right now. And I guess it's  
20 sentence or paragraph -- starting at Paragraph 14 towards  
21 the end. And I've got a copy for you if you want it, Tim.  
22 It's highlighted.

23 A I've got it here.

24 Q Okay. You've got it.

25 A About going to the shed?

1 Q A little before that. This is Line 14. It starts,  
2 And I.

3 A On Page 60?

4 Q Yeah, Page 60.

5 A Yeah. Where he went to the shed and came back out.

6 Q And I think it -- I think Mr. Smith -- or Tee Smith  
7 testified. And I said, Eric, my house just got shot. Did  
8 you shoot my house?

9 And his response was, Where's my mother fucking  
10 bitch?

11 A Yeah.

12 Q All right. And then -- and that's just one of them.  
13 Go ahead and go on to Page 64.

14 A Okay.

15 Q And this is further direct examination by Ms. Hodge  
16 of Tee Smith. All right. And then this is on that same  
17 topic. I'm going to point you to, like, sentence number  
18 six. All right. And then Kris asks Mr. Smith, Come and  
19 spoke to him. Did he ask you anything about how you are,  
20 or what happened, or anything like that?

21 And Mr. Smith responded, I guess when he heard my  
22 voice, he got enraged, got angry. And then his tone --  
23 when he was asking me where -- where was his bitch at.

24 And then Kris goes, Uh-Huh.

25 It was yelling. He didn't ask me anything about what

1 was going on, what had happened. He didn't really care.

2 Okay. And then I'm going to point you to one last  
3 final page. Because this is all kind of part of the same  
4 deal. And this is your cross-examination of Mr. Smith.

5 A What page?

6 Q And that is Page 66.

7 A I'm looking at it.

8 Q Okay. And that's -- that -- I think it starts at --  
9 we're going to start at Line 4. Okay. So your cross of  
10 Mr. Smith on -- on those issues on -- on Mr. Smith's  
11 testimony regarding what Mr. Mejean said to him at -- the  
12 night of the incident. All right. So you asked  
13 Mr. Mejean [sic] -- or did you -- so it looks like you  
14 asked Mr. Mejean [sic], When he approached you and you  
15 asked him did he shoot the trailer, did he say what?

16 And then Mr. Smith responded, He yelled at me and  
17 asked me where was his mother fucking bitch at; right?

18 A Uh-huh.

19 Q Okay. And then you asked him, again, did he tell you  
20 that he did not shoot the trailer?

21 And Mr. Smith's response was, Nothing else came out  
22 of his mouth.

23 All right. So that's the testimony that I've got a  
24 couple of questions about. All right. So in the course  
25 of the investigation, you testified earlier that you had

1 received -- you had received Rule 5 and that you'd  
2 received Brady. So you'd gotten discovery in this case?

3 A Uh-huh.

4 Q Okay. As part of --

5 THE COURT: Say "yes."

6 MS. HENRY: Oh, sorry.

7 THE COURT: Make sure you say "yes" or "no."

8 THE WITNESS: Oh, yes.

9 BY MS. HENRY:

10 Q Thank you, Mr. Sullivan.

11 So as part of that discovery, did you get a witness  
12 statement written and signed by the victim, Tee Smith?

13 A Yes.

14 Q Okay. Do you remember that? Would it help -- do you  
15 want -- I've got a copy here. Do you want to take a look?

16 A I don't -- I don't have a copy of it with me, but  
17 I -- it was in discovery.

18 Q All right. So you remember getting that in  
19 discovery. And you took a look at that because you said  
20 that you'd reviewed all the discovery and reviewed it with  
21 Mr. Mejean?

22 A Yes.

23 Q All right. I think it might help -- would it help  
24 you if I -- I'm going to ask you some questions --

25 A Sure.

1 Q -- related to the -- to the statement.

2 MS. HENRY: Your Honor, may I --

3 THE COURT: Yes.

4 BY MS. HENRY:

5 Q And, Mr. Sullivan, take a look at that -- here, wait.  
6 Actually, let me give you a different one. I've got my  
7 junk all over it, my writing all over it.

8 A Don't give me your secrets now.

9 Q We're all probably safe from me giving you any  
10 secrets. Let's see. Okay. There you go.

11 Thanks, Tim.

12 And the -- the paper that you're looking at right  
13 now, that is the statement by Mr. Smith that you remember  
14 from the discovery?

15 A Yeah. Yes, ma'am.

16 Q Okay. Now, do you see the part that I highlighted  
17 for you?

18 A I saw my neighbor, Eric Mejean. I asked him if he  
19 shot my house.

20 He said, No.

21 Q All right. So that is -- so that is not what  
22 Mr. Smith testified to in his direct from Kris Hodge;  
23 correct? In that, Mr. Mejean -- Mr. Smith testified that  
24 the only thing that Mr. Mejean ever said to him was,  
25 Where's my -- where's my lady at?



1           And I'm going to direct you again -- that's -- that's  
2           what we just went over on 60 and 64. That's -- that was  
3           the direct with Kris Hodge.

4           A     He did not say that in here.

5           Q     Okay. And then in your cross of Mr. Smith, you asked  
6           Mr. Smith if he had -- if Mr. Mejean had denied shooting  
7           the house; correct?

8           A     Yes.

9           Q     Okay. So you did ask him that. And Mr. Smith  
10          responded that nothing came -- nothing else came out of  
11          his mouth?

12          A     Yeah.

13          Q     Is that accurate?

14          A     That's what the testimony -- his testimony was.

15          Q     Right. That's what his testimony was. Okay. And  
16          you were in possession of his statement that said  
17          different. You know, you were in possession of a  
18          statement that said that -- where he in his own  
19          handwriting says, Eric said he didn't do it. And further  
20          that -- that he asked Eric -- well, yeah. That you were  
21          in possession of a statement where he says that Eric told  
22          him he didn't do it?

23          A     Uh-huh.

24          Q     Why did you not impeach Mr. Smith with this  
25          statement?

1       A     Well, he says right here in his statement, He asked  
2       me where my mother fucking bitch was at.

3       Q     He did. But did he, also, not say that -- when he  
4       asked Mr. Mejean whether or not he'd shot the house, that  
5       Mr. Mejean in the moment absolutely denied it?

6       A     Yeah. He -- he denied it.

7       Q     Okay. He denied it. And so you asked him those  
8       questions. And when Mr. Smith lied to you about it, you  
9       had possession of the statement. Why did you choose not  
10      to impeach Mr. -- Mr. Smith with his lie?

11      A     I don't -- I don't see the lie. I'm trying to --  
12      where he said --

13      Q     All right. So let's go back. So -- so and let's  
14      just go back to Mr. -- let's go back to Page 66 in the  
15      transcript. That is your cross-examination of Mr. -- Mr.  
16      Tee Smith.

17            So you asked Mr. Smith, Did he tell you that he did  
18      not shoot the trailer? And Line 8.

19            And then Mr. Smith said, Nothing else came out of his  
20      mouth, referring to -- because at this point, Mr. Smith's  
21      testimony has been that Eric didn't say anything to him,  
22      except for, Where's my mother fucking bitch? And you knew  
23      otherwise. And you asked him about it. Wonderful.

24      A     Well, if --

25      Q     And then when he --

1 A If I didn't do it, I didn't do it.

2 Q Okay. Well, no. I'm just asking if you had -- if  
3 you'd thought about it and if you had a reason for not --  
4 for not impeaching him?

5 A No.

6 Q All right. Let's see. You were, also, in  
7 possession -- and moving on. So you were, also, in  
8 possession of a report done by Officer Ross  
9 Wheeley [phonetic] that was part of the discovery as well;  
10 correct?

11 A I'm sure I did.

12 Q Okay. Let me see. I think I've got a copy of that,  
13 too.

14 A This one -- go ahead.

15 Q What? Go ahead.

16 A About shelves -- I mean Christmas [phonetic] shelves  
17 and things?

18 Q No. The -- that is Officer Davis.

19 A Okay.

20 Q Officer Wheeley, actually, was not called as a  
21 witness.

22 All right. So let's see. So Officer Ross Wheeley  
23 dated his report 7/2/2012. And let me get you a copy of  
24 that.

25 (Pause.)

1 BY MS. HENRY:

2 Q Well, Mr. Sullivan, I may have to give you my copy.  
3 Okay. Here, I'm going to read it to you, I guess. And if  
4 you need to look at it, let me know. All right. So let's  
5 see.

6 Do you remember Officer Wheelley as one of the  
7 officers who interviewed Mr. Tee Smith at the time of the  
8 incident?

9 A Not independently, no.

10 Q Okay. Here, let me show you this then. You take a  
11 minute to take a look at it. All right. So -- and the  
12 highlighted area is the area that I was going to -- I was  
13 planning to ask you about.

14 A Okay. I've -- I've read it.

15 Q All right. You've read it?

16 A It says that he asked him if he shot at the house.  
17 He said he didn't.

18 Q Yes. I mean, that's -- that's -- yeah. That's,  
19 essentially, what I'm planning to ask you about.

20 Okay. So you remember Officer Wheelley. You remember  
21 his report?

22 A Well, just looking at it refreshed my memory, but,  
23 yes.

24 Q All right. Perfect. So in the report, from what you  
25 remember, it looks like Mr. Smith -- this is Tee Smith

1       again, one of the victims, tells the officer that  
2       Mr. Mejean told him that he did not shoot the house; is  
3       that --

4       A       And he has no idea what was going on.

5       Q       Yeah. And that he had no idea what was going on.  
6       That -- when he asked him about it, Mr. Mejean said, I  
7       don't know?

8       A       Yeah.

9       Q       Okay. So -- and, again, referring back to 66. That  
10       is not what Mr. Smith said in his response to your  
11       questions. His response was that -- nothing else but,  
12       Where's my mother fucking bitch at? came out of  
13       Mr. Mejean's mouth during their discussion.

14       And, again, the same question, you know, you were in  
15       possession of the report. Why did you not call Officer  
16       Wheeley to impeach Mr. Smith?

17       A       I mean, he said nothing came out of his mouth. And  
18       then the other guy is going to say he didn't know nothing  
19       about it.

20       Q       Well, he's --

21       A       I just looked at the overall thing and I just didn't  
22       think it was necessary.

23       Q       Okay.

24       A       But maybe I made a mistake. I don't know. I just  
25       didn't do it. Looking at the overall case and all the

1 discovery, it just looked repetitive.

2 Q Okay. So you didn't think it was important. Okay.

3 All right. Now, moving on to Page 78 of the trial  
4 transcript. All right. So this is the direct examination  
5 by Ms. Hodge of Regina Smith. This is the -- one of the  
6 victims. She was the wife of Tee Smith. Starting at  
7 number -- paragraph or sentence 16. Mr. Hodge asked, Now,  
8 I think you had mentioned maybe that she'd stayed at her  
9 mom's at some point, that they had marital issues?

10 Yes, ma'am.

11 Were you -- and you don't have to tell me -- don't  
12 tell me any details. Were you aware they had problems?

13 Yes, ma'am.

14 Okay. Had you ever observed any problems between  
15 them?

16 And Ms. Smith says, I had never, actually, been  
17 present at the time that they had any marital problems or  
18 anything, but I had knowledge of it.

19 And then Kris says, Through her?

20 And then the answer is, Through her.

21 And then, She told you those things or would tell you  
22 those things?

23 Yes, ma'am.

24 Okay. So that is -- that's the direct from Kris  
25 Hodge. Now, it becomes -- it becomes pretty clear that

1 Ms. Smith had no personal knowledge, had no -- had not  
2 witnessed any marital issues. That her knowledge came  
3 from a conversation out of court that she had with  
4 Ms. Mejean.

5 A Yeah.

6 Q That looks like hearsay to me. Why did you not  
7 object?

8 A I think there's something else further on that that  
9 she had knowledge that they'd separated for a couple of  
10 weeks. And I -- I didn't think it hurt, to be honest with  
11 you. I don't object because I think somebody's hurting  
12 me. And I just don't think that -- if I'd objected to  
13 that, it would have brought more attention to it.

14 Q Okay.

15 A And I didn't think it affected the case. I'm not one  
16 to jump up and down. If -- if something's hurting me, I'm  
17 going to jump. If not, I'll just move on with a  
18 narrative. Because there was a -- the question came up  
19 with the -- she'd, actually, moved out of the house, which  
20 she had personal knowledge of, and moved to her sister's  
21 or mother's for two weeks. And then they came back and  
22 patched things up.

23 Q Okay. Also, as part of this -- this same series of  
24 questioning -- or the same series of direct questioning by  
25 Kris Hodge that we just went through, Kris Hodge is

1       trying -- is eliciting information about marital problems  
2       and, essentially, implied acts by the client that they  
3       had -- they had major problems that, you know, Ms. Mejean  
4       had had to move out and move away.

5               Why did you not object under Lyle and try to force  
6       Kris Hodge to -- to get approval before she brings that --  
7       before she brings these up?

8       A     Okay. Here's -- here's the thing. At that time, she  
9       did not mention any specific physical -- she saw her every  
10      day -- any physical injuries, or anything like that. Just  
11      that they -- they were having problems. She moved out for  
12      two weeks. That's the way I took it.

13     Q     Okay.

14     A     And then if I'd have objected to that and she'd kept  
15      it out, Chris says the door was blocked because she had  
16      broken it. They had a fight. And his wife had kicked it  
17      in. And that in the case right there, whether I'd  
18      objected to that, it was back in through Chris is why the  
19      door was closed because the couch was pressed against it  
20      because his wife had kicked the couch -- I mean the door  
21      open during the fight.

22     Q     Okay.

23     A     So in the whole scheme of things...

24     Q     So in your discussions with -- in your discussions  
25      with Eric, did you -- did you talk about door opening or



1 prior bad acts? So as part of Eric's story for what  
2 happened, the history of the door being broken, was that  
3 necessary?

4 A That was his story. I mean, he had a right -- he  
5 said, I got home. I knew something was wrong because the  
6 door was open and it couldn't be because we kept the couch  
7 against it because we'd had a fight and she'd kicked the  
8 door and broke it. And we were using the back door. When  
9 I saw the front door was open, I knew somebody had forced  
10 their way in.

11 Q Okay.

12 A And that's when he went in and found Frog.

13 Q Okay. And did you talk to Eric at all before he  
14 testified about door opening issues, about his prior  
15 criminal history, about him opening -- potentially opening  
16 the door for that, or prior bad acts by mentioning that he  
17 has a great reputation, or that he and his wife don't  
18 fight, or anything like that?

19 A The only prior bad acts are the ones that he,  
20 actually, had that we kept out.

21 Q Okay.

22 A I mean, his story -- you couldn't have gotten his  
23 story without the door being pushed -- being shut -- the  
24 couch being put -- shoved against the door because they  
25 couldn't use it. And that would open the door for Kris

1 maybe to get into other prior bad acts.

2 Q Are you talking about his conviction?

3 A Yeah. Because if I opened the door and he says,  
4 yeah, it was because we had a fight. And she kicked the  
5 door in and we had to use that, that may -- it cracked the  
6 door to prior bad acts. I didn't want to take that  
7 chance. Plus, that was his story. We'd had an argument.  
8 She'd kicked the door and broken it. I pushed the couch  
9 against it.

10 Q All right. Page 63. And this is the same issue.  
11 This is a series of questions, cross-examination -- direct  
12 examination by Ms. Hodge of the victim, Tee Smith. I'm  
13 looking at Paragraph 20. She asked him, Did you have any  
14 personal knowledge -- do you have any personal knowledge  
15 of he and his wife having any problems, marital issues?

16 And then Mr. -- Mr. Smith testifies, Yes, ma'am.  
17 They had problems.

18 And, then again, no objection. And you -- is it for  
19 the same reason, you just didn't feel that it would --  
20 that it would be helpful?

21 A I didn't think so. If I'd objected -- he said it.  
22 If I objected, they've heard it. He was going to say  
23 y'all disregard it.

24 Q Okay. And, then again, I'm going to draw your  
25 attention to Page 167. This is the cross-examination of

1 Christopher Mejean by Ms. Hodge. I'm looking at Paragraph  
2 7. And y'all -- and then Kris is asking Mr. -- is asking  
3 Eric Mejean, And y'all had argued in the recent past, even  
4 probably in the distant past?

5 And no objection from you, Mr. Sullivan.

6 And he answers, Correct.

7 And then he -- she -- he -- she further questions him  
8 about a prior move out from a month or several weeks  
9 before this incident that's unrelated to this incident.  
10 And no objection.

11 A This has already come in through the -- the other  
12 victim, whatever her name was. And this was between the  
13 two of them. If I object, the jury's heard it. They've  
14 heard it twice then. And I'm drawing attention to it.  
15 Then they think I'm trying to hide something. It's just  
16 strategy. Sometimes I object, sometimes I don't.

17 Q Okay.

18 A Other people may jump up and down all over the place.

19 Q All right. And then I'm going to draw your attention  
20 one more time on the same issue to Christopher [sic]  
21 Hodge's closing. 190 -- Page 195 on the transcript to  
22 197.

23 All right. So she -- the specific intent was a --  
24 was a really a major issue in this case; correct,  
25 Mr. Sullivan?

1 A Uh-huh.

2 Q Okay. So I'm going to call your attention to --  
3 whenever you're there, to Paragraph 19.

4 A On page -- which page?

5 Q 195 to start.

6 A Yeah.

7 Q Okay. And this is Kris -- this is Kris Hodge's  
8 closing, the Solicitor's closing. So, now, we go back to  
9 how we know the Defendant did this. And then on 22, like,  
10 one sentence down, she says, Defendant and his wife, they  
11 were at a party, had a history of arguing. You even heard  
12 him say that the front door was broken because they got  
13 into a fight. So they probably had a volatile  
14 relationship.

15 And then Page 190 -- let's see. And then Page 196,  
16 just one and two on over. And then she, also, says, She'd  
17 left him about two weeks prior to this and she'd come  
18 back.

19 And, then again, 197, Paragraph 15 -- or sentence 15.  
20 I think that we can put this together with the fact that  
21 the victim's wife and the Defendant's wife were really  
22 good friends. Maybe she was sympathetic. She was a  
23 sympathizer when they got into arguments. Maybe she'd --  
24 maybe she'd go to their house.

25 So it looks -- it looks like the Solicitor used

1       these -- these prior acts, these kind of her series of  
2       questions from Tee Smith, from Regina Smith, and then of  
3       the Defendant to support her theory that -- her whole  
4       theory of intent. Because I believe that you'd said  
5       earlier that you would -- you would try to do a good job  
6       of showing that there was no ill will between the  
7       families; right?

8       A     Between the families, no.

9       Q     Right. Yeah. That -- that everything was good.  
10      So -- so is it -- is it not your understanding that  
11      Kris -- that Kris used this prior history -- this  
12      marital -- this -- this myth of marital discord to -- to  
13      lean her specific intent on? Isn't that what she based it  
14      on?

15     A     That's what she was doing.

16     Q     Right.

17     A     But I was arguing the other way, that he didn't --  
18      did not intend to kill anybody. That's why I got such a  
19      crazy -- maybe that's where the -- the inconsistent  
20      verdict came from.

21     Q     Okay. Moving on from that issue. Let's see. So I  
22      saw when I was going through -- when I talked to -- I'm  
23      going to ask you a little bit about the specific intent.  
24      And it's going to be a little odd. Because it looks  
25      like -- and -- and, Mr. Sullivan, stop me.

1           So I can see in the transcript where you told the  
2 Judge that you did -- you did have a specific intent jury  
3 charge, or you were asking for one. But the charge  
4 conference, I believe, was off the record in chambers --  
5 or I couldn't find it.

6       A     Yeah.

7       Q     Okay. So did you -- you can see some of the back and  
8 forth between you and Ms. Hodge as far as the in support  
9 of specific intent for your directed -- your directed  
10 verdict motion?

11      A     Yeah. She was -- she was using the argument that any  
12 time you fire a weapon in that manner that you can imply  
13 from that use of a weapon intent.

14      Q     Okay. And I believe that in South Carolina that the  
15 law is -- at least, now through the King case that -- that  
16 you can use the use of a deadly weapon to imply malice,  
17 but not specific intent?

18      A     I'm not familiar with it.

19      Q     Okay. Did you provide -- when you were asking for  
20 the -- the directed verdict motion and Kris Hodge  
21 responded exactly as you said she did, that her basis for  
22 specific intent wasn't any of the facts she'd presented  
23 about the family, but was, instead, his use -- her  
24 alleged -- his use of a deadly weapon?

25      A     Yeah. That's correct.

1 Q Were you able to provide any kind of case law to  
2 support the directed -- the directed verdict?

3 A No.

4 Q Okay. How come? Was there not any or -- or --

5 A I just thought it was general. If you use a weapon  
6 in a manner like that, the intent can be inferred.

7 Q Okay. And moving on from that. So you asked for a  
8 specific intent jury charge. For some reason, that was  
9 not included as one of the exhibits. Did you request it  
10 in writing or was it -- or --

11 A It was probably in conference. Because we went  
12 through all the lesser includeds while we sat back there  
13 and forged [phonetic] it out in his office the night  
14 before, or an hour or two before the charge.

15 Q Okay. It looked to me in the Judge's charge that he  
16 did not -- so were you successful, in your opinion? Do  
17 you feel like the Judge charged specific intent?

18 A I'd have to go back and look. I don't recall.

19 Q It looked to me like he charged general intent, like,  
20 that he read out the indictment and said intent to kill.  
21 But that he charged -- that what he ended up charging was,  
22 in fact, the general intent jury charge. So do you -- and  
23 I -- and because the charging conference wasn't --  
24 isn't -- isn't on the record, I didn't know if you  
25 remembered?

1       A     I don't.

2       Q     You don't. Okay. And then at -- at the end of the  
3       jury charge after the closings, after the jury is given --  
4       after the Judge has given the jury their -- the charge on  
5       the law, you -- he asked if there were any -- if there  
6       were any changes or modifications. And this is -- let's  
7       see here. And this is on Page -- of course, I didn't  
8       copy...

9           All right. Well, this is -- this is in the  
10       transcript. The Court says, Any exceptions from the  
11       State? And there were none by Kris Hodge. And then you  
12       said -- and you asked the Court to -- for a charge  
13       instructing the jury -- to the jury that if they have a  
14       question as to the larger offense or one of the lesser  
15       includeds that they have to find in favor of the  
16       Defendant. You did not make any kind of argument, like,  
17       or objection to the Court's failure to charge specific  
18       intent. Do you know why?

19       A     If it's not in the record, I didn't do it.

20       Q     Okay. Do you -- was it -- do you remember why or do  
21       you have any -- no. Okay.

22           All right. You made a directed verdict motion after  
23       the close of the State's case. You did not renew the  
24       motion or make a second directed verdict motion at the  
25       close of your case regarding the specific intent issue.



1 Do you -- do you know why?

2 A It's a verdict. I made the motion after the verdict  
3 came in. When else could I make it? They came in with an  
4 inconsistent verdict. I made it. He said he would note  
5 it.

6 Q No, you did. That's not what I was asking about. I  
7 was asking about a second directed verdict motion  
8 regarding specific intent after Mr. Mejean testified and  
9 you closed your case.

10 A Oh, no.

11 Q You did make -- I saw in there that you had made the  
12 inconsistent verdict --

13 A I made the inconsistent verdict after their case.

14 Q Yes.

15 A Then I made it after the verdict.

16 Q Okay, okay.

17 A But I didn't think anything had changed between the  
18 end of their case and the end of my case that would have  
19 warranted a different ruling.

20 Q Okay.

21 A But when the verdict came back, I thought that was  
22 inconsistent. I mean, you've got three people in there,  
23 and you've got three shots through there. And they find  
24 him guilty of only one, intent to murder. And they find  
25 him guilty of high and aggravated on the others. And I

1 don't think they can do that.

2 Q I -- I tend to agree with you.

3 And did you have -- and I know that -- again, I don't  
4 know if you did or not. But did you -- were you able  
5 to -- do you remember why the Court ruled against you on  
6 the -- the inconsistent verdicts.

7 A No, I don't.

8 Q Okay. And did you have any -- did present the Court  
9 with any kind of case law, or support, or, like, legal  
10 basis for supporting you on the -- your objection on  
11 the -- to the inconsistent verdicts?

12 A No.

13 Q Okay. Let's see. And then just a couple quick  
14 follow-up questions, Mr. Sullivan. Mr. Mejean, also,  
15 mentioned that he had -- did not know or was unaware that  
16 he could -- that a -- that lesser included offenses could  
17 be part of the options presented to the jury. Is that  
18 something that you guys discussed prior to trial?

19 A I don't recall particularly. I usually go over them  
20 and say, look, they can find these various things. They  
21 can go from guilty -- you can -- you can be found guilty  
22 and walk out of here, or be this, you know. And I don't  
23 know what a Judge will do, or you can be this. And I go  
24 over the various -- the various things like that.

25 But that's just a general practice of mine. I can't

1 say I did it a certain day and time with Chris. But  
2 that's my -- my general practice is, yeah, give them all  
3 the options they've got.

4 MS. HENRY: Okay. And, Your Honor, just one quick --

5 THE COURT: Yeah.

6 (Pause.)

7 MS. HENRY: Mr. Sullivan, I don't have any more  
8 questions.

9 THE WITNESS: I'd like to say one thing.

10 MS. HENRY: Oh, sure.

11 THE WITNESS: I did file an appeal on June 6th --  
12 June 9th of 2015. I filed the appeal.

13 BY MS. HENRY:

14 Q Okay. So you filed the appeal on June 9th, 2015?

15 A Yeah.

16 MS. HENRY: Okay. Thank you for clarifying that.  
17 Let me gather all my debris here.

18 THE COURT: Mr. Saville, any questions?

19 MR. SAVILLE: Yes, Your Honor.

20 THE COURT: All right.

21 CROSS-EXAMINATION

22 BY MR. SAVILLE:

23 Q Good morning, Mr. Sullivan.

24 How are you doing?

25 A I'm doing well.

1 Q I'm going to pick up sort of where Ms. Henry left off  
2 talking about specific intent. And you were asked why you  
3 did not renew your directed verdict motion following  
4 Mr. Mejean's testimony. Now, looking at specific intent  
5 in this case, Mr. Sullivan, it's -- it's correct that the  
6 evidence showed that the trailer was shot three times with  
7 a shotgun; right?

8 A Yeah, and some -- some were bird shot and some were  
9 slugs.

10 Q Yes, sir. And do you recall testimony from  
11 Mr. Mejean himself that if he shoots a shotgun at  
12 something, he's trying to kill it?

13 A I eat -- he said, I eat what I kill.

14 Q Yes, sir. And on -- it's on the record of appeal  
15 Page 178, Line 12 where he, actually, says that if he  
16 shoots at something, he's trying to kill it.

17 And, of course, there is ammunition boxes found in  
18 his house that matched the shells that were found outside  
19 of the trailer?

20 A Correct.

21 Q Okay. And, of course, he yelled, Where's my mother  
22 fucking bitch? after the shooting, which could imply that  
23 he's -- he's angry at somebody?

24 A Yeah. I think, at one point, he said he wasn't  
25 talking about her, he was talking about his gun.

1 Q Right, right. So even if you had renewed your motion  
2 for directed verdict there, would you say it was unlikely  
3 that it would have been granted given all the evidence of  
4 specific intent?

5 A I made the motion at the end of the State's case. I  
6 didn't see anything different that would not be a jury  
7 question that would change the Judge's ruling from the  
8 prior denial of the motion.

9 Q Sure.

10 A I did renew it at the end of -- not the directed  
11 verdict, but inconsistent to set the verdict aside.

12 Q Sure. And going to Mr. Mejean's marital problems.  
13 Do you recall that Mr. Mejean himself, actually, testified  
14 about the marital problems?

15 A I don't recall -- I don't think he -- except for  
16 the -- the placing of the -- they had an argument. Except  
17 for the placing of the sofa against the door that was  
18 broken during an argument, I don't think he mentioned  
19 anything else, as I recall.

20 Q Sure. And I can help you there. I know it kind of  
21 all -- it kind of runs together. He also -- he told the  
22 Solicitor during his testimony that he has called his wife  
23 every name in the book.

24 A Oh, yeah. The night about the -- calling her a  
25 mother fucker. And he said, Yeah. I probably called her

1 every name in the book. Yeah.

2 Q Right.

3 A In arguments and things, he may have -- to me, that  
4 didn't indicate beating her up, or anything. He just  
5 maybe got mad at her.

6 Q Sure. Because there was never any testimony about  
7 him beating her up, or anything?

8 A There was never any testimony about any police being  
9 called out for any CV type of thing. There was never any  
10 testimony about any marks on her, bruising by the  
11 neighbors who saw her every day. There's nothing like  
12 that anywhere in the record.

13 Q Yes, sir.

14 A They'd been together all day. And she just wanted to  
15 go home early. And he stayed and maybe she'd gone home.

16 Q Mr. Sullivan, Ms. Henry briefly alluded to a case  
17 called State v. King. It's kind of -- not much of a  
18 surprise that it wasn't mentioned during this trial  
19 because it'd, actually, just been ruled on by the Court of  
20 Appeals two months prior to this trial. And the -- the  
21 State was still trying -- they were still petitioning for  
22 writ. And it was later heard by the Supreme Court and  
23 ruled on in 2017.

24 Now, in King, they did find that a Judge erred when  
25 he, specifically, instructed the jury that attempted

1 murder is a general intent to a crime. And you do recall  
2 that you -- you requested repeatedly for specific intent  
3 to be in the jury charge; correct?

4 A Yeah.

5 Q Sure. And I understand that -- I believe it was  
6 brought up when you were speaking with Ms. Henry just a  
7 little bit ago that the Judge gave a jury instruction on  
8 general intent. I'm -- to be -- I'm having a hard time  
9 finding that in the -- in the record, Mr. Sullivan.  
10 You -- you let me know if you do. I -- it doesn't seem to  
11 be the affirmative mis-advice found in King.

12 However, I will direct you to -- let's see. Bear  
13 with me for just a moment. I'm sorry. On Page 206 of the  
14 record, Mr. Sullivan, do you know that after reading the  
15 elements of attempted murder, the trial judge then says on  
16 Line 24, Particularly Section 16-3-29 states a person who  
17 with the intent to kill attempts to kill another person  
18 with malice aforethought.

19 And do you recall that later on -- that following  
20 his -- his talk about the elements of attempted murder,  
21 the Judge, actually, went on to instruct the jury on what  
22 attempt required?

23 A Yes. Total disregard for human life on Page  
24 [inaudible].

25 Q And on Page 208, the trial Judge, actually, reads an

1 instruction to the jury telling them that for attempt,  
2 that means intending the result which, actually, occurs?

3 A What line are we talking about?

4 Q Let's see.

5 THE COURT: Line 7.

6 MR. SAVILLE: Line 7.

7 Thank you, Your Honor.

8 THE WITNESS: Oh, yeah. I see that.

9 BY MR. SAVILLE:

10 Q So would you agree that even if the Judge did not  
11 say, specifically -- say specific intent -- and, actually,  
12 I'm sorry. I -- I somehow overlooked this. On Page 208,  
13 Line 1, the Judge, actually, does instruct the jury, An  
14 intent includes a specific intent to do a particular  
15 criminal act.

16 A I think -- I see that.

17 Q Sure.

18 A But I think that's in favor of my client, rather than  
19 general intent.

20 Q Exactly, yes, sir.

21 A I mean, if a general intent just -- it's a lot  
22 less -- the specific -- specific means something general,  
23 means just general.

24 Q Yes, sir.

25 A I think I had the advantage here of the -- of my



1 knowledge of not knowing King.

2 Q Absolutely, absolutely.

3 A And the Judge, obviously -- it hadn't gotten to him  
4 yet either because he charged specific, rather than  
5 general. And I trust the Judge knows the law, too.

6 Q Yes, sir. We are in agreement there. And do you  
7 agree with me that maybe the fact that they acquitted on  
8 two counts of attempted murder is evidence that the jury  
9 did get the gist of specific intent?

10 A I -- I still can't figure that jury out, Christian.  
11 I mean, I just don't know how you can have three shots,  
12 three people, and only one of them have intent to -- to  
13 hurt them.

14 Q I hear you. I hear you. I'm sorry, Mr. Sullivan.  
15 If you'll just bear with me for a moment. I'm just going  
16 to check through any notes that possibly came about  
17 through direct examination of Mr. Mejean and see if  
18 there's anything that you might like to address.

19 There was some discussion about a statement made by  
20 Tee Smith where he said that all Mr. Mejean said was,  
21 Where's my mother fucking bitch? There was never any  
22 debate at this trial that Mr. Mejean denied having a gun  
23 in this case, was there?

24 A Yeah. Chris said he didn't have the gun. He said  
25 that he went into his bedroom. And they later found out

1 the two guns were missing. Now, Tee did say he saw him  
2 coming from the trailer and it looked like he had a long  
3 gun. That he knew what they looked like because he had a  
4 Mossberg. But Tee never admitted having a gun -- I mean,  
5 not Tee, but Chris. The only person I recall maybe having  
6 a gun was Chris said he had a pistol when he went out to  
7 confront -- or find out what's going on.

8 Q Yes, sir.

9 A He never admitted he had a gun. And he never denied  
10 it. It was just not brought up.

11 Q And Mr. Mejean himself testified that he asked the  
12 question -- I hate to keep saying it -- Where's my  
13 MFing --

14 A Yeah. I know the "MF" word. No fun when you cuss in  
15 court.

16 Q I'm sorry. What's that, Mr. Sullivan?

17 A Strike that -- strike that from the record.

18 Q Well, Mr. Sullivan, is there anything else that you  
19 would like the Court to know about your representation of  
20 Mr. Mejean?

21 A Yeah. It's on Page 237, Line 14 down, I told the  
22 Judge that the matter of -- that after the jury verdict, I  
23 conferred with Chris in the holding cell and he instructed  
24 me he wants an appeal. I told him I'd file the appeal.  
25 That it would be handled by the Office of Indigent

1 Defense -- Indigent Appellate Defense. I usually tell  
2 Judges that because at my age and my health, I may not  
3 live to file the appeal. And I want on the record that he  
4 wants an appeal. So if something happens -- I've had some  
5 serious health issues. I don't want that to affect my  
6 client's right to his rights.

7 Q Yes, sir. And one last question for you. Do you  
8 recall that in your closing argument and in your opening  
9 argument, you argued that -- for the jury to find him  
10 guilty of attempted murder, they were going to have to  
11 find that he had specific intent to kill these people?

12 A Yeah.

13 MR. SAVILLE: And that's all the questions I have.  
14 Thank you so much.

15 THE COURT: Anything on redirect?

16 MS. HENRY: No, Your Honor.

17 THE COURT: And I have no questions.

18 Thank you, Mr. Sullivan.

19 You can step down.

20 THE WITNESS: Thank you, Your Honor.

21 THE COURT: All right. Anything further from either  
22 side?

23 MS. HENRY: No, Your Honor.

24 MR. SAVILLE: No, Your Honor.

25 THE COURT: All right. What I'm going to do is I'm

1 going to ask both sides to submit me a proposed order  
2 within a 30-day window. That puts us sometime near the --  
3 and I'm willing to be flexible all the way to the end of  
4 January. I know you've got holidays intervening. So if  
5 you need an extension, just contact my law clerk and let  
6 me know. So we're talking about, say, maybe about January  
7 31st.

8 MR. SAVILLE: Thank you, Your Honor.

9 THE COURT: Okay. Thank y'all.

10 \*\*\*\*\*END OF TRANSCRIPT OF RECORD\*\*\*\*\*  
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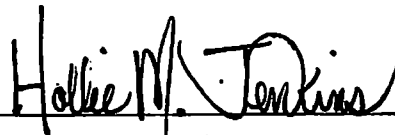
STATE OF SOUTH CAROLINA                    )

COUNTY OF GREENVILLE                    )

I, HOLLIE JENKINS, Official Court Reporter for the Thirteenth 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 the evidence introduced in the captioned case, relative to appeal, in the Court of Common Pleas for Greenville County, South Carolina, on the 18th day of December, 2018.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

July 1, 2019

A handwritten signature in cursive script, reading "Hollie M. Jenkins", is written over a horizontal line.

Hollie M. Jenkins, Court Reporter

My Commission Expires: 09/24/20

STATE OF SOUTH CAROLINA  
COUNTY OF GREENVILLE

Christopher Eric Mejean, #364242,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS  
THIRTEENTH JUDICIAL CIRCUIT

2018-CP-23-2956

**ORDER OF DISMISSAL**

19 FEB 14 PM 3:29  
Paul Wickensimer CCC GYL SC

This matter comes before the Court by way of a post-conviction relief (PCR) application filed on May 18, 2018. An evidentiary hearing into the matter was convened on December 18, 2018, at the Greenville County Courthouse. Applicant was present at the hearing and was represented by Sarah M. Henry, Esquire. Respondent was represented by Assistant Attorney General Christian Saville of the South Carolina Attorney General's Office.

Before this Court were the records of the Greenville County Clerk of Court regarding the subject convictions, Applicant's records from the South Carolina Department of Corrections, the record on appeal, Applicant's appellate records, the State's return, and Applicant's PCR application. Based on these records and the testimony presented, the Court finds as follows:

**I. PROCEDURAL HISTORY**

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Greenville County Clerk of Court. In June 2013, the Greenville County Grand Jury indicted Applicant for three counts of attempted murder (2013-GS-32-5236; 2013-GS-32-5237; 2013-GS-32-5238). C. Timothy Sullivan, Jr., Esquire ("Trial Counsel") represented Applicant at trial. Assistant Solicitor Kristie B. Hodge prosecuted the case. On June 2 2015, proceeded to trial before the Honorable R. Keith Kelly. The jury found Applicant guilty

of one count attempted murder and two counts of the lesser included offense of assault and battery in the first degree. Judge Kelly sentenced Applicant to imprisonment for concurrent terms of ten years each for assault and battery in the first degree and fifteen years for attempted murder.

Applicant filed a timely notice of appeal. Appellate Defender John H. Strom ("Appellate Counsel") perfected the appeal. On appeal, Applicant argued the trial court erred in refusing to grant his directed verdict motion on the charges of attempted murder and alleged the State failed to present any direct or substantial circumstantial evidence that Applicant had the specific intent to kill the three victims. The South Carolina Court of Appeals affirmed Applicant's conviction on June 28, 2017, finding the matter unpreserved. State v. Mejean, Op. No. 2017-UP-259 (S.C. Ct. App. filed June 28, 2017). The remittitur was returned to the circuit court on July 14, 2017.

## II. ALLEGATIONS:

In his PCR application, Applicant alleged the following grounds for relief:

1. "Ineffective Assistance of Trial Counsel"
  - a. The only objection made by Trial Counsel was inconsistency of verdict
  - b. Other objections should have been made with the so-called victims' claims in the Discovery and testimony
2. Ineffective Assistance of Appellate Counsel
  - a. Appellate Counsel failed to send defendant a copy of transcript
  - b. Appellate Counsel failed to send copy of secondary brief of Appeal
3. Presumption of Prejudice
  - a. Trial Counsel verbally telling Defendant that he's not here to defend me
  - b. Continually asking defendant to take the plea deal
4. Failure to move/object to evidence
  - a. Failure to object to evidence when there was no weapon
  - b. Failure to object when witness/victim did not see defendant with a gun as stated in the statement in Discovery
  - c. Failure to object to evidence when fingerprints were not tested for on spent shells
  - d. Failure to object to evidence after the statement was made from forensics at time of trial the unlikely possibility of fingerprints on the spent shells

*[Handwritten signature]* #2

- e. Failure to object to evidence when Defendant was never tested for Gun Shot Residue prior to being in custody
- 5. Failure to file an appeal
  - a. Trial Counsel Timothy Sullivan did not file defendants' Direct Appeal as requested to do so when counsel informed defendant the right of appeal the day of defendants' conviction/sentencing
  - b. Direct Appeal Lawyer Mr. Williams, who defendant was planning on hiring for Appeal noticed that Direct Appeal was not on file months after trial so Mr. Williams filed the Direct Appeal
- 6. Instructions on lesser included offence
  - a. Trial Counsel failed to inform defendant of any type of Lesser Included offenses prior to the trial or during trial
  - b. The court failed to show evidence in the record that would tend to show that the defendant is guilty of the lesser rather than the \_\_\_\_ offence
  - c. The court failed to show evidence or through the statements of witnesses testimonies of specific intent
  - d. Defendants defense was that he did not shoot the house, did not assault his neighbors nor did defendant ever have any type of issues with his neighbors as known in the court, the witnesses, Mr./Mrs. Smith
- 7. Failure to object to argument
  - a. Trial Counsel failed to object to arguments of Mr. Smith about what was said at the time of incident when the Discovery, Mr. Smith asked the Defendant if he had shot his house and the Defendant told Mr. Smith "no." At the day of the trial, Trial Counsel did not bring that part of the statement up, especially when Defendant brought it to Counsel's attention during the trial
  - b. Failure to object to cross-examination of the witnesses, forensics, and Defendant
- 8. Actual Innocence and Insufficiency of evidence
  - a. Defendant claimed innocence at time of trial and prior to sentencing
  - b. All evidence given at time of trial was very circumstantial and Trial Counsel failed to argue that
- 9. Failure to investigate/prepare for trial"
  - a. Trial Counsel only met with Defendant once in county jail, and twice in office only a few days prior to trial to ask Defendant what happened and failed to investigate
  - b. Trial Counsel failed to go over Discovery and investigate, therefore failed to question or have a separate expert witness for the Defense side. Questions "like why Defendant would shoot his own house?" Also failed to investigate the testimony of the forensics' findings in Discovery.



At the evidentiary hearing, Applicant expressly withdrew all allegations related to Appellate Counsel.

### III. SUMMARY OF TESTIMONY PRESENTED

Trial Counsel testified at the PCR hearing, and Applicant testified on his own behalf.

#### *Applicant*

Applicant testified he felt Trial Counsel just wanted to get the trial over with and Trial Counsel kept trying to convince him to take the plea deal. Applicant recalled discussing the plea offer with Trial Counsel, and while Trial Counsel never told him the case was unbeatable, Applicant got that impression from what Trial Counsel had told his wife. Applicant testified Trial Counsel failed to go over discovery with him, but later clarified he meant Trial Counsel went over discovery with him in their two meetings.

Applicant testified he felt Trial Counsel should have called a forensics expert to testify about the fingerprints. Applicant also alleged Trial Counsel should have tested for gunshot residue as he felt it would have exonerated him. Applicant then acknowledged Trial Counsel did question law enforcement at trial as to why he was not tested for gunshot residue, and it was because he was not found until after a test would have been useful. Applicant felt Trial Counsel should have objected to that answer.

Applicant testified that, to his knowledge, Trial Counsel failed to file an appeal, though he conceded a Mr. Williams did file an appeal for him.

As to lesser-included offenses, Applicant testified he and Trial Counsel never discussed them. According to Applicant, Trial Counsel never explained how lesser-included offenses would work, nor did he discuss trial strategy. Applicant testified if he would have known about his options, it would have made him think about it, but he still thinks he would have refused the plea deal.

Applicant recalled Victims Tee and Regina Smith's testimony revealed they were good friends with Applicant and therefore there was no possible reason he would be the one to commit the act. Applicant testified he does not believe there was any specific intent. Applicant testified Trial Counsel failed to argue the evidence was circumstantial and that none of it can point to him as the shooter. Applicant also felt Trial Counsel should have called character witnesses to testify about his use of alcohol as well as his respect for firearms.

On cross-examination, Applicant acknowledged the trial transcript reflects he told the trial judge Trial Counsel had shared discovery with him and answered all of his questions. ROA p. 13, l. 12. Applicant also acknowledged the transcript reflects he told the trial judge he did not need any more time with Trial Counsel and wished to proceed to trial rather than plead guilty. ROA p. 13, l. 16 – p. 14, l. 6.

#### *Trial Counsel*

Trial Counsel testified he met with Applicant at least three or four times prior to trial. Trial Counsel recalled reviewing discovery with Applicant, fully explaining the dangers of a trial, discussing the elements of the offenses, and explaining the concept of specific intent. Trial Counsel testified he also explained the potential sentences as well as the implications of the negotiated plea deal for five years. Trial Counsel testified he discussed the lesser included offenses with Applicant and the plea offer was for a lesser included offense. Trial Counsel explained Applicant nevertheless insisted he was not guilty. Trial Counsel testified Applicant never indicated he did not understand anything. When discussing the likelihood of a conviction, Trial Counsel told Applicant there was a good possibility he would be convicted. As Trial Counsel explained, he looked at the facts of the case and considered which side he would want to be on, and he felt the State had a strong case. Trial Counsel testified it took extensive work to get

the solicitor to offer a five year deal. Trial Counsel did not recall talking about Alford but he felt Applicant did not want any time. Furthermore, Trial Counsel testified Applicant had time to make his decision.

Trial Counsel testified part of his trial strategy was to show Applicant and his neighbors were friends, and therefore there was no reason for Applicant to do it. Trial Counsel testified he argued in the alternative, which is to say he first argued that Applicant was not the shooter, but argued in the alternative that he lacked specific intent to kill his three neighbors even if he was the shooter. Trial Counsel had discussed Applicant's marksmanship and familiarity with guns and was able to argue that the shots would not have been placed near the top of the trailer as they were if Applicant was indeed the shooter and wanted to kill the occupants.

Trial Counsel recalled that Applicant's version of events was he returned home from drinking with friends to find an individual he knew as "Frog" uninvited in his home. Applicant supposedly knew Frog from buying marijuana, but could not provide Trial Counsel with his phone number or last name. According to Applicant, Frog proceeded to run out the home and in the direction of the victims' trailer. Applicant chased after Frog, and Frog fired at Applicant while Applicant was standing in front of the victims' trailer, resulting in the trailer being shot three times. Trial Counsel testified he was never able to find Frog.

As to the gunshot residue, Trial counsel testified it was his understanding they would have needed to test Applicant sooner than they found him, as testimony at trial indicated gunshot residue only lasts six hours. ROA p. 142, l. 2. Trial Counsel testified he felt in hindsight it may have been helpful to have asked for fingerprint tests on the ammunition boxes in found in Applicant's home. Trial Counsel also noted, however, that the shell casings found outside were

not processed for prints due to the "nasty" conditions including rain and heat from the gun, as is reflected in the trial transcript. ROA p. 137, l. 1.

Regarding testimony about Applicant's marital issues, Trial Counsel testified he did not feel like the testimony was harmful or affected the case. Trial Counsel further explained there was no specific physical incident and Applicant himself brought up the marital problems in his testimony and his version of events even included the fact the couch had been pushed against their front door while he was fighting with his wife. Trial Counsel also recalled Applicant himself testified he had called his wife "every name in the book."

As to specific intent, Trial Counsel called he moved for a directed verdict on the basis of lack of specific intent. Trial Counsel testified he requested a jury charge on specific intent pursuant as to the charges of attempted murder. Trial Counsel noted the trial judge instructed the jury that attempted murder required malice aforethought with the intent to kill. He also noted the trial judge instructed, "Particularly Section 16-3-29 states a person who with intent to kill attempts to kill another person with malice aforethought, either express or implied, commits the offense of attempted murder." Moreover, Trial Counsel noted the trial judge also instructed the jury that attempt includes the specific intent to do a particular criminal act along with an act falling short of the act intended, and intent means intending the result which actually occurs. ROA p. 207, l. 24 – p. 208, l. 11. Trial Counsel noted he repeatedly referenced specific intent in his opening and closing arguments. Regardless, Trial Counsel acknowledged the evidence of specific intent in this case to include the fact Applicant allegedly shot the trailer with three occupants three times with a shotgun with ammunition matching the ammunition found in his house. Furthermore, Trial Counsel recalled testimony indicated Applicant yelled, "Where's my motherfucking bitch?" after the shooting, despite Applicant's version of events that he was

referring to Frog with that statement. Trial Counsel also noted testimony from Applicant that if he shoots a shotgun at something, he is trying to kill it, as well as evidence that Applicant had made an angry phone call to his wife prior to the shooting and his wife was friends with Mrs. Smith, the adult female victim in the trailer.

#### IV. APPLICABLE LAW

In a post-conviction relief action, the applicant has the burden of proving the allegations in the application. Rule 71.1(e), SCRCP; Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, (1984); Butler, 286 S.C. 441, 334 S.E.2d 813 (1985).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Butler, 286 S.C. 441, 334 S.E.2d 813 (1985). The applicant must overcome this presumption to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

Courts use a two-pronged test in evaluating allegations of ineffective assistance of counsel. First, the applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 385 S.E.2d at 625 (citing Strickland). Second, counsel's deficient performance must have prejudiced the applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625.

## V. FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record in its entirety and has heard the testimony at the post-conviction relief hearing. This Court has further had the opportunity to observe the witness presented at the hearing, closely pass upon their credibility and weigh their testimony accordingly. Set forth below are the relevant findings of facts and conclusions of law as required pursuant to S.C. Code Ann. §17-27-80 (1985).

### INEFFECTIVE ASSISTANCE OF COUNSEL

This Court finds Applicant has failed to prove he is entitled to post-conviction relief on any of his allegations of ineffective assistance of counsel. This Court finds Trial Counsel rendered competent and calculated representation before and during Applicant's trial, and Applicant has failed to satisfy his burden of proving prejudice from Trial Counsel's performance. Furthermore, after observing the witnesses and closely passing on their credibility, this Court finds Trial Counsel's testimony to be credible and persuasive. However, this Court finds Applicant's testimony to lack credibility.

"The only objection made by Trial Counsel was inconsistency of verdict" and "Other objections should have been made with the so-called victims' claims in the Discovery and testimony."

Applicant alleges Trial Counsel was ineffective for failing to make relevant objections other than his objection regarding his perceived inconsistency of the verdict. This Court finds this allegation to be meritless.

First, this Court finds Applicant has failed to meet his burden of proving deficiency regarding this allegation as Trial Counsel made relevant and appropriate objections. As to instances in which Applicant alleges Trial Counsel failed to object such as when law enforcement testified Applicant was not testified for gunshot residue, Trial Counsel offered the reasonable explanation that Applicant was found too long after the incident for a gunshot residue

test to be relevant. Trial Counsel is not deficient for failing to object to admissible testimony and evidence.

Notwithstanding, Applicant has also failed to satisfy his burden of proving prejudice regarding this allegation. This Court finds there is no reasonable probability the result of the proceedings had been different had Trial Counsel lodged more objections. Properly admitted evidence in this case indicated Applicant and his wife were involved in an altercation the night leading up to the incident, and Applicant's wife was close friends with Mrs. Smith. Applicant came home intoxicated to find his wife was not there, then fired three shots into his neighbor's trailer with a shotgun while the married couple and their daughter were asleep inside. The Mr. Smith testified Applicant charged after him yelling, "Where's my motherfucking bitch?" when he went outside to see what was happening. Furthermore, the ammunition shells located outside the residence matched the ammunition boxes in Applicant's home. Applicant was not found by law enforcement until the next morning, and the shotgun was never recovered. This Court finds no unmade objections in the record which would have been reasonably likely to have changed the outcome of this trial. Therefore, Applicant has failed to satisfy his burden of proving both deficiency as to this allegation. Accordingly, this allegation is denied and dismissed with prejudice.

*"Presumption of Prejudice: Trial Counsel verbally telling Applicant he's not here to defend me"*

Applicant also alleges Trial Counsel was ineffective for telling him "he's not here to defend me." This Court finds this allegation also to be meritless. First, Applicant has failed to satisfy his burden of proving deficiency regarding this allegation as there is no corroborating evidence to support his allegation and this Court finds Applicant's testimony to be not credible in this regard. By contrast, Trial Counsel credibly testified to thoroughly discussing the

implications of a trial, possible defenses, and the option to plead guilty with Applicant. Trial Counsel further explained it took extensive work to procure the five year plea offer for Applicant, which Applicant ultimately rejected despite Trial Counsel's advice regarding the risks of trial. There is no evidence before this Court that Trial Counsel's communications or motivations regarding Applicant fell below a reasonable standard. For these reasons, Applicant has failed to satisfy his burden of proving deficiency regarding this allegation.

Notwithstanding, Applicant has also failed to satisfy his burden of proving how such a communication, even if made, was prejudicial. This Court finds regardless of such an unproven communication, Trial Counsel still advocated diligently and made reasonable professional decisions on behalf of Applicant. There is no reasonable probability the outcome of the proceeding would have been different. Accordingly, this allegation is denied and dismissed with prejudice.

*"Continually asking defendant to take the plea deal"*

Applicant also alleges Trial Counsel was ineffective for "continually" asking Applicant to take the plea deal. This Court finds this allegation also to be meritless. First, Applicant has failed to satisfy his burden of proving deficiency as this Court finds Trial Counsel rendered reasonable and proper advisement regarding the plea offer extended. The plea offer in this case was placed on the record, and Applicant was going to be allowed to plead guilty to assault & battery, first-degree and a sentencing cap of five years. ROA p. 14. Applicant told the trial judge he understood the circumstances but wanted to proceed to trial. ROA p. 13, l. 3. Furthermore, Applicant told the trial judge Trial Counsel had shared discovery with him and answered all of his questions. ROA p. 13, l. 12. Applicant also told the trial judge he did not need to speak with Trial Counsel any further. ROA p. 13, l. 16. Trial Counsel credibly testified he spoke with



Applicant about the plea offer, Applicant seemed to understand everything, and he told Applicant there would be a likelihood of a conviction in this case. This Court finds this was reasonable and proper advice given the facts and circumstances of Applicant's case and the favorability of the plea deal. Ultimately, it was Applicant's decision not to plead guilty and proceed to trial, where Trial Counsel then diligently represented him.

Notwithstanding the lack of deficiency regarding this allegation, Applicant has also failed to satisfy his burden of proving prejudice from this allegation. Despite the proper advice of counsel regarding the plea deal, Applicant nevertheless freely rejected the offer and proceeded to trial. Accordingly, this allegation is denied and dismissed with prejudice.

*"Failure to object to evidence when there was no weapon" and "Failure to object when witness/victim did not see defendant with a gun as stated in the statement in Discovery"*

Applicant also alleges Trial Counsel was ineffective for failing to object to evidence when there was no weapon and failing to object when the victim supposedly did not see Applicant with a gun, and Applicant alleges a statement in discovery corroborates this. This Court finds these allegations to also be meritless. This Court notes Mr. Smith merely testified what Applicant held in his hand "looked like something long, like he was holding it down to his side. It reminded me of a shotgun as long as it was." ROA p. 61. Later, the same witness testified he "honestly thought" it was a gun, but as Trial Counsel elicited, he never saw Applicant shoot. ROA p. 66. This Court finds there was no reason for Trial Counsel to object to this testimony, and Applicant has not provided this Court with any evidence to from discovery which should have formed the basis of such an objection. Accordingly, Applicant has failed to satisfy his burden of proving both deficiency and prejudice to these allegations. Therefore, these allegations are denied and dismissed with prejudice.

"Failure to object to evidence when fingerprints were not tested for on spent shells" and  
"Failure to object to evidence after the statement was made from forensics at time of trial the  
unlikely possibility of fingerprints on the spent shells"

Applicant also alleges Trial Counsel was ineffective regarding the failure to have the spent shotgun shells tested for fingerprints and for failing to object to the explanation. This Court finds these allegations to also be meritless. As Trial Counsel credibly explained, the weather surrounding the incident was poor and rainy. The testimony at trial and at the PCR hearing revealed the testing for fingerprints on the shotgun shells would have been a fruitless endeavor due to the poor weather conditions as well as the heat from the gun which would have rendered any testing useless. ROA p. 119. This Court finds Trial Counsel was not deficient regarding this allegation as there was no meritorious challenge to be made and, furthermore, there is no reasonable probability the outcome of the proceedings would have been different had Trial Counsel handled the lack of fingerprint testing on the shells any differently. Accordingly, these allegations are denied and dismissed with prejudice.

"Failure to object to evidence when Defendant was never tested for Gun Shot Residue prior to  
being in custody"

Applicant also alleges Trial Counsel was ineffective for failing to challenge the fact Applicant was never tested for gunshot residue. This Court finds this allegation to also be meritless. As Trial Counsel recalled at the PCR hearing, Applicant could not be located by law enforcement until the day following the incident. ROA p. 141, l. 24. At trial, law enforcement testified gunshot residue lasts six hours. ROA p. 142, l. 2. Nevertheless, Trial Counsel still addressed this in his cross-examination. ROA p. 142, l. 7. Regardless, there was no meritorious objection to be made to the gunshot residue issue as Applicant was indeed found by law

enforcement after the test would have been useful. Therefore, Applicant has failed to satisfy his burden of proving both deficiency and prejudice as to this allegation. Accordingly, this allegation is denied and dismissed with prejudice.

Failure to file an appeal – “Trial Counsel Timothy Sullivan did not file defendants’ Direct Appeal as requested to do so when counsel informed defendant the right of appeal the day of defendants’ conviction/sentencing” and “Direct Appeal Lawyer Mr. Williams, who defendant was planning on hiring for Appeal noticed that Direct Appeal was not on file months after trial so Mr. Williams filed the Direct Appeal”

Applicant alleges Trial Counsel failed to file his direct appeal. This Court finds this allegation to be meritless. First, Applicant has failed to satisfy his burden of establishing deficiency as to this allegation because Applicant has failed to prove Trial Counsel failed to uphold any duty related to Applicant’s appeal. Notwithstanding, the record and Applicant’s own application clearly reveals Applicant received a direct appeal regardless. Therefore, the allegation Trial Counsel failed to file an appeal is denied and dismissed with prejudice.

“Trial Counsel failed to inform defendant of any type of Lesser Included offenses prior to the trial or during trial”

Applicant also alleges Trial Counsel was ineffective for failing to inform Applicant of any type of lesser included offenses prior to the trial or during the trial. This Court finds this allegation to also be meritless. The record reflects while Applicant was charged with three counts of attempted murder, he was actually only convicted of one count of attempted murder and two counts of the lesser included offense of assault & battery, first-degree. At the PCR hearing, Trial Counsel credibly testified he discussed lesser included offenses with Applicant prior to trial. In fact, the record reflects Applicant voluntarily rejected the plea offer for the lesser included

offense of ABHAN, and he had told the trial judge he did not need any more time with Trial Counsel and Trial Counsel had answered all his questions. ROA p. 11. The record and credible testimony before this court refute Applicant's allegation Trial Counsel failed to inform him of lesser included offenses. Applicant has therefore failed to prove deficiency regarding this allegation or prejudice therefrom. Accordingly, this allegation is denied and dismissed with prejudice.

"Trial Counsel failed to object to arguments of Mr. Smith about what was said at the time of incident when the Discovery. Mr. Smith asked the Defendant if he had shot his house and the Defendant told Mr. Smith "no." At the day of the trial, Trial Counsel did not bring that part of the statement up, especially when Defendant brought it to Counsel's attention during the trial."

Applicant also alleges Trial Counsel was ineffective for failing to raise the issue that Applicant denied shooting the house to Mr. Smith. This Court finds this allegation also to be meritless. There is no question Applicant denied shooting the victims' house as Applicant's denial of the event was never in issue. This Court finds no strategic reason for Trial Counsel to suggest Applicant verbally denied shooting the house at the scene, nor does this Court find any prejudice from Trial Counsel's failure to bring more attention to this issue. Applicant testified in this case and was able to deny shooting the home himself. For these reasons, this allegation is denied and dismissed with prejudice.

"Failure to object to cross-examination of the witnesses, forensics, and Defendant"

Applicant also alleges Trial Counsel was ineffective for failing to object to cross-examination of the witnesses, forensics, and Applicant. This Court finds this allegation to be meritless. Again, this Court finds Trial Counsel made the relevant and appropriate objections. As to instances in which Applicant alleges Trial Counsel failed to object such as when law

enforcement testified Applicant was not testified for gunshot residue, Trial Counsel offered the reasonable explanation that Applicant was found too long after the incident for a gunshot residue test to be relevant. Applicant has failed to show how Trial Counsel could have handled the witnesses any differently or how his handling of the witnesses fell below the professional standard. Furthermore, this Court finds there were no objections or challenges unpursued by Trial Counsel which would have a reasonable probability of changing the outcome of the proceedings. Accordingly, this allegation is denied and dismissed with prejudice.

*"Failure to Investigate/Prepare for Trial: Trial Counsel only met with Defendant once in county jail, and twice in office only a few days prior to trial to ask Defendant what happened and failed to investigate."*

Applicant also alleges Trial Counsel was ineffective for failing to investigate and prepare for trial on the basis of their number of meetings prior to trial and Applicant's perception that Trial Counsel did not conduct adequate investigation. This Court finds this allegation to be meritless. Trial Counsel credibly testified met with Applicant at least three or four times prior to trial. Trial Counsel recalled reviewing discovery with Applicant, fully explaining the dangers of a trial, discussing the elements of the offenses, and explaining the concept of specific intent. Trial Counsel testified he also explained the potential sentences as well as the implications of the negotiated plea deal for five years. Furthermore, Trial Counsel credibly recalled it took extensive work to procure the five year plea deal which Applicant ultimately rejected. Trial Counsel recalled Applicant's story of chasing a drug dealer he knew as "Frog" out of his home but Applicant was unable to provide contact information for this witness. This Court observes Trial Counsel demonstrated a firm understanding of the facts and circumstances involved in this case both in the trial record and at the PCR hearing. Furthermore, Applicant's own statements at trial

indicated Trial Counsel had answered all his questions and he did not need any more time with Trial Counsel. ROA p. 13. For these reasons, Applicant has failed to satisfy his burden of proving Trial Counsel's performance was deficient or that Trial Counsel could have done anything differently for the outcome of the proceeding to be different. Accordingly, this allegation is denied and dismissed with prejudice.

"Trial Counsel failed to go over Discovery and investigate, therefore failed to question or have a separate expert witness for the Defense side. Questions "like why Defendant would shoot his own house?" Also failed to investigate the testimony of the forensics' findings in Discovery."

Applicant further alleges Trial Counsel was ineffective for failing to review discovery and investigate, which Applicant alleges would have guided Trial Counsel's questioning and led him to retain an expert witness. This Court finds this allegation to also be meritless. The record reflects Trial Counsel was amply prepared to question witnesses and was guided by the reasonable trial strategy of showing Applicant to be friends with his neighbors and therefore having no motive to shoot at their house. Trial Counsel also argued in the alternative that even if the jury believes Applicant shot at the house, he lacked specific intent to kill because he was an excellent marksman and the shots were fired very high on the trailer. The properly admitted evidence in this case, to include the compelling testimony by Mr. Smith and the ammunition in Applicant's house matching the ammunition fired at the victim's house properly guided Trial Counsel's strategy in this case. This Court also observes Applicant has not provided substantive evidence to support the assertion his own house was indeed shot. Furthermore, Applicant conceded there were no expert witnesses present to testify at the PCR hearing and he offered no competent evidence as to what they would have testified to. Therefore, Applicant has failed to

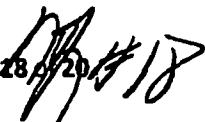
satisfy his burden of proving both deficiency and prejudice as to this allegation. Accordingly, this allegation is denied and dismissed with prejudice.

#### ALLEGATIONS OF COURT ERROR

"The court failed to show evidence in the record that would tend to show that the defendant is guilty of the lesser rather than attempted murder."; "The court failed to show evidence or through the statements of witnesses testimonies of specific intent"; and "Defendants defense was that he did not shoot the house, did not assault his neighbors nor did defendant ever have any type of issues with his neighbors as known in the court, the witnesses, Mr./Mrs. Smith"

Applicant alleges the court failed to show evidence in the record tending to show he is guilty of the lesser included offense rather than attempted murder. These allegations raise a direct appeal issue that is procedurally barred by S.C. Code Ann. §17-27-20(b) (2003). Post-conviction relief is not a substitute for a direct appeal. Simmons v. State, 264 S.C. 417, 215 S.E.2d 883 (1974). A post-conviction relief application cannot assert any issues that could have been raised at trial or on direct appeal. Ashley v. State, 260 S.C. 436, 196 S.E.2d 501 (1973). Applicant could have raised this issue on appeal. His failure to do so has waived this allegation as a ground for relief. Therefore, these allegations are denied and dismissed with prejudice.

Notwithstanding the procedural bar to this allegation, this Court finds the record reveals ample evidence indicative of Applicant's guilt for attempted murder of Mrs. Smith. While Trial Counsel diligently and competently argued against the presence of specific intent in his opening and closing arguments and raised the points that Applicant was a friend of the victims and a skilled marksman who would not have fired shots into the trailer in such a manner if he intended to kill them, there was nevertheless ample evidence for the jury to conclude there was specific intent to kill. For one, clearly there were three shots fired from a shotgun into the home of the



victims, late at night while they were sleeping. Two shots went through the bedroom of Mr. and Mrs. Smith, while one shot went through the living room where their daughter was asleep on the couch. There was testimony at trial indicating Mrs. Smith was close friends with Applicant's wife, and Applicant was clearly in a very passionate fight with his wife at the time, even exclaiming, "Where's my motherfucking bitch?" when confronted by Mr. Smith. Applicant himself testified at trial that if he shoots a shotgun at something, he is trying to kill it. ROA p. 178. Clearly, evidence existed to show specific intent regarding Applicant's attempted murder conviction. For these reasons, this allegation is denied and dismissed with prejudice.

#### ACTUAL INNOCENCE

"Actual Innocence and Insufficiency of evidence: Defendant claimed innocence at time of trial and prior to sentencing."

Applicant also alleges he was actually innocent and notes he claimed his innocence throughout his trial and sentencing. This allegation must be dismissed for failure to state a claim cognizable under the Uniform Post-Conviction Procedure Act, S.C. Code Ann. § 17-27-10 to - 160. Claims by an applicant that he or she is actually innocent, is not guilty, or that the evidence against him or her was insufficient to prove guilt are not cognizable grounds for post-conviction relief. S.C. Code Ann. § 17-27-20(a)(6) ("[T]his section shall not be construed to permit collateral attack on the ground that the evidence was insufficient to support a conviction."); Simmons v. State, 264 S.C. 417, 215 S.E.2d 883 (1975) (interpreting the statute as barring such claims as inappropriate for consideration under the act); Dickson v. State, 247 S.C. 153, 156, 146 S.E.2d 257, 258 (1966) ("The allegation that petitioner is not guilty does not raise a matter for consideration by habeas corpus."). Therefore, this allegation is denied and



dismissed with prejudice for failure to state a claim cognizable under the Uniform Post-Conviction Procedure Act.

## VI. CONCLUSION

Based on all the foregoing, this Court finds and concludes Applicant has not established any constitutional violations or deprivations that would require this court to grant his application. Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

This Court notes that Applicant must file and serve a notice of appeal within thirty days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453 (1991), an Applicant has a right to an appellate counsel's assistance in seeking review of the denial of post-conviction relief. Rule 71.1(g), SCRCP, provides that if the applicant wishes to seek appellate review, post-conviction relief counsel must serve and file a Notice of Appeal on the Applicant's behalf. Applicant is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

### IT IS THEREFORE ORDERED:

1. That the application for Post-Conviction Relief is denied and dismissed with prejudice in regard to all allegations; and
2. Applicant must be remanded to the custody of Respondent.

AND IT IS SO ORDERED this 12 day of July, 2019.

ALEX KINLAW, JR.  
Presiding Judge  
Thirteenth Judicial Circuit

[Signature] South Carolina

|                                   |         |
|-----------------------------------|---------|
| Copy mailed to                    |         |
| Attorney General / South Carolina |         |
| on                                | 8/14/19 |

## STATE OF SOUTH CAROLINA

COUNTY OF Greenville  
 STATE VS.  
Christopher Eric Mejean

AKA:

Race: WHITE Sex: M Age: 30DOB: [REDACTED] SS#: [REDACTED]Address: [REDACTED]City, State, Zip: Pelzer, SC 29669DL#: [REDACTED] SID#: [REDACTED]\*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was  
 TO: A+B 1st

## IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2013GS2305236A/W#: 2012A2330200048Date of Offense: 7/2/2012S.C. Code §: 16-03-0029CDR Code #: 3410

## SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

in violation of § 16-3-600(c) of the S.C. Code of Laws, bearing CDR Code # 3412  
☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45  
 w/minor 1st or Lewd Act)

The charge is: ☐ As Indicted, ☒ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.ATTEST: [Signature]

8245

Hodge, Kris

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,  
 for a determinate term of 10 days/months/years or ☐ under the Youthful Offender Act not to exceed     years  
 and/or to pay a fine of \$    ; provided that upon the service of     days/months/years and/or payment  
 of \$    ; plus costs and assessments as applicable\*; the balance is suspended with probation for    

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of  
 probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied  
 by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

## SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

PTUP

Total: \$     plus 20% fee: \$        days/hours Public Service EmploymentPayment Terms:    Obtain GED ☐☐ Set by SCDPPPS    Attend Voc. Rehab. or Job Corp.    Recipient:    May serve W/E beginning    Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly  
 pmts. of \$     beginning    \$     paid to Public Defender FundOther:    

☐ Appointed PD or appointed other counsel,  
 § 47.12 requires \$500 be paid to Clerk  
 during probation.

|                                        |         |                  |
|----------------------------------------|---------|------------------|
| *Fine:                                 |         | \$               |
| § 14-1-206 (Assessments 107.5 %)       |         | \$               |
| § 14-1-211(A)(1) (Conv. Surcharge)     | \$100   | \$ <u>100</u>    |
| § 14-1-211(A)(2) (DUI Surcharge)       | \$100   | \$               |
| § 56-5-2995 (DUI Assessment)           | \$12    | \$               |
| § 56-1-286 (DUI Breath Test)           | \$25    | \$               |
| Proviso 47.9 (Public Def/Prob)         | \$500   | \$               |
| § 14-1-212 (Law Enforce. Funding)      | \$25    | \$ <u>25</u>     |
| § 14-1-213 (Drug Court Surcharge)      | \$150   | \$               |
| § 50-21-114(BUI Breath Test Fee)       | \$50    | \$               |
| § 56-5-2942(J) (Vehicle Assessment)    | \$40/ea | \$               |
| Proviso 90.5 (SCCJA Surcharge)         | \$5     | \$ <u>5</u>      |
| 3% to County (if paid in installments) |         | \$ <u>3.90</u>   |
| TOTAL                                  |         | \$ <u>133.90</u> |

Clerk of Court/ Deputy Clerk

Court Reporter: [Signature]

SCCA/217 (03/2011)

Presiding Judge

Judge Code: 2165Sentence Date: 6-4-2015

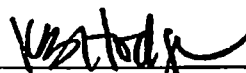
STATE OF SOUTH CAROLINA   )  
                                          )  
COUNTY OF GREENVILLE    )

INDICTMENT FOR  
ATTEMPTED MURDER

At a Court of General Sessions, convened on **JUN 18 2013** the Grand Jurors of Greenville  
County present upon their oath:

That CHRISTOPHER ERIC MEJEAN did in Greenville County, on or about the 2nd day of July 2012,  
unlawfully, with malice aforethought, and with the intent to kill, attempt to kill A. S. This is in violation  
of § 16-03-0029 of the South Carolina Code of Laws (1976) as amended.

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

  
SOLICITOR

WITNESSES

R M Wheatley \*977

Greenville County Sheriffs Office

7/2/2012

*True*

ARREST WARRANT NUMBER  
2012A2330200048

ACTION OF GRAND JURY

**TRUE BILL**

*[Signature]*

FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

*Guilty in the first degree  
of assault and battery*

Foreperson of Petit Jury

Date:

*06/04/2015*

DOCKET NO. 2013-GS-23-

KBH

005236

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

June

TERM 2013

THE STATE

vs.

CHRISTOPHER ERIC MEJEAN

*3412  
3410*

Indictment for

ATTEMPTED MURDER

VIOLATION § 16-03-0029

ENTERED  
ACCT.

*[Signature]*

544

ARREST WARRANT

5609  
7-9-12

2012A2330200048

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenville

THE STATE

against

12-095802

Christopher Eric Mejean

Address:

Pelzer, SC 29669-

Phone:

SSN:

Sex: M Race: W Height: 5 10 Weight: 160

DL State: SC DL #:

DOB: Agency ORI #: SC0230000

Prosecuting Agency: Greenville County Sheriffs Office

Prosecuting Officer: R M Wheatley \*977 - 0977

Offense: Murder / Attempted Murder

Offense Code: 3410

Code/Ordinance Sec: 16-03-0029

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.)

Signature of Judge

Date:

## RETURN

A copy of this arrest warrant was delivered to  
defendant Christopher E Mejean  
on 7-2-12

S. Huile

## RETURN WARRANT TO:

Greenville General Sessions  
305 E. North Street  
Greenville County Courthouse  
Greenville, SC 29601-2120

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenville

Personally appeared before me the affiant R M Wheatley \*977 whobeing duly sworn deposes and says that defendant Christopher Eric Mejeandid within this county and state on or about 7/2/2012 violate the criminal laws of theState of South Carolina (or ordinance of ☒ County/ ☐ Municipality of Greenville)

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:THIS AFFIANT HAS A STATEMENT FROM THE VICTIMS AND WITNESS, ALONG WITH SUPPORTING EVIDENCE TO  
SHOW THAT THE DEFENDANT, WITH INTENT, ATTEMPTED TO KILL THE VICTIM (5 YEAR OLD CHILD) BY FIRING  
A WEAPON INTO THE HOUSE IN WHICH THE VICTIM WAS LOCATED. THIS OFFENSE OCCURRED IN GREENVILLE  
COUNTY, SC

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenville

JUL 02 2012

GREENVILLE COUNTY  
SHERIFF'S OFFICEAffiant's Address 4 Mcgee StreetGreenville, SC 29601-Affiant's Telephone (864)271-5210

## 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 7/2/2012defendant Christopher Eric Mejean

did violate the criminal laws of the State of South Carolina (or ordinance of

☒ County/ ☐ Municipality of Greenville) 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 meon 7/2/2012

Signature of Judge (L.S.)

Judge Code: 7203

Judge's Address

Judge's Telephone

Issuing Court: ☐ Magistrate ☐ Municipal ☐ Circuit

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

Form Approved by  
S.C. Attorney General  
April 21, 2003  
SCCA 518

AFFIDAVIT

375

## STATE OF SOUTH CAROLINA

COUNTY OF  
STATE

Greenville

VS.

Christopher Eric Mejean

AKA:

Race: WHITE Sex: M Age: 30

DOB: [REDACTED] SS#: [REDACTED]

Address:

City, State, Zip: Pelzer, SC 29669

DL#: [REDACTED] SID#: [REDACTED]

\*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was  
TO: Murder / Attempted Murder

## IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2013-66-23-5237  
2013GS2305238

A/W#: 2012A2330200006 0047

Date of Offense: 7/2/2012

S.C. Code §: 16-03-0029

CDR Code #: 3410

## SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

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

☒ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45

w/minor 1st or Lewd Act)

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

ATTEST:

Hodge, Kris

8245  
SC Bar#

Defendant

Attorney for Defendant

5425  
SC Bar#WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 15 days/months/years or ☐ under the Youthful Offender Act not to exceed \_\_\_\_\_ years

and/or to pay a fine of \$ \_\_\_\_\_; provided that upon the service of \_\_\_\_\_ days/months/years and/or payment

of \$ \_\_\_\_\_; plus costs and assessments as applicable\*; the balance is suspended with probation for \_\_\_\_\_

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

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

## SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

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

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

☐ Set by SCDPPPS \_\_\_\_\_

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

\*Fine:

|                                        |         |           |
|----------------------------------------|---------|-----------|
| § 14-1-206 (Assessments 107.5 %)       | \$      |           |
| § 14-1-211(A)(1) (Conv. Surcharge)     | \$100   | \$ 100    |
| § 14-1-211(A)(2) (DUI Surcharge)       | \$100   | \$        |
| § 56-5-2995 (DUI Assessment)           | \$12    | \$        |
| § 56-1-286 (DUI Breath Test)           | \$25    | \$        |
| Proviso 47.9 (Public Def/Prob)         | \$500   | \$        |
| § 14-1-212 (Law Enforce. Funding)      | \$25    | \$ 25     |
| § 14-1-213 (Drug Court Surcharge)      | \$150   | \$        |
| § 50-21-114(BUI Breath Test Fee)       | \$50    | \$        |
| § 56-5-2942(J) (Vehicle Assessment)    | \$40/ea | \$        |
| Proviso 90.5 (SCCA Surcharge)          | \$5     | \$ 5      |
| 3% to County (if paid in installments) | \$      | \$ 3.90   |
| TOTAL                                  | \$      | \$ 133.90 |

## PTUP

\_\_\_\_\_ days/hours Public Service Employment

Obtain GED ☐

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

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

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly  
pmts. of \$ \_\_\_\_\_ beginning \_\_\_\_\_

\$ \_\_\_\_\_ paid to Public Defender Fund

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

☐ Appointed PD or appointed other counsel,  
§ 47.12 requires \$500 be paid to Clerk  
during probation.

Clerk of Court/ Deputy Clerk

Court Reporter: *Hudgens*

SCCA/217 (03/2011)

Presiding Judge

Judge Code: 2165

Sentence Date: 6-4-2015

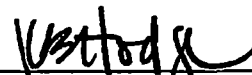
STATE OF SOUTH CAROLINA )  
COUNTY OF GREENVILLE )

INDICTMENT FOR  
ATTEMPTED MURDER

At a Court of General Sessions, convened on **JUN 18 2013** the Grand Jurors of Greenville  
County present upon their oath:

That CHRISTOPHER ERIC MEJEAN did in Greenville County, on or about the 2nd day of July 2012,  
unlawfully, with malice aforethought, and with the intent to kill, attempt to kill Regina Smith. This is in  
violation of § 16-03-0029 of the South Carolina Code of Laws (1976) as amended.

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

  
SOLICITOR

## WITNESSES

R M Wheatley \*977

Greenville County Sheriffs Office

7/2/2012

## ARREST WARRANT NUMBER

2012A2330200047

ACTION OF GRAND JURY

**TRUE BILL**

FOREMAN GRAND JURY

Foreperson of Grand Jury

## VERDICT

GUILTY

Foreperson of Petit Jury

Date:

06/04/2015

DOCKET NO. 2013-GS-23-

KBH

005237

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

June

TERM 2013

THE STATE

vs.

CHRISTOPHER ERIC MEJEAN

Indictment for

ATTEMPTED MURDER

VIOLATION § 16-03-0029

ENTERED  
ACCT.



544 ARREST WARRANT 5609 7-9-12  
2012A2330200047

STATE OF SOUTH CAROLINA  
☒ County/ ☐ Municipality of  
Greenville

THE STATE 12-093800  
against

Christopher Eric Mejean

Address: [REDACTED]

Pelzer, SC 29669-

Phone: [REDACTED] SSN: [REDACTED]

Sex: M Race: W Height: 5 10 Weight: 160

DL State: SC DL #: [REDACTED]

DOB: [REDACTED] Agency ORI #: SC0230000

Prosecuting Agency: Greenville County Sheriff's Office

Prosecuting Officer: R M Wheatley \*977 - 0977

Offense: Murder / Attempted Murder

Offense Code: 3410

Code/Ordinance Sec: 16-03-0029

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.)

Signature of Judge

Date: \_\_\_\_\_

#### RETURN

A copy of this arrest warrant was delivered to  
defendant Christopher E Mejean  
on 7-2-12

C. M. Moore #246/C24  
C. M. Moore  
Signature of Constable and Enforcement Officer

#### RETURN WARRANT TO:

Greenville General Sessions  
305 E. North Street  
Greenville County Courthouse  
Greenville, SC 29601-2120

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA  
☒ County/ ☐ Municipality of  
Greenville

Personally appeared before me the affiant R M Wheatley \*977 who  
being duly sworn deposes and says that defendant Christopher Eric Mejean  
did within this county and state on or about 7/2/2012 violate the criminal laws of the  
State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of Greenville )  
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:

THE AFFIANT HAS A STATEMENT FROM THE VICTIMS AND WITNESS, ALONG WITH SUPPORTING EVIDENCE TO  
SHOW THAT THE DEFENDANT, WITH INTENT, ATTEMPTED TO KILL THE VICTIM (REGINA SMITH) BY FIRING A  
WEAPON INTO THE HOUSE IN WHICH THE VICTIM WAS LOCATED. THIS OFFENSE OCCURRED IN GREENVILLE  
COUNTY, SC

Entered on  
NCIC  
Signature of Affiant

STATE OF SOUTH CAROLINA  
☒ County/ ☐ Municipality of  
Greenville

Affiant's Address 4 Mcgee Street  
Greenville, SC 29601-  
Affiant's Telephone (864)271-5210

COMPUTER ENTERED

#### ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

JUL 2 2012  
appearing from the above affidavit that there are reasonable grounds to believe that

on or about 7/2/2012 defendant Christopher Eric Mejean  
did violate the criminal laws of the State of South Carolina (or ordinance of  
☒ County/ ☐ Municipality of Greenville ) 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 7/2/2012

Signature of Issuing Judge (L.S.)  
Judge's Address  
Judge's Telephone

Judge Code: 7203  
Issuing Court: ☐ Magistrate ☐ Municipal ☐ Circuit

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

Form Approved by  
S.C. Attorney General  
April 21, 2003  
SCCA 518

## STATE OF SOUTH CAROLINA

COUNTY OF  
STATE

Greenville

VS.

Christopher Eric Mejean

AKA:

Race: WHITE Sex: M Age: 30

DOB: SS#: 011-00-0000

Address:

City, State, Zip: Pelzer, SC 29669

DL#: SID#:

\*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was  
TO: At B Ft Agreein violation of § 16-3-600(c) of the S.C. Code of Laws, bearing CDR Code # 3412☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☐ As Indicted, ☒ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Hodge, Kris8245  
SC Bar#

Defendant

Attorney for Defendant5425  
SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,  
for a determinate term of 10 days/months/years/or ☐ under the Youthful Offender Act not to exceed        years  
and/or to pay a fine of \$       ; provided that upon the service of        days/months/years and/or payment  
of \$       ; plus costs and assessments as applicable\*; the balance is suspended with probation for       

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of  
probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied  
by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

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

## SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ OrderedTotal: \$        plus 20% fee: \$       

Payment Terms:

☐ Set by SCDPPPS

Recipient:

\*Fine:

|                                        |         |    |
|----------------------------------------|---------|----|
| § 14-1-206 (Assessments 107.5 %)       |         | \$ |
| § 14-1-211(A)(1) (Conv. Surcharge)     | \$100   | \$ |
| § 14-1-211(A)(2) (DUI Surcharge)       | \$100   | \$ |
| § 56-5-2995 (DUI Assessment)           | \$12    | \$ |
| § 56-1-286 (DUI Breath Test)           | \$25    | \$ |
| Proviso 47.9 (Public Def/Prob)         | \$500   | \$ |
| § 14-1-212 (Law Enforce. Funding)      | \$25    | \$ |
| § 14-1-213 (Drug Court Surcharge)      | \$150   | \$ |
| § 50-21-114(BUI Breath Test Fee)       | \$50    | \$ |
| § 56-5-2942(J) (Vehicle Assessment)    | \$40/ea | \$ |
| Proviso 90.5 (SCCA Surcharge)          | \$5     | \$ |
| 3% to County (if paid in installments) |         | \$ |
| TOTAL                                  |         | \$ |

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

## IN THE COURT OF GENERAL SESSIONS

2013-65-23-5236

INDICTMENT/CASE#: 2013G82305237

A/W#: 2012A2330200047 00410

Date of Offense: 7/2/2012

S.C. Code § : 16-03-0029

CDR Code #: 3410

## SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

PTUP

       days/hours Public Service EmploymentObtain GED ☐Attend Voc. Rehab. or Job Corp.       May serve W/E beginning       Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly  
pmts. of \$        beginning       \$        paid to Public Defender FundOther:       

☐ Appointed PD or appointed other counsel,  
§ 47.12 requires \$500 be paid to Clerk  
during probation.

Presiding Judge

Judge Code: 2165Sentence Date: 6-4-2015

STATE OF SOUTH CAROLINA    )  
                                          )  
COUNTY OF GREENVILLE    )

INDICTMENT FOR  
ATTEMPTED MURDER

At a Court of General Sessions, convened on

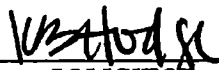
**JUN 18 2013**

the Grand Jurors of Greenville

County present upon their oath:

That CHRISTOPHER ERIC MEJEAN did in Greenville County, on or about the 2nd day of July 2012, unlawfully, with malice aforethought, and with the intent to kill, attempt to kill Tee Smith. This is in violation of § 16-03-0029 of the South Carolina Code of Laws (1976) as amended.

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

  
SOLICITOR

## WITNESSES

R M Wheatley \*977

Greenville County Sheriffs Office

7/2/2012

ARREST WARRANT NUMBER  
2012A2330200046ACTION OF GRAND JURY  
**TRUE BILL**

FOREMAN GRAND JURY

Foreperson of Grand Jury

## VERDICT

*Guilty of assault and battery  
in the first degree*

Foreperson of Petit Jury

Date:

DOCKET NO. 2013-GS-23-  
KBH

005238

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

June TERM 2013

THE STATE

vs.

CHRISTOPHER ERIC MEJEAN

Indictment for

3410

ATTEMPTED MURDER

VIOLATION § 16-03-0029

ENTERED  
ACCT. *for*

544 ARREST WARRANT 5604 7-9-12

2012A2330200046

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenville

THE STATE

12-085800

against

Christopher Eric Mejean

Address:

Pelzer, SC 29669-

Phone: SSN: [REDACTED]

Sex: M Race: W Height: 5 10 Weight: 160

DL State: S DL #: [REDACTED]

DOB: [REDACTED] Agency ORI #: SC0230000

Prosecuting Agency: Greenville County Sheriff's Office

Prosecuting Officer: R M Wheatley \*977 - 0977

Offense: Murder / Attempted Murder

Offense Code: 3410

Code/Ordinance Sec: 16-03-0029

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.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to

defendant Christopher E Mejean

on 7-2-12

C. M. Moore #246/CZY  
Greenville County Sheriff's Office

RETURN WARRANT TO:

Greenville General Sessions  
305 E. North Street  
Greenville County Courthouse  
Greenville, SC 29601-2120

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenville

Personally appeared before me the affiant R M Wheatley \*977 who

being duly sworn deposes and says that defendant Christopher Eric Mejean

did within this county and state on or about 7/2/2012 violate the criminal laws of the

State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of Greenville)

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:

THE AFFIANT HAS A STATEMENT FROM THE VICTIMS AND WITNESS, ALONG WITH SUPPORTING EVIDENCE TO SHOW THAT THE DEFENDANT, WITH INTENT, ATTEMPTED TO KILL THE VICTIM (TEE SMITH) BY FIRING A WEAPON INTO THE HOUSE IN WHICH THE VICTIM WAS LOCATED. THIS OFFENSE OCCURRED IN GREENVILLE COUNTY, SC.

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenville

COMPUTER ENTERED JUL 8 2 2012

GREENVILLE COUNTY SHERIFF'S OFFICE

Affiant's Address 4 Mcgee Street

Greenville, SC 29601-

Affiant's Telephone (864)271-5210

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 7/2/2012 defendant Christopher Eric Mejean

did violate the criminal laws of the State of South Carolina (or ordinance of

☒ County/ ☐ Municipality of Greenville) 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 7/2/2012

Signature of Issuing Judge (L.S.)

James F Hicks III

Judge Code: 7203

Judge's Address 20 Mcgee Street

Greenville, SC 29601-

Judge's Telephone

Issuing Court: ☒ Magistrate

☐ Municipal

☐ Circuit

ORIGINAL

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ORIGINAL

Form Approved by  
S.C. Attorney General  
April 21, 2003  
SCCA 518

383